

TESTIMONY BY DR. LIAM FRY IN FAVOR OF HB 3659

House Judiciary & Civil Jurisprudence



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Hello, my name is Dr. Liam Fry. I am the Chief Medical Officer for Austin Geriatric Specialists. We provide care to 26 long-term care and skilled nursing facilities in Central Texas. I am testifying in favor of HB 3659.

Taking care of elderly Texans in nursing homes has been my life's mission for 16 years. I can tell you the past 12 months have been the most heart-wrenching, as well as the most demanding of my entire career. We have worked harder yet lost more patients than ever.

I wish I could tell you that the COVID pandemic is over. It is not. Everyone here realizes that. We are all wearing face masks. Short of the vaccine, there is no known cure, and treatments are limited in their effectiveness. Those who work in nursing homes that operated in good faith should be granted some liability protection.

House Bill 3659 recognizes the tragic impact of a global pandemic. Despite using every tool and safeguard available—the tests, the masks, cohorting patients-- we cannot ring-fence our most vulnerable.

COVID is a community spread event. I can tell you that none of my 26 nursing homes was spared--not the 5 Star, not the 1 star, not the for-profit, not the non-profit, not the VA, not the CCRC—not one of them.

In fact, if you look at the published literature, the strongest predictor of cases in an outbreak in nursing homes had nothing to do with the nursing home. Rather, it is the high per capita rate of COVID infections in the community.

The only factor that consistently affected the rate of transmission in nursing homes was the facility's size. The thought there, and it is just a hypothesis, is that the larger homes have more people, more staff coming in from the outside to provide needed care, and more opportunities to be the Trojan Horse for a terrible virus.

As Chairman Leach discussed, since the pandemic's early days, there have been many different guidelines. We have had local, state, and federal regulations. We have had county health departments provide guidance. While greatly appreciated, that guidance was frequently conflicting.

Since last February, Texas Health and Human Services, which regulates nursing homes, had issued nursing homes 347 changes to their guidance, called "Guidance for COVID".

And that does not include the more recent version, which came out on April 6. The most current version is the 20th iteration and is nearly 100 pages. Is there a more clear indication that policies, protocols, and guidelines are evolving?

Some people are concerned about the 1-star and 2-star facilities. I have worked in these homes and dealt with COVID outbreaks. I have looked for situations where if we did everything the guidance told us to do our patients would be protected. But there isn't any data that supports that. I wish there were.

These past few months have provided a glimmer of hope. Some 900 nursing home residents that we treat have been vaccinated. None of them have developed COVID after their second vaccination.

In 2020, CMS focused on infection control. As such, it froze its Nursing Home Compare star rating system. A poorly rated facility did not have the opportunity to improve its rating, nor could a highly rated facility diminish its rating.

I have grasped for every scientific study and attended countless webinars, hoping that some therapeutic will help treat and prevent this terrible disease. Without exception, short of the vaccine, there is no known cure or reliable treatment or prevention for COVID.

Doctors and nurses should not be held liable for their care of COVID patients unless that care is grossly negligent. Please vote in favor of HB 3659.