

Speaker Kotek, President Courtney, and members of the committee,
My name is Paul Terdal; I am a resident of Northwest Portland, in Senate District 18 and House District 36.

I'm testifying today as a health care consumer advocate. For the past decade, I have worked with many of you, and with policy makers nationally, on policy issues for consumers experiencing autism and other health conditions.

I am concerned about the process that brought LC29 forward.

On Thursday, Sen Prozanski testified that he had been working on this bill for more than 6 months. Last June, I testified in writing against the first round of immunity bills, and wrote: "any further discussion about immunity should include consumer and public representatives." I followed up with the staff several times over the summer reiterating the importance of including health care consumer representatives – if not me, then a representative of a group like Disability Rights Oregon – in the workgroup.

That didn't happen – the consumer voice was kept out of the process. We had to get our information about the progress third hand through the grapevine.

In the legislative days in September, and again earlier this month, I eagerly searched OLIS for hearings in every possible committee on these proposals – but there weren't any.

Now, after 6 months of work in smoke-filled zoom rooms, a week before the Christmas Holiday, this proposal is being brought out as an emergency that must pass right away in a special session.

I would also like to reiterate my concerns about the definition of "COVID-19 Emergency Rule" in LC29, which mirrors that in the base bill, LC21.

Contrary to what you have heard, this definition isn't specifically about clearly written rules from the Oregon Health Authority. Instead, the definition includes any "order, declaration, directive ... authorization, policy, statement, guidance, rule, or regulation" from any "state or federal" authority "regarding the rendering of health care services."

If a "declaration" or "statement" from one state or federal body contradicts the Oregon Health Authority's, a health care facility could assert immunity by pointing to the most favorable statement.

LC21 is also retroactive. Over the past year, President Trump has made numerous tweets with "statements," "guidance," or "directives" "regarding the rendering of health care services". By the plain language of the LC29 definition, these tweets constitute "COVID-19 emergency rules," and a facility that complies with the tweets in defiance of Oregon Health Authority rules could still claim immunity.

If there had been a better process – with public hearings in legislative days – these issues could have been identified and resolved. For instance, this could have been fixed by calling upon the State to adopt a "temporary rule" through ORS 183.335(5) – which can be done very quickly, but would provide much more specific clarity about the rules.

I urge you to reject this amendment – and the entirety of LC21 – and ask the sponsors to work with health consumers and other stakeholders to resolve these issues in the long session that starts in just a few weeks.

Sincerely,

Paul Terdal