



# Support Senate Bill (SB) 1532

## IMPROVE OREGON'S "IMMEDIATE JEOPARDY" ENFORCEMENT PROCESS

### PRIORITIZING FAIR ENFORCEMENT, REGULATORY CLARITY, AND RESIDENT SAFETY.

#### The Problem

Current law mandates that the Oregon Department of Human Services (ODHS) impose a license condition whenever there is a finding of "immediate jeopardy" in long term care communities—even before the finding is substantiated or even if the facility has already corrected the issue. There is no established framework that ODHS must use when determining immediate jeopardy, nor is there a requirement that ODHS ensure the facility has an opportunity to share evidence and information during an initial investigation of a complaint. This can create serious problems:

- **Consequences without due process:** License conditions are some of the most severe regulatory enforcement actions that can be used against providers and require restrictions on admissions.
- **No clear criteria:** The statute does not outline factors that must be considered to determine if a violation has the scope and severity of "immediate jeopardy," or when the condition must be issued by ODHS.
- **Inconsistent enforcement:** Determinations are now based interpretation by individual members of ODHS, not objective standards. These determination decisions can vary wildly based from ODHS staff member to staff member.
- **Penalizing compliance:** Facilities that self-identify and correct issues can still face license conditions, creating unnecessary administrative burdens on the state and unfair penalties for providers who are in compliance.

#### The Solution

Section 1 of SB 1532 introduces clarity, fairness, and consistency by:

1. Establishing a definition of "preliminary finding" of immediate jeopardy, differentiating a preliminary finding from a substantiated finding, and ensuring that facilities have the opportunity to share evidence and information with ODHS during an initial investigation of a complaint, thus, avoiding scenarios in which the determinations are made and sanctions are applied based solely on a complainant's allegation (which is happening in current practice).
2. Placing into state law clear criteria for imposing a license condition for an immediate jeopardy finding, based on the longstanding CMS framework and criteria used for nursing facilities; and
3. Inserting into state law the concept of "past noncompliance," which ensures that if facilities, through their quality improvement processes, proactively identify and correct issues and are back in substantial compliance by the time ODHS investigates the complaint, that ODHS is not required to issue a license condition in those instances.

#### This approach supports:

- Fair and consistent application of enforcement actions.
- Recognizing and incentivizing facilities that proactively correct issues and are back in substantial compliance.
- Continued protection of resident health and safety without unnecessary punitive measures.

Please Vote Yes!