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March 1, 2017

TO: The Honorable Paul Holvey, Chair
House Committee on Business and Labor

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SUBJECT: HB 2183 – Review and Inspections of Health Care Facilities

Chair Holvey and members of the committee; I am Dr. Dana Selover, Manager of the Health Care Regulation and Quality Improvement Section for the Center for Health Protection, Public Health Division, Oregon Health Authority (OHA). I am here today to provide information on HB 2183, which transfers the duties, functions, powers, and resources of the State Fire Marshall (SFM) for health care facility structure plans review and inspections for fire and life safety to the Dept. of Consumer and Business Services (DCBS).

The Health Care Regulation and Quality Improvement (HCRQI) section provides oversight of health care facilities and agencies through state licensure and federal certification, which includes plans review for new construction of these facilities.

SB 886 was a very similar bill from the 2015 legislative session. As a result of discussions following SB 886, the Governor's office directed OHA, DHS, OSFM and DCBS as agencies involved, to establish a workgroup to design an improved process to address coordination of survey site visits, ensuring completion of written work products, resolving code interpretation discrepancies, appropriate communications with licenses and applicants, coordination and integration into licensing and certification processes and timely responses. In addition, the OHA contracted with the Coraggio Group to provide an independent objective analysis

and recommendations for improvement of the process of inspections and approvals related to the construction or remodeling of health care facilities.

The resulting recommendations from the comprehensive report are currently being implemented by OHA, DHS and OSFM (see attached for more detail) with participation by many of the original work group members.

Should the legislature continue to consider the bill as written, the OHA has a concern that HB 2183 does not adequately address the state and federal roles in the oversight of health facilities as defined in ORS 442.015.

The Centers for Medicare and Medicaid Services (CMS) maintains oversight and decision-making authority for compliance with the Medicare health and safety standards for providers including hospitals, nursing homes, and other facilities serving Medicare and Medicaid beneficiaries.

The compliance inspections are done by the individual State Survey Agencies (OHA & DHS) on behalf of CMS. The functions performed for CMS under the agreements in Section 1864 of the Social Security Act (the Act) are referred to collectively as the certification process. While State Survey Agencies do not have final decision-making functions or authorities, their certifications are the crucial evidence relied upon by the CMS Regional Offices in approving health care entities to participate in Medicare. Re-certifications are performed periodically by the State Survey Agencies. After the State Survey Agency completes an inspection for the Medicare and Medicaid programs, it submits evidence and a certification recommendation for a final CMS Regional Office determination.

The bill requires that DCBS determine whether a facility complies with federal health program construction standards, establish special construction standards that are more stringent than federal standards, and conduct any required fire and life safety inspections during construction to ensure compliance with standards. The authority for determining compliance is federal and can only be performed, documented and enforced by a CMS trained and certified individual. It may not be appropriate to legislate the assignment of federal authority that normally lies with the State Agency (OHA and DHS currently) and their selected vendor.

There is a planned assessment due in March 2018. In summary, we request that the improvement process, began in April 2016, be allowed to proceed as opposed to a premature attempt of system overhaul.

Thank you for the opportunity to testify. I'd be happy to answer any questions.