

**Ohio Senate Health Committee**  
**Wednesday, December 4, 2024**  
**Interested Party Testimony on HB 236, “Never Alone Act”**  
**Susan Wallace, President / CEO, LeadingAge Ohio**

Good morning, Chairman Huffman, Vice Chair Johnson and Ranking Member Antonio, and members of the Committee. I am Susan Wallace, President and CEO of LeadingAge Ohio. Thank you for the opportunity to testify before you today as an interested party on HB 236, the Never Alone Act.

LeadingAge Ohio is Ohio’s association of mission-driven providers of long-term services and supports (LTSS). We represent over 400 organizations that serve Ohioans across their lifespans, including affordable and market rate senior housing, life plan communities, adult day centers, assisted living communities, nursing homes, home health agencies and hospices. Our members serve more than an estimated 400,000 older Ohioans and annually employ over 35,000 Ohioans across 150 Ohio towns and cities. Ninety-eight percent of our members are tax-exempt nonprofit organizations, and over 70 percent are faith-based.

LeadingAge Ohio agrees with the sentiment behind the Never Alone Act: our members do everything within their power to ensure the individuals they serve are connected with their loved ones and knit into their wider community. The choices our members were forced to make during the pandemic were heartbreaking, and more than one note that it is the “worst thing they’ve ever had to do” when they closed their doors to the public and to family members. Other member types, like the 20 hospice houses operated by LeadingAge Ohio members, never closed to visitation, but rather implemented other safety protocols for families and patients.

As soon as nursing homes were locked down, we actively advocated for compassionate care visitation—when individuals approached end-of-life or it was clear that quality of life was impaired by prolonged isolation. We asked to have visitation opened and in fact wrote the first draft of a statewide policy that reunited families again after too many months of separation.

Furthermore, we worked closely with Representative Richardson on HB 120, the Compassionate Caregiver bill, which passed this body in April 2022 and provided many overlapping protections to residents of long-term care facilities that are enumerated in HB236. For example, both bills apply in the context of public health emergencies and both bills seek the least-restrictive access possible for the individual’s loved ones, whether they are “advocates” or “compassionate caregivers.” That bill specifically ensured that a provider would not be asked to violate requirements set by federal bodies like the Centers of Medicare & Medicaid Services (CMS) and the Centers for Disease Control & Prevention (CDC), both of which are governing authorities.

While we did not testify in the Ohio House on the bill, we did communicate with bill sponsors, providing comments to both the sponsors as well as leadership of the House Health Committee where it was heard. The sponsors did make some changes to the bill based on these comments, but there are a few additional concerns that still remain, which I’ll outline here.

- 1) We believe that including hospice houses is inappropriate and an overcorrection in this bill. Specifically, most individuals who are admitted to a hospice inpatient unit only stay 3-6 days, and it is often their last 3-6 days of life. Hospice teams work closely with surrogate decisionmakers—typically the agent named in the health care power of attorney—and they never closed their doors to family members, even in the earliest days of the pandemic. We believe that this layer of requirements has proven unnecessary and will be disruptive to a person’s last moments.
- 2) Many communities still have semi-private rooms, where an individual shares a room with a roommate. Needless to say, individuals’ decisions around infection control became very personal and charged during the pandemic. Facilities make every effort to match residents with similar preferences, but in the event that such a compromise can’t be struck, we believe that roommates’ consent should be required, particularly when an advocate’s presence falls outside of the facility’s typical visitor policy, such as may occur in a rooming-in situation. Currently, HB 236 is silent on the topic of shared rooms, which will again force providers to make their own judgments.
- 3) Lines 198-203 allow the advocate to **provide a note from the physician** demonstrating the advocate is exempt from using PPE due to a physical or mental health condition that would prevent them being able to wear it. We are concerned that, while community physicians or mental health providers are very familiar with the physical and mental health needs of their clients, they may not be familiar with the health condition of residents, and as such are not qualified to make this exemption. Rather, we respectfully ask for a process by which these exception requests may be elevated to the medical director of the facility and / or there be a process by which this exception may be declined if it is determined that exposure would likely threaten the health and safety of the resident and/or staff.
- 4) We remain concerned about the lack of detail about an **advocate’s decision to quarantine with a resident**. Particularly, we would like to see input from the Department of Health on whether it is permissible under the existing licensure law to house and supply more individuals than are recorded as residents of the facility. Additionally, there is a clear cost to this co-quarantining, from food / beverage to furnishings, which is not accounted for in the legislation. Finally, we would ask that, if an advocate decides to “break” quarantine and leave them premises, they not be permitted to return to quarantine.

In closing, I want to take us back to a moment in March of 2020, when we knew very little about COVID-19. Those first days, individuals were unsure if it was only transmitted via respirations: we all knew someone who was washing their groceries with soap and water before opening and eating. And because of our hobbled supply chains, we fielded calls from facilities that were buying goggles and trash bags as barrier protection. Our members were fighting an enemy that was in the air, invisible, with no weapons to speak of, and the one tool that we did have—distance—was crushing to deploy.

The research on the health impact of social isolation was still nascent—only in 2016 did we begin comparing social isolation to tobacco use in terms of its impact on heart health. Furthermore, we didn’t know how to weigh the damage we’d do through social isolation against the mortal threat

of COVID-19. I believe that most of us in the field, looking back, think that we did the best we could with the knowledge and tools that were available at the time. But I also believe we know more now, and we're doing better.

This is why LeadingAge Ohio came alongside the Ohio House to craft a bill passed in 2022 that ensured that, should another public health emergency transpire, we would do everything within our power to preserve access to loved ones. This PHE-time promise, coupled with the peace-time Resident Bill of Rights—there are 36 resident rights enumerated in the Ohio Revised Code-- is the law and standard practice in Ohio's long-term care communities. We believe that the existing nursing home residents' bill of rights along with the compassionate caregiver law, we have addressed the concerns that underpin the Never Alone Act. The bill's sponsors have remained steadfast in their insistence that nursing homes, assisted living, and hospice houses remain in the bill.

As we shared before, LeadingAge Ohio is not an opponent of this legislation. While we believe our current laws address the isolation experienced in long-term care during the pandemic, our principal concern is that this bill lacks clarity in several important areas that will make it very challenging to operationalize. This will eventually require someone – either providers or the Administration or in the worst-case scenario, the courts– to make their own best judgments on how it should be followed. The pandemic caused so much confusion and frustration with unclear protocols and ever-changing rules. We believe we owe it to residents and their families to get this right.

Thank you for your consideration of my remarks today, and I am happy to answer any questions at this time.