



House Committee on Housing
Testimony in Opposition of HB 2638

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AARP is a nonprofit, nonpartisan social change organization with a nationwide membership of nearly 38 million and over 503,000 in Oregon.

AARP opposes HB 2638, which would give legal immunity during the COVID-19 emergency period to nursing homes, assisted living facilities and other long-term care (LTC) facilities if the facility acted merely in “reasonable compliance” with COVID-19 guidance. What is even more problematic is that the bill would give immunity to a LTC facility if they were simply in “reasonable compliance” with just *one of any* applicable COVID guidance requirements, but out of compliance with any or all other requirements.

AARP has long fought for the rights of residents in LTC facilities to ensure their health, safety, quality of care and quality of life. This includes the right of residents and their families to seek legal redress through the courts to hold facilities accountable when residents are harmed, neglected or abused.

LTC facilities play an important role. There are approximately 45,000 residents in Oregon who live in state-licensed LTC facilities. During this time of a pandemic, LTC facilities face unprecedented challenges and, tragically, more than 50% of the deaths in Oregon due to COVID-19 have occurred in LTC facilities. While there may be some circumstances beyond facilities’ control for which they should not be held responsible, it is essential that long-term care providers remain responsible for any negligent actions to ensure that residents have some protection and opportunity for redress.

While HB 2638 permits individuals to bring claims if they can establish the facility was grossly negligent, it is important to note gross negligence claims are nearly impossible to prove and have the effect of barring the courtroom doors.

Pursuing a claim of negligence or abuse in court is not easy. There are already many significant barriers to accessing the courts, including a cap on damages and arbitration requirements, often part of the resident admission agreement. No family member who has lost a loved one due to neglect or abuse pursues this course of action lightly. It is always an option of *last resort*, but it must remain an option. LTC facilities should know they will continue to be held responsible for providing the level of quality of care that is required of them.

LTC facilities are not like other businesses; these facilities are *home* to the residents that live there. The Oregon legislature should not strip away the rights and protections of LTC facility residents. **AARP urges you not to pass HB 2638 because it would remove fundamental protections to all Oregonians, including our seniors who reside in long-term care facilities and their families.**