

Sara A. Gelser Blouin

State Senator

District 8



Oregon State Senate

February 13, 2024

Dear Chair Nosse and members of the committee:

Thank you for taking time to read my testimony regarding HB 4086 and my opposition to the proposed amendments.

Over the course of the interim, Representative Nelson and Representative Boshart Davis invited a diverse group of interested parties to participate in a workgroup to discuss the issue of workplace violence for hospital workers. This group met multiple times over the course of the interim and involved thoughtful discussions. This was a well facilitated group and I am deeply grateful to the Representatives and all who participated for that process. In particular, I appreciated the careful attention given to concerns I raised about unintended impacts on individuals with disabilities, particularly those with intellectual and developmental disabilities. This issue is not just theoretical to me, but one that has impacted my family and the lives of others close to me.

I signed on as a chief sponsor of the introduced version of this measure. This is because of the importance of addressing the issue of health care workforce safety and because of the respect Representative Nelson and Representative Boshart Davis gave to this issue throughout the process.

Regretfully, I will not be able to support the measure if the amendment removing language protecting individuals with disabilities is adopted. It is my understanding there are other parties that will not support the measure if that amendment is **not** adopted. Ultimately, I believe when it comes to this portion of the policy, well intentioned people are at an impasse.

Sending this back for additional work in a workgroup is unlikely to resolve what is ultimately a significant policy disagreement between diverse parties acting in good faith. As a result, it will be up to the Legislature to make the policy decision. While I will not be able to support the measure if the language is removed, I want to be clear that I've felt heard and respected by the other chief sponsors throughout this process and would change nothing about the process that brought us to this point.

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Hospitals are a unique place for individuals with disabilities. They are likely to find themselves in emergency rooms more often than nondisabled people. Often, they are taken against their will and without understanding why they are there. Many times they are even taken to the ER after a loved one or support person sought help in a crisis and are told the only place for help is the ER. Unlike going into a store, a park or a public transit facility, going to the hospital is not voluntary.

The hospital experience can be confusing, frightening and triggering for a person with an intellectual or developmental disability. They may not fully understand what they are being asked to do. Communication barriers make it difficult to verbally express discomfort, pain, concern, fear or lack of consent. Simple but important care activities such as placing a blood pressure cuff on a patient's arm or drawing blood can be perceived by the individual as a threat. They may physically respond because they believe they must defend themselves.

One of the arguments offered in response to these concerns is that hospital staff, law enforcement and district attorneys would pursue file charges or prosecute in these cases. While I believe that is true for many members of the public safety and health care community, the lived experience of disabled people demonstrates reason for concern. In the cases where there isn't the understanding and compassion that we all strive to offer, the consequences for the impacted individuals can be grave.

It is true that a person with an intellectual or developmental disability may not go through the full process if the court finds them unable to aid and assist. While the felony charge is pending, rules intended to protect individuals with ID/DD in residential and other settings, could result in loss of housing, job supports or willing providers.

Although the number of individuals charged, subject to aid and assist and potential subsequent involuntary commitment will be small, that is not the only problem or the problem that concerns me the most. Individuals with disabilities that include challenging behaviors in times of crisis, and those who support them, may avoid seeking care at all for fear of becoming one of the unfortunate disabled people that does not benefit from the compassion and good intentions sincerely held by the advocates of this bill and those they seek to protect. I know this is not an outcome that any of us hope for and I want to be clear that I am certain it is not the intent of any of the sponsors or of any health care provider, law enforcement officer or district attorney.

It was not my hope not to exclude individuals with ID/DD from all accountability for intentional actions. This bill is not about making assault a crime. It is about a felony enhancement when the location of the crime is at a hospital. As a result, an individual with ID/DD could be charged

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with a felony for behavior that outside of the hospital would only lead to a misdemeanor. My hope was that that given the unique vulnerability of individuals with disabilities at the

intersection of health care and crisis, they could be excluded from the felony enhancement for what would otherwise be a misdemeanor charge.

Finally, I am sympathetic to the arguments in favor of the measure overall and agree that violence against any healthcare worker is absolutely unacceptable. I understand the motivations, the trauma and the sense of desperation that drives the urgent advocacy for the felony enhancement. Our health care workers need support and their perspective is important as well.

Thank you for taking the time to consider these concerns. I am sharing this testimony to clarify my sponsorship of the bill was tied to the disability exemption and to express my gratitude to all who have worked on this bill. As stated above, this is ultimately a policy choice for the Legislature to make as it balances very compelling interests and needs.

Sincerely,

A handwritten signature in cursive script that reads "Sara".

Sara Gelser Blouin