



Oregon

Tina Kotek, Governor

Department of Human Services
Office of Aging and People with
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Chair Sara Gelser Blouin
Senate Committee on Human Services
900 Court St. NE
Salem, OR 97301

Dear Chair Gelser Blouin and Members of the Committee,

I am the Deputy Director of Safety & Regulatory Oversight with the Oregon Department of Human Services' Office of Aging and People with Disability (APD). Thank you for the opportunity to testify on SB 134. The department is neutral on this bill.

Safety is a top priority for APD and the Department: protecting older adults and people with disabilities from abuse and neglect is one of APD's core responsibilities.

The Department understands SB 134 would allow residents in long-term care settings such as nursing facilities, assisted living facilities, residential care facilities and adult foster homes to use electronic devices that record and broadcast audio and video in their rooms or private living units. Many older adults in long-term care settings experience cognitive disorders such as dementia. Therefore, having an additional tool to help inform the resident, their family or representatives and care givers of activities the resident experiences in their private living space could provide increased confidence in the care and services received.

The Department has identified some areas of concern in the bill that we wish to share.

First, perhaps most significantly, the bill does not address how recordings should be accessed and does not discuss potential issues concerning unauthorized access or dissemination of recordings, including recovery of recordings. Although the Department assumes

the recordings are “owned” and managed by the resident or representative, the Department recommends clarifying this. Relatedly, there are limited safeguards in the bill allowing requirements that the recording be turned off during certain activities, but it is not clear how those safeguards are expected to be enforced. Taking these two concerns together, it would be challenging for the Department to enforce the assumed intent that videos are not being recorded, viewed, or disseminated if they display an activity that a resident or their representative has directed is off-limits for recording (e.g., during a resident’s getting dressed, bathing, or having intimate relations).

Second, there was a question raised about whether the signage that would be required at facility entrances should also be required on individual resident room doors since recording would presumably only be employed in private living units.

Third, there are a few terms that may benefit from definition which do not appear to be defined: specifically, “consent” and “resident’s representative.” Perhaps “representative” would be appropriately limited to “legal representative such as a guardian, conservator, or other representative with power of attorney” given the potential privacy impact of the decision.

Fourth, under the bill, if roommates do not consent to having an electronic monitoring device in shared rooms, facilities are required to find the resident another room; if a facility is unable to accommodate a request due to lack of space, the facility must reevaluate the request every two weeks until the request is fulfilled. The Department anticipates this could become a serious problem for adult foster homes, nursing facilities and smaller facilities where it is common for residents to share rooms and there are a limited number of rooms.

Fifth, the Department identified a potential conflict with Oregon’s two-party conversational privacy statute, specifically with regard to the subsection of the bill where an individual resident is authorized to record for up to two weeks without notifying others. Additionally, If the roommate does not consent, recordings could involve violations of federal healthcare privacy laws, disclose confidential health

information, and deprive a roommate of their right to object and constitutional right to privacy.

Finally, the new requirements would go into effect January 1, 2026, if the bill were to pass. The Department notes that given the current legal requirements for writing administrative rules, generally it can take a nine-month process for rule adoption and thoughtful implementation of the bill, which may not align with the proposed effective date for the bill.

Thank you once again for the opportunity to testify.

Sincerely,

Corissa Neufeldt
Deputy Director of Safety and Regulatory Oversight
Oregon Department of Human Services
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