

Senator Sara Gelser (sen
Senator James I. Manning, Jr.
900 Court Street NE
Salem, OR 97301

Re: SB710-OPPOSE

Dear Senator Gelser and Senator Manning:

I am writing on behalf of **Aim High Impact**. Aim High impact opened in 2017 to serve children with severe symptoms of ASD due to the lack of resources for this population. I am the BCBA and clinical director. Many of our clients have been denied services elsewhere (including SLPs, OTs, PTs, and school) because of the severity of their behaviors. When parents find our program, they often don't believe I will work with their child because they have been turned away so many times. I have never turned away a child in need of my support. However the use of restraint and seclusion is an important part of keeping my clients and staff safe. SB 710 would significantly reduce my ability to serve many of my clients.

I am certified as a trainer in restraints and seclusion via Safety-Care by QBS and renew my certification yearly. I certify my staff yearly as well. I have extensive training and experience in evidence skills based training, as well as de-escalation and crisis response techniques per my certification and Oregon Licensure.

My clients consist of children ages 8-16 who exhibit aggression, self abuse and destructive behavior associated with their diagnosis of ASD. SB 710 would effectively end services for clients who are currently thriving at our center based ABA clinic.

Aim High Impact commends the Senators' commitment to the safety of Oregon's children, and we share the Senators' vision to make all health care settings safe for all consumers and ensuring that no child is ever improperly restrained.

While we also maintain a commitment to the safety of children in our care, Aim High Impact must oppose SB710 for the following reasons:

- Improper singling out of "center based Applied Behavior Analysis"
- Improper characterization of "center based Applied Behavior Analysis" as a "child caring facility"
- Redundancy in the oversight of behavior analysis providers
- Absence of a grace period, making "center based Applied behavior Analysis" illegal immediately upon passing of this bill
- An overly broad definition of restraint
- Restrictive and costly reporting requirements based on the broad definition of restraint
- Certification requirements that do not match best practices
- Discriminatory requirements based on a staff member's BMI

Aim High Impact would like the opportunity to provide further details regarding the comprehensive training and requirements each RBAI, LABA, and LBA receives related to supporting clients with severe challenging behaviors. **Aim High Impact** provides extensive training to clinical staff on nonviolent crisis behavior management, therefore, they have the necessary skills to keep children safe without defaulting to the use of restraints. **Aim High Impact** utilizes least restrictive interventions and combines treatment for challenging behaviors with skill acquisition programming to promote the development of functional living and communication skills. **Aim High Impact** adheres to the principles outlined by the Association for Behavior Analysis International's Position Statement on Restraint and Seclusion and respectfully urges the Senators to review that document for information about how Licensed Behavior Analysts, Licensed Assistant Behavior Analysts, and Registered

Behavior Analysis Interventionists may use restraint as it is defined therein and to recognize that we are aligned on ensuring the least restrictive treatment for all patients. **Aim High Impact** echoes ABAI's statement, which says in part:

ABAI supports the U.S. Supreme Court ruling that individuals have a right to treatment in certain contexts, and that many state and federal regulations and laws create such rights. Organizations and institutions should not limit the professional judgment or rights of those who are legally responsible for an individual to choose interventions that are necessary, safe, and effective. A regulation that prohibits treatment that includes the necessary use of restraint violates individuals' rights to effective treatment. The irresponsible use of certain procedures by unqualified or incompetent people should not result in policies that limit the rights of those duly qualified and responsible for an individual through the process of making informed choices.

Additionally, **Aim High Impact** looks to the Association for Professional Behavior Analysts (APBA) for guidance regarding the development of policies to protect clients and staff and ensure ethical interventions. In the APBA's statement on Restraint and Seclusion, it states:

It is APBA's position that restraint and seclusion procedures should never be implemented in isolation but should only be used as components of properly designed and approved behavior intervention plans, that emphasize state-of-the-art strategies for reinforcing adaptive skills and preventing problem behavior. They should only be implemented by individuals who are trained in behavioral intervention and in use of the specific restraint or seclusion procedures included in the plan, and who are supervised by a behavior analyst with experience in treating dangerous behaviors.

Aim High Impact must oppose SB 710, which gives rise to multiple concerns, detailed below:

