



Oregon's Voice for Long Term Care & Senior Housing

May 29, 2024

Senate Interim Committee on Human Services
Senator Sara Gelser Blouin, Chair
Senator Art Robinson, Vice-Chair
Oregon State Capitol
900 Court St. NE
Salem, OR 97301

Chair Gelser Blouin, Vice Chair Robinson, and Members of the Committee,

The Oregon Health Care Association (OHCA) represents long term care providers including licensed nursing facilities, assisted living, residential care, memory care-endorsed facilities, and in-home care agencies. 74,000 Oregonians receive long term care services and supports each day. OHCA's mission and highest priorities are to promote safe, high-quality care for older adults and people with disabilities in every corner of our state while respecting the independence, choice, and dignity of those living in long term care settings.

The events that caused the tragic passing of Ki Soon Hyun are not acceptable. We are deeply saddened by this tragic incident and our condolences are with Ms. Hyun's family.

Oregon has strong regulatory requirements that when appropriately followed are designed to prevent the outcome that occurred at Mt. Hood Senior Living. For memory care-endorsed communities, this regulatory framework requires, among other things, pre-service dementia training for all staff to include specific aspects on dementia care such as preventing wandering and elopements, policies that address wandering and exit prevention to include instructions in the event a resident does exit the community, and physical environment safety needs.

We remain committed to the health and safety of Oregonians being served in long term care settings and will continue to work collaboratively to ensure Oregon's exemplary regulatory system is appropriately and fairly enforced.

Based on what we know about the events at Mt. Hood Senior Living, there are some potential policy options that could reduce the risk of a similar outcome in the future:

- Additional clarity of the protocols and procedures that should be followed if a resident elopes or is missing.
- Enhanced oversight of first-time providers including inspections by ODHS and the Ombudsman.
- Oregon law currently requires a new provider in Oregon to engage a consultant to advise on operations. There could be clearer reporting requirements by the consultant to ODHS.
- Allow ODHS to extend the period that a consultant is retained by a first time operator, based on evaluations by ODHS and the provider's documented compliance with applicable laws and administrative rules for operating a facility.

Several of these recommendations align with the Oregon Office of the Long Term Care Ombudsman's (LTCO) investigation and report released on April 4, 2024 "to improve the consumer protection regulatory function of Oregon's long-term care system."

It is worth noting that additional information and transparency about an allegation made in the LTCO report would be beneficial to ensuring consumers have a clear understanding of ODHS' compliance mechanisms and how they are currently utilized. Specifically, the report asserts that *"13 of 18 residents rapidly moved by ODHS from Mt Hood Senior Living were moved to locations that ODHS should have considered to be unsafe."* The report goes on to state eight individuals were moved to three ODHS-licensed care settings where ODHS had active conditions on those facility licenses for being out of compliance with acuity-based staffing tool (ABST) as required under SB 714 (2021).

ODHS has placed ABST-related conditions on licenses for technical reasons related to a tool or use of a tool. In other words, there have been instances when facilities have received ABST-related conditions even when they had the appropriate number of staff to meet residents' needs. However, it is not known to the public for what reason a facility has received an ABST-related condition, and the mere fact that a facility has received an ABST-related condition does not automatically mean the facility is "unsafe."

It is also important to recognize that Oregon is a national leader in long term care and has been since the 1980s. Our state has some of the most stringent staffing requirements in the country in both nursing facilities and community-based care facilities along with a complex overlay of rules and regulations. These regulations prioritize a resident's rights, preferences, choice, and dignity, focuses on person-centered care, protects against discrimination and retaliation, and holds facilities accountable through surveys, complaint investigations, and numerous other enforcement mechanisms. The regulatory environment will only become more complicated as the Centers for Medicare and Medicaid Services' (CMS) newly finalized rules on Medicaid payment adequacy and minimum staffing rules are implemented over the next several years.

Additionally, providers need sufficient resources to successfully implement the standards required under Oregon law. The state's own analysis in report commissioned by ODHS found that Medicaid reimbursement rates do not meet the cost of care. We must address funding

alongside regulations to ensure Oregon continues to be a leader in providing quality care without eliminating or reducing access to such care.

Moving forward, OHCA remains committed to supporting Oregon's long term care system and engaging in inclusive and coordinated policy discussions about solutions to prevent similar outcomes to those that tragically occurred at Mt. Hood Senior Living.

Sincerely,

Libby Batlan
Senior Vice President of Government Relations
Oregon Health Care Association