

DRAFT Memorandum

PREPARED FOR: Interim Committees for Health Care and Human Services

DATE: December 7, 2023

BY: LPRO staff on behalf of the Joint Task Force on Hospital Discharge Challenges



This memo provides a status update to the Legislative Assembly on the Joint Task Force on Hospital Discharge Challenges (“Task Force”). The Task Force was established in September 2023 following the passage of House Bill 3396 ([link](#)) in June.

Oregon, like other states, has experienced challenges in its care delivery systems in the wake of the COVID-19 pandemic. During the 2023 session, legislators heard perspectives from different sectors about barriers faced by people with complex health needs, especially those without stable housing, as they transition from hospitals to skilled nursing facilities, adult foster homes, residential care, and other settings.

HB 3396 directs the Task Force to study these challenges and provide a final report with recommendations by November 2024. While the Task Force may submit preliminary recommendations by December 2023, they are not required.

The final report and recommendations to be submitted in 2024 will address six policy areas:

1. post-acute care workforce
2. hospital discharge processes
3. state and federal partnerships
4. innovative care models
5. community-based care placements
6. coverage and reimbursement

The Task Force is pursuing this work in two phases.

- **Phase I** includes a survey of members to identify needs and opportunities; gathering data and perspectives from agencies and providers; and identifying near-term priorities and next steps. This work is underway.
- **Phase II** will include an independent consultant to provide additional analyses and technical consultation for focused conversations about longer-term policy strategies. The bill authorizes LPRO to contract with third parties to support

Exhibit 1. Timeline

Phase I	2023
Getting Started	September
Info Gathering	October
Deliberation	November
Memorandum	December
Phase II	2024
Planning	January
Focused Conversations	March
	April
	May
	June
Deliberation	July
	September
	October
Final Report	November

Source: Legislative Policy and Research Office (LPRO).

this effort, and an agreement was being finalized at the time of this memo.

The Task Force has yet to discuss topics for 2024 meetings. The work plan, to be discussed at the January 2024 meeting, will be based on member input and the availability of analyses and speakers to support topical meetings. The Task Force will continue to gather data, stakeholder input, and consultation from national experts as it moves to develop recommendations by November 2024.

Phase I: Information Gathering

Following appointment of members in September of 2023, the Task Force convened to begin gathering information, assessing needs and opportunities, and identifying Phase I priorities and next steps. Members elected Jimmy Jones as Chair and Dr. Elizabeth Burns as Vice Chair.

Meeting #1. On September 21, the Task Force adopted rules and operating procedures ([link](#)) and received an overview on discharge challenges from the Oregon Department of Human Services (ODHS) ([link](#)). Following the meeting, members completed a needs assessment survey (described below). The meeting summary can be found [here](#).

Meeting #2. On October 17, ODHS and the Oregon Health Authority (OHA) presented on their roles in the discharge process ([link](#)). Members heard presentations from urban and rural hospitals about current discharge challenges and opportunities ([link](#)). Members also reviewed results of the needs assessment ([link](#)). The meeting summary can be found [here](#).

Meeting #3. On November 16, the Task Force received presentations from post-acute and long-term care providers on current challenges and emerging care models ([link](#)). Members reviewed information about phase I policy concepts ([link](#)) and discussed next steps. The meeting summary can be found [here](#). (link forthcoming)

Meeting #4. On December 12, the Task Force finalized and adopted this status report to the Legislative Assembly. They also received a presentation from providers of guardianship services (link forthcoming).

MEMBERS

Chair: Jimmy Jones
Vice Chair: Elizabeth Burns
Sen. Deb Patterson
Rep. Christine Goodwin
Phil Bentley
Rachel Currans-Henry
Daniel Davis
Jeff Davis
Jonathan Eames
Trilby de Jung
Eve Gray
Felisa Hagins
Jesse Kennedy
Kathy LeVee
Alice Longley Miller
Leah Mitchell
Raymond Moreno
Joe Ness
Sarah Ray
Jane-ellen Weidanz
Dawn Wipf
Jonathan Weedman



