

OCCAP statement on SB823

Madam Chair and Committee members, thank you for your time and care in hearing testimony on this bill.

My name is Cindy Smith, I am a child psychiatrist working in Oregon for 20 years with children and families. I am a trauma therapist and a trainer of trauma therapists. I have the lived experience of three family members with major mental illness, one of whom was in institutional care for 7 months as a teen.

I am speaking today on behalf of the Oregon Council of Child and Adolescent Psychiatry (OCCAP) where I serve on the Executive Council.

OCCAP is 150 member organization of child and adolescent psychiatrists. We are medical doctors who are extensively trained to diagnose and treat mental disorders and promote mental health. Child psychiatrists see the terrible consequences of child abuse and neglect on a daily basis and are staunch allies for efforts against abuse including institutional child abuse.

OCCAP is **opposed** to SB823.

1) Violates Privacy Protections

SB823 even in its amended form violates the privacy protections that are part of the bedrock of psychiatric care. The final reports of abuse investigations may include sensitive detailed information that a client has disclosed to a staff member as a part of their psychiatric treatment, and with an expectation of confidentiality. The proposed bill opens a wide door for that information to be available to a sizeable swath of the general public: for example

(C) A person who received or is receiving services at the state-authorized program at which the alleged abuse occurred.

(D) Parents or guardians of minor children who received or are receiving services from the state-authorized program at which the alleged abuse occurred

Note that youth currently in care and their guardians may be able to identify the parties in the “de-identified” documents, learn private information about other youth and will then have the opportunity to disclose it to others or even post to social media.

2) Current oversight is extensive

There is excellent accessible summary data presented on the OTIS website allowing oversight while protecting patient privacy. A review of that data shows that OTIS exhaustively investigates child caring providers. For example, in 2022 in child caring agencies, there were 391 investigations with 12% of those ending with substantiated findings. This means agency staff and clients in care are spending significant time talking to OTIS investigators about incidents in which there are not findings of abuse. In addition to OTIS reporting and investigation, child caring agencies are licensed, regularly audited and closely monitored by DHS Office of Licensing including immediate reporting of child injuries.

3) Framework is punitive rather than focused on quality improvement

SB823 is the latest in several pieces of legislation which collectively have broadened and re-defined child abuse and neglect in Oregon. Minor deviations from policy and procedure that in the past would have been seen more accurately as human error needing analysis, problem-solving and corrective actions are now labeled as child abuse or neglect. Under this punitive framework, harsh career-ending consequences are possible for minor deviations from expected

procedures. This has created a culture of fear for young Oregonians mostly in their early 20s who make up the majority of the direct care staff in our child-caring facilities and have caused a fairly large number to quit child-caring work. As a result, many parts of the mental health system for youth are unable to find staff and families are struggling to get their children into desperately needed care. Our emergency departments are over-run with children with psychiatric problems with nowhere to go. SB823 exacerbates this punitive trend by expanding the audience for the findings of investigations in which the accused have very limited due process protection.

SB823 would be one more step forward in a regulatory framework that is contributing to the loss of our psychiatric child-caring capacity in Oregon. We urge your vote against it.

Finally, OCCAP is deeply invested in the safety and wellbeing of children across all aspects of their daily experience whether in the community or during care in out of home settings. Testimony seeking to modify legislation related to oversight of treatment programs should not be confused with condoning harm to children. The wellbeing of children depends on the wellbeing of those who care for them and we believe attending to the needs of the child and all of those who care or serve them (in the context of robust oversight by licensing bodies) is the best path to safety and healing.