



Testimony

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SB 1540

Presenter: Justin Hopkins, Director, Office of Adult Abuse Prevention and Investigations, DHS/OHA

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 gaps that currently exist in Oregon's 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 1540 - Section 2 addresses these gaps.

The current language in ORS 430.735 uses a narrow definition to identify the population that is legally protected from abuse. An individual living with a mental illness must either be receiving services in a licensed facility, or they must be receiving services from a Community Mental Health Program (which has a specific meaning outlined in ORS 430.630). This narrow definition excludes some of Oregon's most vulnerable adults. For example, the current law does not protect individuals living with a Severe and Persistent Mental Illness who are on the Oregon Health Plan, nor does it include patients at the Oregon State Hospital, Oregon's highest level of mental health care. SB 1540 expands the definition of the vulnerable population to include these individuals.

The current definitions of abuse that exist in ORS 430.735 for individuals living with mental illness are inconsistent with the definitions that apply to people with developmental disabilities. Individuals with developmental disabilities are afforded stronger protections from abuse. There are clear definitions for abandonment, financial exploitation, verbal abuse, and neglect that protect people with developmental disabilities. However, a person living with a mental illness is not currently protected from these types of abuse. SB 1540 corrects that.

SB 1540 expands the existing definitions for “sexual abuse” to include situations where a substance use disorder treatment professional, or a mental health professional, engages in a consensual sexual relationship with their client. While licensing and certification boards currently enforce ethical standards on this issue, it is not considered “sexual abuse” when professionals engage in consensual sexual relationships with their clients.

Lastly, SB 1540 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, coercion, and retaliation for disclosing abuse.

Over the past three years, OHA has received several complaints of abuse occurring at residential programs providing substance use disorder treatment; however none of these complaints were investigated by the Department as alleged abuse because the population is not protected by the current abuse law. Some examples of these complaints include:

- Withholding a client’s medications as a punishment for being late;
- Physically assaulting clients by hitting and kicking them before allowing them to go outside;
- A staff member sexually assaulting a client;
- Forcing clients to assault each other as part of their group therapy sessions;
- Forcing clients to live in moldy and unsanitary conditions;
- Punitively forcing a client with a physical disability to go up and down stairs; and
- Several reports of financial exploitation

While these complaints of abuse were examined as licensing violations by OHA, and some were referred to law enforcement for investigation, neither DHS nor OHA had any authority to investigate the specific allegations as “abuse.” And while licensing can investigate and require the facility to make changes in order to comply with their regulations, there are no meaningful ramifications for the alleged perpetrator, unless they are criminally convicted. SB 1540 resolves this gap in the law.

OAAPI would like to acknowledge a few areas that will be important to address for the successful implementation of this bill.

- 1) Investigating abuse in substance use disorder treatment facilities, particularly in detox facilities, will require specific training and consideration for the investigators and the providers. OAAPI is committed to working with its partners to facilitate a successful rollout of these changes.

- 2) SB 1540 changes the statutory definitions regarding the populations who are protected from abuse, as well as the types of abuse that apply to those populations. OAAPI will need to update the Oregon Administrative Rules governing the procedures for abuse investigations. OAAPI will facilitate an inclusive Rules Advisory Committee comprised of key partners to ensure definitions and procedures are developed in a collaborative manner.
- 3) OAAPI is committed to working with the Community Mental Health Programs, and other behavioral health providers to monitor the impact that these changes could have on their workload. We would be happy to report our findings to this Committee once we have meaningful data to share.
- 4) OAAPI continuously strives to improve our investigation procedures, and to ensure each person is afforded adequate due process. As we make changes resulting from SB 1540, OAAPI will continue to use information obtained from people and provider organizations across Oregon to make improvements.

I would like to thank the committee for allowing me testify today. I would be happy to answer any questions the committee may have.