



Senate Committee on Human Services

**Testimony on Safety, Rights and Regulatory Oversight of Assisted Living and Memory Care Facilities**

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AARP is the nation's largest nonprofit, nonpartisan organization dedicated to empowering Americans 50+ to choose how they live as they age. AARP Oregon advocates on issues important to our more than 500,000 Oregon members with a focus on health security, financial resilience and livable communities.

While we know that most Oregonians want to remain in community and age in place, that is not possible for some of our most vulnerable older Oregonians and they must rely on long term supports and services, including residing in long term care facilities.

The role of the state is to make sure we not only honor independence, choice, dignity and autonomy of Oregonians living in long term care facilities, but, most importantly, ensure they are safe and secure at all times. We can only do that if we have the proper laws and regulations in place and those laws and regulations *are rigorously enforced*.

We are profoundly saddened, but also deeply troubled, by the death of Ki Soon Hyun in December 2023 as well as resulting harm and trauma experienced by former residents who were transferred in January 2024. We are very appreciative of the investigation and detailed report issued by the Long-Term Care Ombudsman that so thoroughly identifies the key findings and, frankly, failures by the facility and ODHS. As they wrote in the opening of the report: "Oregonians trust that state-licensed memory care providers are following the laws and rules and when a facility does not, Oregonians expect the Oregon Department of Human Services to take strong action to correct non-compliance on behalf of their loved ones." We agree and unfortunately, we failed here. Indeed, what happened is unacceptable and we call on the state for accountability and transparency to ensure safety and quality of life for the most vulnerable Oregonians.

It is worth noting, and underlining, that state regulators knew that the facility was out of compliance with staffing laws and requirements before Ki Soon Hyun ever moved in but failed to take action to alert the public and anyone contemplating moving someone into this facility, of the risk of harm present in this facility. As we appear today, we would be remiss if we did not express ongoing concern about whether there are other facilities, similar to the one here, that statewide regulators know are a risk, but have not sufficiently alerted Oregonians to this risk.

On behalf of consumers and their families, AARP calls for critically needed reforms. We need greater transparency and accountability in our LTC system. Below, we have identified some key areas to address as we move forward.

1. **Establish more oversight of new long term care facilities, especially those serving residents with dementia.** It is clear that the inspection and enforcement systems in place were not followed. As we note in our fourth recommendation below, this systemic failure needs to be addressed, but also it is clear that we need to add additional protections for residents when new facilities are opened, sometimes with new operators who have limited or no experience serving some of our most vulnerable family members. It is clear we lack the critical safeguards in our regulatory oversight system and possibly state law.
2. **Establish a specific number of days for ODHS to conduct an inspection when there is immediate jeopardy.** Clearly a death of a resident *in this situation* should have triggered *immediate* investigation under ORS 443.441(3)(a) “without undue delay” and imposed a condition on the license under ORS 441.736(2)(a) but almost a month elapsed. In light of this, we believe it appropriate to establish explicit timelines that provides clear expectations. At the same time Adult Protective Services was investigating the specific case, ODHS *licensing* should have issued an immediate jeopardy condition, to ensure compliance with licensing requirements on behalf of the residents who remained in an unsafe setting. The law is clear that these two things can and MUST happen simultaneously.
3. **When a facility is closed, residents must be protected.** While we can only hope that a situation where all residents have to be removed immediately from a facility is rare, we must make sure that the type of residential transfer that occurred at this facility never happens again. For the residents, these facilities are their *homes* and we must ensure they are safe and secure homes. We will not repeat the rather shocking details laid out in the LTCO report. However, it should not be ignored that almost 30 days elapsed from the death of a resident to the closure of the facility and that delay may have only exacerbated the urgency of removal. On the other hand we can only believe that the almost 30 day delay should have provided more than sufficient time for ODHS to secure a court order and appoint temporary management of the facility if only for enough time to allow the orderly and safe relocation of the residents that included notification and involvement of their family or loved ones.
4. **Modernize ODHS regulatory system by separating the “Provider Support” services from the “Licensing Regulatory” services.** We agree with the LTCO report that having these two responsibilities should be separated. Giving providers technical support to facilities may be an appropriate function of the agency to aid the operators of licensed long term care facilities. However, *the most important function of the agency is to protect consumers, residents and their families.* That means when a facility fails to follow the rules, there are timely citations with sufficient impetus that any failures to comply with the rules are vigorously investigated and immediately enforced. It is clear from this experience that, well before the death of Ms. Hyun, the regulatory systems in place failed. This systemic change to the system needs to be addressed, if not by the agency, then by the legislature.

Like many others, we are eager to see meaningful reforms. We appreciate the opportunity to add our voice today and look forward to next steps.