

## **Testimony**

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SB 1058: To expand abuse investigations

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Chair Gelser, and members of the committee, for the record, my name is Justin Hopkins, Director of the Office of Adult Abuse Prevention and Investigations (OAAPI), a shared service between the Department of Human Services and the Oregon Health Authority.

The purpose of my testimony today is to provide the committee with information regarding SB 1058. SB 1058 is intended to address gaps in the existing statute related to abuse protections for vulnerable populations, specifically individuals with behavioral health challenges. Under the current law, some of Oregon's most vulnerable individuals are not protected from abuse when they are receiving services. SB 1058 aims to address these gaps in three specific ways.

First, SB 1058 would expand the definition of abuse that currently exist in ORS 430.735 for individuals living with mental illness. There are inconsistencies between the definitions of abuse that apply to people with mental illness and people with developmental disabilities. For example, there are clear definitions of financial and verbal abuse that protect people with developmental disabilities, but that protection does not apply to a person with a mental illness. As you will notice, throughout the bill, the term "adult" replaces "a person with a developmental disability." This broader term will ensure all vulnerable adults are covered under the same definition of abuse. Despite the gaps in the law, OHA and OAAPI developed rules and practices to ensure people with mental illness living in residential facilities had these protections by putting these protections into OHA's licensing rules, where they are defined as "mistreatment," rather than abuse. Any substantiated findings of mistreatment are then viewed as licensing violations by the facility, rather than abuse by an individual. The biggest problem with this practice is that it does not cover vulnerable people who are living outside of a licensed setting. While OAAPI continues to investigate abuse and "mistreatment" of people with mental illness in facilities, people living with a mental illness in the

community do not receive statutory protections from certain types of abuse, such as verbal abuse, financial abuse, abandonment and certain types of neglect.

Second, SB 1058 develops language to ensure that patients receiving services at the Oregon State Hospital (OSH) are protected from abuse. Currently, ORS 430.735 does not contemplate patients at OSH as part of the definition of the vulnerable population protected by the abuse laws. The statute currently defines the vulnerable population as a person with a mental illness receiving services from a community mental health program or a licensed residential treatment facility. Despite the lack of statutory authority, OAAPI has conducted investigations at OSH to inform personnel actions by OHA. However, individuals receiving mental health services in Oregon's highest level of care do not receive the same statutory protections as they do prior to being admitted to OSH, or when they return to the community.

Lastly, SB 1058 creates statutory protections from abuse for individuals receiving substance use disorder treatment in residential settings. Currently, there is an alarming lack of protection available for individuals who are detoxifying, or receiving residential treatment for a substance use disorder. These individuals are often court mandated to treatment settings. It is not uncommon for their custodial rights to be jeopardized, or to face criminal charges if they do not successfully complete treatment. As such, this population is incredibly vulnerable to abuse and to retaliation for disclosing abuse. Recently, OHA received several complaints of physical and verbal abuse occurring at a program. While these complaints of abuse were examined as licensing violations by OHA, neither DHS nor OHA had any authority to investigate the specific allegations of verbal or physical abuse simply because people with substance use disorders do not meet the criteria for protected population.

One final note: we have had one workgroup meeting on this bill with the known stakeholders and are committed to working with them further, and any other interested parties, on any reasonable refinements to the language. Due to the time crunch, I hope that this body can approve SB 1058 and send it to the second chamber where we will make any amendments needed.

Thank you for allowing me testify today. I am happy to answer any questions the committee may have.