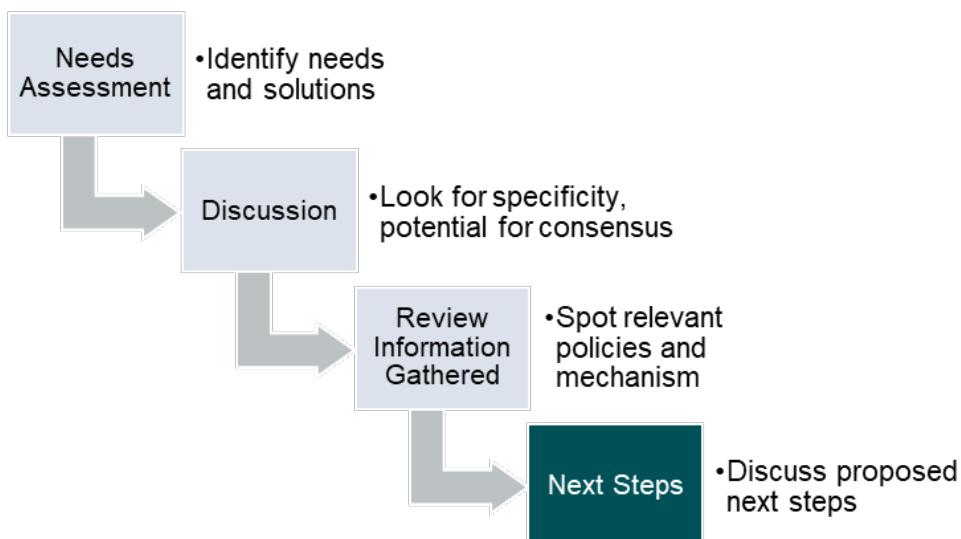
The Task Force accepted public testimony at all meetings after its first meeting and will continue to do so in 2024.

Needs Assessment

Phase I work began with a needs assessment survey. Members were asked to identify, in their own words:

- the problems to be addressed by the Task Force and what success will look like;
- needs and opportunities in the six policy areas specified by HB 3396; and
- information and perspectives needed to inform the Task Force's work.

Exhibit 2. Phase I Process



Source: Legislative Policy and Research Office

Member responses to the needs assessment were summarized in a memorandum prepared by LPRO staff ([link](#)). Members reviewed the survey responses and discussed potential concepts, identifying those with enough specificity for near-term action.

Staff gathered preliminary information about Phase I concepts, including related state and federal laws, recent legislative actions in Oregon and other states, and potential mechanisms for action ([link](#)).

Members discussed potential next steps on the concepts, described in the next section. Discussions are ongoing at the time of this report, and members have not yet advanced recommendations related to these concepts.



Phase I: Next Steps

This section describes Phase I concepts identified by Task Force members, information gathered by staff, and next steps. While these concepts have been identified for further near-term exploration, the Task Force has not recommended action on these topics.

Phase I concepts address four of the six required policy areas:

- 1) post-acute healthcare workforce development,
- 2) hospital discharge processes,
- 3) post-acute care coverage and reimbursement, and
- 4) post-acute care placements.

The Task Force will need to address two additional policy areas in its Phase II work: 5) innovative post-acute care models, and 6) federal programs and partnership opportunities. Additional concepts that were not identified for Phase I action will also be explored in Phase II work. LPRO, other state agencies, and an independent consultant will conduct additional analyses of these and other concepts in the coming months.

Post-Acute Care Workforce Development

Several needs and opportunities have been identified to strengthen Oregon's post-acute care workforce. Many of these concepts address health care workforce issues broadly and members have expressed the need to clarify what scope the Task Force will address in its workforce recommendations, **striving to avoid duplication of discussions happening elsewhere and identifying barriers to initiatives already in progress**. Task Force members specified that workforce concepts should focus on direct care workers across the post-acute care continuum. Members identified three workforce topics for near-term exploration:

- **Members requested to explore compassion fatigue and moral injury supports for post-acute care workers.** ~~including nurses and certified nursing assistants.~~ The proposed next step is for this topic to be explored at an informational hearing to include perspectives of post-acute care workers and consideration of policy opportunities and models for intervention.
- **Members requested information about the interstate nurse licensure compact and provisional licenses.** Members posed questions about the potential impact of the compact on Oregon's workforce. A focused conversation on licensing and certification is planned to include partners involved in Oregon's licensing processes.
- **Members requested to explore the education pipeline and funding for training post-acute care providers.** Preliminary information gathered included an April 2023 report and recommendations on removing barriers in nursing education ([link](#)). Members requested an update on funds allocated by HB 3396 for grants to support clinical education, employer training, nursing program



expansion, and nurse educator recruitment. At a future Task Force meeting, invited testimony and additional analysis will support conversations about legislative, administrative, or private sector action to enhance Oregon's capacity to develop and train post-acute workers.

