

from the desks of
Senator Sara Gelser SAM

Senator Jeff Kruse



Support HB 2413A

The Oregon Health Care Association urges a yes vote for HB 2413A. The amended bill before you is a simple clarification to existing law. The language in HB 2413A reflects long standing state policy regarding the licensing of new residential care and assisted living facilities in Oregon.

Background - Changes were made in the 2008 Program Change Bill to ORS 443.420 requiring DHS to **consider** four different factors prior to an initial licensure of a residential care facility; 1.) The license applicant's history of regulatory compliance and operational experience; 2.) The need in the local community for the services offered as demonstrated by a market study; 3.) The willingness of the license applicant to serve underserved populations; and 4.) The willingness of the applicant to contract with the agency to provide services to the state medical assistance program (Medicaid).

These four factors were to be considered by the agency as part of their overall review of the application **but no one factor on its own was intended to qualify or disqualify an applicant from initial licensure** (for example, choosing whether or not to enter into a Medicaid contract as a condition of licensure). The changes to the law were implemented with little problem or controversy, with subsequent new licenses being approved accordingly.

More recently, the agency's interpretation of the law has evolved and new problems have arisen. The requirement to "submit" a market study has been used to deny new licenses based on a de facto Certificate of Need type of standard being applied. **This interpretation is inconsistent with both long-standing state policy in this program area, as well as with the legislative intent of the 2008 changes in the law.**

The Solution: HB 2413A - The purpose of the market study requirement for new residential care facilities was always to ensure that developers have their eyes wide open when breaking ground on a new facility. The requirement was never intended to serve as a litmus test for licensure. HB 2413A clarifies the law in this area and brings it back in conformance with long-standing state policy. The bill clarifies that DHS cannot refused to license a new facility based solely on the results of a market study. **OHCA urges your support for HB 2413-1 amendment.**