



Oregon

Kate Brown, Governor

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February 25, 2021

House Subcommittee on Civil Law

Attn: Chair Karin Power

Oregon State Legislature

900 Court St. NE

Salem, OR 97301

RE: HB 2638 concerns – Long-Term Care settings should be excluded

Chair Power and Members of the Committee:

The Long-Term Care Ombudsman program, on behalf of the Oregonians who have been so significantly impacted by COVID-19 in care facilities, is opposed to HB 2638's apparent inclusion of long-term care facilities for protections from normal legal recourse.

As Oregon's State Long-Term Care Ombudsman, I am charged by federal and state statute to protect the rights of Oregonians who live and receive care in nursing homes, assisted living facilities, residential care facilities, and adult foster care homes.

In Oregon there were many long-term facilities that abided by their legal duties and responsibilities as care facilities. They are licensed by the state and expected to have high quality and standards for the Oregonians who live and receive care there.

Unfortunately, there were far too many facilities, that we now know, did not follow their legal requirements, or the public health mandates put in place to protect residents from COVID-19. Far more Oregonians died of COVID-19 than should have, as a result of the failures that unnecessarily led to wild-fire-like, but clearly preventable, outbreaks.

As I shared in an August 9, 2020 letter to key legislators working on immunity legislation at that time:

“Procedures to control the spread of the virus are relatively well known at this point. Protecting providers from infectious disease protocol failures going forward would be shortsighted as there are relatively well-established protocols in place now from the Oregon Health Authority (OHA) and DHS to combat COVID-19, particularly once an initial case is identified. The LTCO program is of the opinion that the COVID-19 virus does not have to “spread like wildfire” as we often heard in the first months of this pandemic. True, it is a very contagious

virus, but public health protocols are now established to protect LTC residents and staff that have repeatedly demonstrated an ability to prevent the spread of the virus in a care setting – as long as the provider does what is recommended as well as what is required.”

Again, that was August 2020. Sadly, what we know now is that far too many care facilities chose to not implement or adhere to, these known and life-saving protocols. By February 10, 2020 1,039 Oregonians died in state-licensed long term care facilities. Up from approximately 200 deaths in early August when the necessary infectious disease safety tools and protocols were known and available.

Far too many Oregonians were harmed by clear and repeated negligence in these state-licensed care facilities, particularly in the months of November, December, and January. It continues today, as we speak. And worse, far too many of Oregonians were infected and died by contracting the virus, accidentally, from the very caregivers who were supposed to be keeping them safe by following public health guidance at all times.

It is the opinion of the Long-Term Care Ombudsman program, on behalf of Oregonians who were not protected from COVID-19 in these state-licensed care settings, that legal immunity **should not be provided** to these major corporations and other providers.

The Oregon Department of Human Services chose not to utilize stronger regulatory tools available to them to ensure the safety of Oregonians in these licensed facilities. I truly hope that the legislature does not remove one of the last tools remaining to hold providers accountable for the failures and deaths witnessed in our long-term care settings statewide.

Sincerely,

Fred Steele, MPH, JD
State Long-Term Care Ombudsman