Additional cross-cutting analyses are planned to inform these discussions. Staff will present information on Oregon's post-acute workforce and current policies related to licensure, certification, and scope of practice. An independent consultant will conduct a survey of post-acute care facilities in early 2024 to assess regional and facility-level post-acute workforce needs, opportunities to improve recruitment and retention of staff who can care for people with complex needs, and opportunities to learn from other states. **Additional topics such as career advancement pathways and standardization of training and credentialing have been identified for upcoming discussions, as well as the need to hear directly from post-acute workers.**

Hospital Discharge Processes

Members have discussed several issues contributing to hospital discharge delays for people needing post-acute care. Members identified two concepts for near-term exploration to improve hospital discharge processes and planning:

- **Members requested to develop a formal escalation process that hospitals could employ to address discharge delays.** A protocol would provide standardized guidance **from ODHS and OHA** and support to hospitals when patients experience barriers to post-acute care placements. Examples were collected from members and other states. The proposed next step is for a subset of members to provide input on the development of the escalation protocol, as well as other operational guidance or tools needed. **Some members requested that state agencies, including ODHS and OHA, play a lead role in facilitating this process. Key questions will need to be explored, such as how the protocol may be adapted for people with Medicare or commercial coverage.** LPRO and the consultant will report back with a model concept on discharge processes.
- **Members requested to explore options to address unmet needs for public guardianship for people experiencing discharge delays.** Discussions related to the Office of the Public Guardian, private guardianship services, public-private partnerships, and other models, such as supported decision making. Providers of guardianship services presented additional information at the Task Force's December 2023 meeting.

A consultant assessment of the hospital discharge process has been commissioned for presentation in early 2024, including examination of case management staffing, regulatory issues, and process and outcome measures. Additionally, members noted the need for near-term delivery system coordination to address discharge challenges during the 2023-2024 respiratory disease season. If Task Force members and other



community partners separately pursue interorganizational coordination to meet short-term operational needs, they may update the Task Force on these efforts and any policy insights at a future date.

Post-Acute Care Coverage and Reimbursement

Members discussed the need to expedite or streamline the eligibility determination process for people who apply for Medicaid coverage of long-term services and supports (LTSS). Members identified five concepts for near-term consideration related to benefit plan coverage for and reimbursement of post-acute care:

- **Members requested to explore whether Oregon could offer coverage for LTSS under “presumptive eligibility”** for individuals who have applied, are waiting for a determination, and appear likely to be eligible. Some states have implemented such coverage options. The proposed next step is to discuss what specific models of presumptive eligibility (PE) are of interest at a meeting in January 2024. ODHS and OHA will be asked to draft a model PE benefit concept and an estimate of enrollment impact and cost for the Task Force to review at a topical meeting on coverage issues.
- **Members requested to explore whether Oregon could eliminate asset testing or change asset limits that are part of its Medicaid LTSS eligibility screening.** These limits vary among states. The proposed next step is to discuss what specific scenarios are of interest at the Task Force’s January 2024 meeting and to request estimates of enrollment impact and costs of those scenarios from ODHS and OHA.
- **Members requested exploration of a “fast track” for Medicaid LTSS eligibility screening for people who are hospitalized and unhoused.** This concept would include expedited screenings of financial and functional needs.
- **Members requested to examine the Oregon Health Plan’s coverage of skilled nursing care,** including the 20-day limit on Medicaid-paid skilled nursing stays. This coverage varies among Medicaid state plans. The proposed next step is to discuss alternative benefit scenarios of interest and to request that ODHS and OHA prepare use and cost estimates to present to the Task Force.
- **Members requested to explore options to reimburse post-acute care providers at rates higher than the current APD rate schedule,** including through rate exceptions, specific needs contracts, or incentives for accepting patients with complex needs when they are discharged from the hospital. Preliminary information was gathered, including a wage and cost study conducted by the PSU Institute on Aging ([link](#)) and ODHS evaluation of the impact of discharge incentives offered in 2022 ([link](#)). In discussing proposed next steps, members expressed support for discussion of incentives, exceptions, and rates within the same focused conversation.



In addition to analyses of these coverage and reimbursement concepts, ODHS will submit a comprehensive study of Medicaid rates for home and community-based services to the Legislative Assembly in 2024 pursuant to [Senate Bill 5506](#) (2023). Supplementing that effort, an independent consultant will present an additional study of Oregon's care coverage, rates, and **emerging alternative payment models for post-acute care**.