- **SB 710 improperly singles out “center-based applied behavior analysis for children”** and does not include any other health care in which children are similarly receiving medically necessary treatment, such as physical therapy, occupational therapy, speech therapy, pediatric services, neurological and psychological assessment, and psychological services. For decades, families in Oregon have struggled to have ABA recognized and reimbursed as medically necessary treatment, and **SB 710 treats ABA differently than all other healthcare professions, and ultimately has the effect of discriminating against children with developmental disabilities and those medical professionals who seek to help them.**
- **SB 710 would characterize a healthcare facility that provides “center-based applied behavior analysis for children” as a “child-caring Agency”** Applied behavior analysis (ABA) constitutes medically necessary treatment, mandated by Oregon to be covered by health plans and Medicaid. The definition of “child-caring agency” as provided in Section 8 of SB 710 groups center-based ABA with other facilities that provide residential or shelter care for individuals and does not match the activities conducted in an ABA clinic. **Aim High Impact respectfully urges the Senators to eliminate language that would characterize a facility that provides center-based applied behavior analysis as a child-caring Agency.**
- **SB 710 requires that ABA clinics be licensed as “child caring agencies” creating unnecessary redundancy in oversight.** ABA providers are currently licensed in the state of Oregon through the Behavior Analysis Regulatory Board and are also nationally certified through the Behavior Analysis Certification Board. Regulations and enforcement of ethical practices already exist and the licensing of ABA clinics through any other Aim High Impact would be redundant and create unnecessary obstacles for the provision of ABA treatment in the state of Oregon.

- **SB 710 contains no grace period** and would take effect upon passage, **immediately making center-based ABA illegal until such time as the licensure process is completed, disrupting medically necessary treatment for thousands of children** whose progress, ability to fulfill their potential, and future independence relies on continuity of care. Research has demonstrated that such disruptions in treatment can cause children to regress and lose skills that they may never recover. At a minimum, **Aim High Impact respectfully urges the Senators to include a substantial grace period between the law’s passage and its enactment.**
- **SB 710 creates a definition of “restraint” that is overly broad, hindering medically necessary treatment and endangering the children we seek to protect.** SB 710 states that restraint is permissible only if “the child in care’s behavior poses a reasonable risk of imminent serious bodily injury to the child in care or others and less restrictive interventions would not effectively reduce that risk” and is only permissible while “assisting a child in care to complete a task if the child in care does not resist physical contact.”

This definition would not allow me to prevent any of the following behaviors which we see on a daily basis: Eating feces, headbanging against a wall, kicking or throwing objects at windows, breaking electrical outlets or thermostats, hair pulling, climbing walls, throwing objects at light fixtures and sprinkler systems. Not being able to prevent these behaviors and needing to report each and every instance would be time and financially prohibitive.

In addition, employees who hold a child’s hand or assist a child in completing a necessary task of daily living such as a diaper changing would be viewed as restraining the child if the child resisted. However, completion of such necessary tasks is essential to the health and wellbeing of the children in our care.
- **SB710 imposes multiple additional requirements, including reporting requirements, that should be limited to restraint that has the potential to harm an individual.** This definition of restraint is **overly broad and would be discriminatory** in that it would deprive people with developmental disabilities from accessing medically necessary treatment, as most **providers would not have the resources to comply with the proposed paperwork** that would be triggered multiple times a day for most patients. **This would impact access to care for individuals who are most at risk.**
 - My clients do not have a DHS caseworker that is familiar to their care or an attorney/advocate, I would therefore not be able to assemble the team required by SB 710.
 - The frequency in which I would need to assemble this team would be impossible for any DHS caseworker to participate in their already overloaded caseloads.
- **SB 710 proposes certification requirements that do not represent best practices** and may actually increase likelihood of harm to individuals we serve. **Aim High Impact respectfully urges the Senators to**
 - Consider recommending or requiring agencies to be certified in a nationally recognized crisis management program. For example, Safety Care is already recognized by ODE and is used by several school districts. Safety Care places a heavy emphasis on prevention and requires annual recertification of both trainers and “staff”.
 - Revise the reporting requirements to be limited to events of certain duration, or those with injury or those that would meet other incident reporting requirements such as law enforcement or medical personnel involvement.
- **SB 710 would require employers to violate federal law** by ascertaining an employee’s body mass index and then discriminating against employees whose BMI exceeded 34. Of course, employers do not track employee BMI and would be prohibited from doing so by a panoply of federal laws. SB 710 is further discriminatory in that it would deprive employees with higher body mass indexes from being permitted

to work as Licensed Behavior Analysts, Licensed Assistant Behavior Analysts, Registered Behavior Analysis Interventionists, Direct Support Professionals, and other care positions which already experience shortages in staff availability. **Aim High Impact respectfully urges the Senators to eliminate language that references BMI.**

Should you have any questions or require additional information, please consider me an accessible resource. I can be reached via email at dana.donaldson@aimhighimpact.org or directly at .25-591-6729.

Respectfully,

Yardana Donaldson M.A. BCBS,LBA
Clinical Director
Aim High Impact

To: Senator Sara Gelser, Chair (Sen.SaraGelser@oregonlegislature.gov)
Senator James Manning Jr. (Sen.JamesManning@oregonlegislature.gov)

Cc: Senator Dick Anderson, Vice Chair (Sen.DickAnderson@oregonlegislature.gov)
Senator Kate Lieber (Sen.KateLieber@oregonlegislature.gov)
Senator Art Robinson (Sen.ArtRobinson@oregonlegislature.gov)
Senator Kathleen Taylor (sen.kathleentaylor@oregonlegislature.gov)