



Hon. Kathleen Taylor  
Chair, Senate Committee on Labor and Business  
Oregon State Capitol  
900 Court St. NE,  
Salem, OR 97301

***Subject: SB 907 Impact on Long Term Care Facilities***

Chair Kathleen Taylor, Vice-Chair Daniel Bonham, and Members of the Committee,

Oregon Health Care Association (OHCA) represents more than ninety percent of the licensed long-term care and home and community-based care providers across the state. Our members include nursing facilities, assisted living facilities, residential care facilities as well as memory care-endorsed facilities, who serve more than 74,000 older adults and people with disabilities.

OHCA supports efforts to ensure worker safety and enforce workplace protections, which seems to be the goal of SB 907. However, we do have concerns about how the bill as currently drafted could conflict with the complex regulatory framework governing long term care and home and community-based care facilities, which provide services 24 hours a day, seven days a week. In practice, this bill could have a significant, adverse impact on the health and safety of residents who call these facilities home.

SB 907 will allow employees to refuse to perform a task assigned to them under certain circumstances, including when the employee has a “reasonable apprehension” that performance of the task will result in serious injury or impairment to the health and safety of that employee or other employees, or when performance of the task would cause the employee to remain at a worksite during an evacuation due to a major disaster or emergency. In addition, SB 907 prohibits any adverse employment action against the employee, including disciplinary action and dismissal, for refusing to perform such task.

Even if an employee is acting in good faith in refusing to perform a task, SB 907 will make it next to impossible for facilities to meet their regulatory obligations to protect the health and safety of their residents. Our members are particularly concerned about the following:

**Inability to respond to emergencies and evacuate residents:** Nursing, assisted living and residential care facilities are required by the applicable rules and regulations to respond to emergencies, including but not limited to, providing assistance for the safe evacuation of residents or sheltering in place with residents. In order to meet these regulatory obligations, facilities must have the ability to require employees to remain on the premises during an emergency or disaster to assist the residents in their care. Depending on the nature of the emergency or disaster, a facility may not be able to allay an employee’s concern about the

risks to the employee. However, this does not mean facility staff should be able to refuse to perform emergency response tasks and abandon vulnerable residents, who may suffer from mobility issues or cognitive impairments. This is what SB 907 essentially allows employees to do, which will severely hamper facilities in their ability to appropriately respond to emergencies and protect the health and safety of their residents.

- **Inability to provide services to meet the needs of residents:** Facilities serve a diverse population of residents, including those with cognitive impairment and behaviors. As residents' condition change or decline, they may engage in behaviors or actions that not only interferes with the rights, health or safety of others but poses a danger to themselves or others, including employees. Such behaviors and actions may include aggressiveness or striking out. Even when such behaviors or actions rise to the level where the resident is no longer appropriate for the facility, a facility is nonetheless required to continue providing care and services to that resident during the involuntary move-out notice period to ensure the safety of the resident and facilitate a transfer to a more appropriate setting. SB 907 will allow employees to refuse to provide care to a resident based on a "reasonable apprehension" that a resident's behaviors present risk for injury to themselves or others, which again leaves facilities in a position where they cannot meet their regulatory requirements to residents.

Thank you for your consideration of OHCA's concerns and we look forward to a continued dialogue to make appropriate exceptions under SB 907 for long term care and home and community-based care.

Sincerely,

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