



Written Testimony on SB308

Submitted by Kathryn Brod, President/CEO

Senate Judiciary Committee

May 13, 2020

Thank you for the opportunity to provide written testimony in support of SB308 which would protect workers acting in good faith during the COVID-19 pandemic from civil liability. LeadingAge Ohio represents over 400 mission-driven, values-based providers of aging and end of life services, including affordable and market rate housing operators, assisted living, nursing homes, home health and hospice, and other home- and community-based service providers like adult day health.

Since early March, our members have been answering the call to serve, rising to the demands of the current crisis by closing their doors, rapidly shifting infection control protocols and developing new ways to care for older adults that mitigate the risk of transmission of this deadly disease. The stakes have never been higher for our members, and yet they've been operating under conditions that leave much to be desired. The supply of personal protective equipment is inadequate, forcing them to reuse and even share items that are typically disposable after a single use. Likewise, the lack of accessible testing means they're fighting this battle with blinders on. Providers that have staff either test positive or exposed to a person with COVID-19 may be working with fewer staff than typical, and often, their work is multiplied: meals now must be delivered to residents one at a time in their rooms; social activities that used to be done in groups are now one-on-one, and individuals used to working with a team of caregivers may only have one dedicated individual caring for them. All of these steps are necessary to protect older adults, but all of them introduce significant challenges into care environments.

Make no mistake: many of these conditions have improved in recent days as supply chains begin to loosen, precious PPE shipments are finally delivered, and testing becomes accessible. This does not change the fact that in March and April, care was delivered under less-than-ideal circumstances. The conditions are far from resolved, however, as testing processes vary dramatically across the state and we continue to receive calls of PPE shortages.

State governments across the country have recognized providers' diligent efforts in suboptimal conditions and taken steps to shield them from the threat of future litigation. They have limited the extent to which they can be held liable for conditions outside their control during this period of crisis. While Ohio is not unique in the challenges it faces, it is unique inasmuch as this step is not one that can be taken by the Administration, but rather, must be done by the legislature.

We believe that this bill will not only protect providers that have been acting in good faith since the inception of the crisis, but will free providers to innovate in new ways. For example, in central Ohio, LeadingAge Ohio is part of an innovative partnership that deploys testing teams to long-term care facilities. The Post-Acute Regional Rapid Testing (PARRT) program relies on volunteers from the Franklin County Medical Reserve Corps precisely because these volunteers are granted immunity from prosecution under Ohio's good Samaritan laws. One barrier to replicating the PARRT model in other parts of the state is that not every region has a strong medical reserve corps. Were PARRT to be replicated with paid nurses—for example, from a local home health agency or furloughed from another

sector—they would not have the same protection from civil liability. We believe this challenge would be addressed by the passage of this bill.

Offering healthcare providers the protections laid out in the bill frees them to focus on making the best clinical decisions and develop innovative solutions to the challenges at hand.

In closing, we would like to express gratitude to the sponsor for bringing forward this important legislation, and encourage its speedy passage.