



Oregon

Kate Brown, Governor

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February 13, 2020

The Honorable Andrea Salinas, Chair
The Honorable Cedric Hayden, Vice-Chair
The Honorable Rob Nosse, Vice-Chair
House Committee on Health Care
900 Court Street NE
Salem, OR 97301

RE: LTCO opposes Section 2 in -5 amendment to HB 4016

Chair Salinas and members of the committee:

As the State Long Term Care Ombudsman, I am submitting this letter to oppose Section 2 of the -5 amendment to HB 4016.

This amendment to HB 4016 had not been previously shared with the Office of the Long Term Care Ombudsman. I only just learned about this amendment yesterday, February 12, the day after the single public hearing for this bill of this short session. Therefore, I am submitting this written testimony to convey concerns that were not previously submitted for the record.

The -5 amendment to HB 4016 has some potentially significant ramifications for the approximately 35,000 Oregonians who live in care facilities and who would be impacted by this amendment. Section 2 of the amendment proposes a prohibition – with only a single exception – on local governments addressing long term care facilities' impact on local emergency services. The committee and legislature need to be aware of the following:

- Care facilities around the state are frequently utilizing EMS/fire services as supplemental staffing when the facilities effectively fail to staff as otherwise expected to meet the needs of their residents.
- **DHS does not regulate local emergency services.** The provision in question relies on a false premise that DHS has authority and resources to regulate around the issue of long-term care facilities' over-utilization of local emergency services. I would contend that DHS has neither.

- **The provision will allow care facilities to perpetuate their reliance on local emergency services without DHS or local governments having the authority or resources to adequately address the problem.**

I am aware that DHS received one permanent position to assist with this work in the last session. However, one person will not be able to effectively manage this body of work with the hundreds of licensed facilities in our state. **Additionally, the current inspection process used by DHS has no citation or “tag” for this issue and is not something they look for when they inspect a facility.**

I agree with the basis that the federal and state regulatory structure for these settings needs to be the primary regulatory approach. I recognize that a local ordinance that led to this last-minute legislative concept was an over-reach. But Section 2 of the amendment is an extreme solution to that flawed ordinance.


What we need now is a conversation among appropriate partners to assess how best to address long-term care facilities’ over-utilization of local emergency services. For example, if DHS is to regulate this issue, that conversation needs to occur prior to enacting a law that preempts any local action on behalf of their residents when facilities inappropriately over-utilize emergency services.

I do support the proposed Innovation program and corresponding Advisory Council. As these proposed components recognize, the interaction of emergency services with long-term care residents is an area needing discussion and improved approaches.

In fact, to solve the problem of Section 2, my recommendation would be to have this Advisory Council’s mandate slightly expanded to study and make recommendations for the 2021 legislative session on how best to set limits on local governments in how they address the over-utilization of emergency services by long term care facilities.

As a reminder, the Long-Term Care Ombudsman (LTCO) program is charged with ensuring that the rights of residents are protected in all long-term care facilities, including nursing facilities, residential care facilities, assisted living facilities, and adult foster homes. These comments are submitted on behalf of the Oregonians who reside in these facilities.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Steele". The signature is written in a cursive style with a large, stylized initial "F" and "S".

Fred Steele, MPH, JD
State Long Term Care Ombudsman
Director, Office of the Long Term Care Ombudsman