



DISABILITY RIGHTS OREGON

February 14, 2013

TO: Jeff Barker, Chair  
House Judiciary Committee

FR: Bob Joondeph  
DRO Executive Director

RE: HB 2024

Disability Rights Oregon opposes passage of HB 2024. Its purpose is to increase the criminal penalty for certain state hospital patients who are convicted of assaulting a hospital staff member. Now, such an assault would be a Class A misdemeanor. HB 2024 would make the same behavior a Class A felony.

The state hospital is not a prison. It is, however, highly restrictive. Patients are in the hospital to receive treatment that is designed to allow them to safely return to society. The time of a patient's release is primarily dictated by how she progresses in treatment and how she behaves. While there, most aspects of a patient's life are under the control of staff. Patients may be subject to involuntary treatment with medications, convulsive therapy, behavioral therapy, seclusion, mechanical restraint and a variety of security and privilege restrictions.

HB 2024 focuses on a subset of patients who are in the hospital following an insanity defense. Those patients are generally sentenced to an indefinite period of time not to exceed the maximum sentence they could have received had they been convicted. Their release is highly correlated to ongoing assessments of their dangerousness. They have very significant incentives to follow their treatment plan and hospital rules.

DRO opposes HB 2024 because:

We do not feel that it will create a meaningful incentive for psychiatric patients to control their actions. Patients are already prosecuted for assault. An additional penalty seems unlikely to change the thinking of that small number of patients who act out.

We find it troubling that assault of a staff member would be treated by Oregon law as more serious than assault of another patient.

We are concerned that only a subset of state hospital patients would be subject to this enhanced penalty. Patients who have been civilly committed, privately committed, transferred from Corrections or committed to be restored to face criminal charges would not be affected.

We believe that HB 2024 will encourage and support the belief of some hospital staff that their facility is the equivalent of a correctional institution and that the patients should be treated as inmates. To whatever extent there remains a "culture" at the state hospital that holds this view, it is the one that state officials and the US Department of Justice have identified as needing to change. Instead, evidence-based practices of behavioral assessment, planning and training have been shown to be successful in reducing institutional violence. Greater punishment of mental patients for their behavior does not reduce violence but it does undermine the therapeutic environment for all patients.

Thank you for this opportunity to voice opposition to HB 2024.