Post-Acute Care Placement Options

Members discussed the need to increase post-acute care placement options for people with complex needs. The Task Force identified several issues affecting access to post-acute placements and the capacity or readiness of facilities to accept patients with more complex needs. Of these concepts, members identified three for initial exploration.

- **Members requested to explore the survey burden for long-term care providers and its impact on the placement of patients with complex needs.** Preliminary information was gathered ([link](#)), and members will further discuss the relationship between survey burden and placements for patients with complex care needs at a topical meeting. Members have also requested ODHS identify which elements of the survey process are required by federal law, state law, or state administrative rule.
- **Members requested to explore challenges related to the siting of behavioral health facilities.** Some states have explored opportunities for action in this area. Preliminary information was collected ([link](#)), and members requested that OHA report back on barriers to facility siting that may be related to state land use law and regulation.
- **Members requested information about California's pending Medicaid Section 1115 demonstration waiver for mental health services.** Preliminary information was gathered ([link](#)), and OHA was asked to further study the California waiver design. Members will discuss opportunities for new or ongoing federal partnerships at a topical meeting.

As noted above, a consultant will conduct a survey of post-acute facilities in early 2024 to gather information on capacity and workforce needs, including opportunities to expand access to placements for people with complex needs.

The consultant will also provide expertise regarding innovative care delivery models, insights from other states, and federal programs and payment models that may be relevant to the Task Force's work. **In Phase I of its work, the Task Force received presentations about a medical recuperation model and a specific needs setting.** **Members expressed interest in care models expanding roles for direct care workers and workers with different kinds of licensure.** Innovative care models will be an important focal point for 2024 meetings and recommendations.



Conclusion

Since beginning its work in September 2023, the Task Force has moved quickly to adopt rules, elect a chair and vice chair, and review available information on discharge challenges from state agencies, hospitals, and post-acute and long-term care providers. Members completed a needs assessment, identifying needs and opportunities for policy concepts. Members discussed concepts for near-term action, including discharge processes and guardianship. Members discussed next steps for additional concepts to be explored in 2024. Several analyses have been initiated to inform these discussions.

Members will reconvene in January 2024 to finalize a Phase II workplan integrating concepts discussed in Phase I with new research and analyses to support focused conversations on the six policy areas in HB 3396. The Task Force will recess in February 2024 in deference to the Legislative Assembly. Upon their return, members will explore topics in more detail at a series of focused conversations in March, April, May, June, and July.

Following a recess in August, beginning in September 2024, members will reconvene to deliberate on recommendations, with a final report and recommendations to the Legislative Assembly due no later than November 15, 2024. A draft timeline of key dates, activities, and milestones, **to be discussed by Task Force members at the January 2024 meeting**, is provided in Exhibit 3 (next page).



Exhibit 3. Integrating Phase I and Phase II

Phase I: Proposed Next Steps	Draft Phase II Meeting Topics		
	Date	Topic	Topics
	Jan 18, 2024	Planning	<ul style="list-style-type: none"> • Review 2024 workplan • Introduce consultant
Discuss post-acute education, licensing, and certification	Mar 28, 2024	Information Gathering	<ul style="list-style-type: none"> • Focused Conversation #1: Workforce development • Legislative updates
Discuss compassion fatigue and moral injury interventions for post-acute care	Apr 25, 2024	Information Gathering	<ul style="list-style-type: none"> • Focused Conversation #2: Complex care needs; innovative care models; and federal-state opportunities • Analysis of post-acute capacity and workforce • Regulatory barriers affecting post-acute placements
Discuss innovative care models, facilities, regulations	May 23, 2024	Information Gathering	<ul style="list-style-type: none"> • Focused Conversation #3: improving discharge planning, processes, and outcomes • Cross-sector coordination opportunities
Share and discuss discharge delay escalation concepts	Jun 27, 2024	Information Gathering	<ul style="list-style-type: none"> • Focused Conversation #4: Improving post-acute care coverage and reimbursement
Discuss asset limits, presumptive eligibility, skilled nursing, and community-based care rates	Jul 30 2024	Deliberations	<ul style="list-style-type: none"> • Integrating key takeaways • Discuss recommendations
	Sep 4, 2024	Deliberations	<ul style="list-style-type: none"> • Revise draft recommendations • Discuss other report content
	Oct 15, 2024	Deliberations	<ul style="list-style-type: none"> • Finalize recommendations • Other edits to final report
	Nov 12, 2024	Adopt Report	<ul style="list-style-type: none"> • Finalize and adopt report

Source: Legislative Policy and Research Office

