# Legislative Testimony
OREGON DEPARTMENT OF CORRECTIONS

March 9, 2021

Representative Janelle Bynum, Chair
House Committee on Judiciary

**RE: House Bill 3035**

Chair Bynum and members of the committee, I am Joe Bugher, Assistant Director of the Health Services Division for the Oregon Department of Corrections (DOC). I am providing written testimony on the anticipated impacts of HB 3035 as it relates to the department.

**What the Bill Does:**

HB 3035 creates requirements for the continuity and provision of healthcare within the agency. HB 3035 further creates health care navigator positions within Oregon Health Authority, which work at DOC, and defines their roles and responsibilities. Lastly, it establishes reporting requirements for health data to the legislature.

**Background Information:**

DOC Health Services provides medical, dental, nursing, mental health, and pharmacy care for adults in custody (AICs) at each institution on site and/or through arrangements with local specialty service providers. All disciplines within each of the 14 facilities work closely together in order to reach a common goal, providing the best, most efficient, and cost-effective health care possible to the AICs in DOC institutions.

Both federal and state constitutions, as well as the courts, require the state to continuously provide medical services comparable to the care available within the community. Health Services provides preventative care, treats acute illnesses or injuries, works with adults in custody to manage ongoing care for chronic diseases, and provides end-of-life care. While not all-inclusive, DOC Health Services includes:

- Health Services Continuous Quality Improvement
- Dialysis
- Autonomous Practice
- Specialty Clinics
- Chronic Care Management
- Behavioral, Developmental Disabilities, and Mental Health Care
- Special Needs Treatment Planning
- Inpatient and Ambulatory Care
- Wound Care Management
- Certified Hospice Program
- End of Life Care

Additionally, DOC is working on two pilot projects. The first utilizes peer recovery mentors. The second utilizes care coordinators which follow the empirically validated Recovery Management Check Up protocols to increase patient engagement and access to care upon release. More detailed information regarding the potential utilization of peer recovery mentors and care coordinators is provided in DOC's report, Implementing a Chronic Disease Model for Treatment of Substance Use Disorder: Barriers to Care and Strategies for Implementation in response to a reporting requirement established in HB 2257 (2019).

**Concerns with the Bill:**

As shared with the bill sponsor and outlined below, DOC has significant concerns with this legislation:

- It undercuts and limits by statute DOC's ability to design and provide care to patients.
    - The timeframes of the bill, in several sections and subsections, will impede other operational needs of the adults in custody which are required by rule or policy and may require additional staff, space, and resources to ensure compliance.
    - Section 1(4)(a) defines a specific time frame for assessing the AIC needs, addressing any immediate needs, and contacting the previous primary healthcare provider. This specific timeframe would require additional staff and may be practically impossible. For example, if an AIC was to enter DOC custody on Friday, we may not be able to contact the previous PCP until Monday, which would place DOC outside the parameters.
    - Section 1(5)(b)(D)(6)(a) states that the department shall "provide care that is medically appropriate and that meets or exceeds recognized standards in the medical community."

- The department believes it is inappropriate for a master's-level clinician, LCSW or equivalent, to review the medical care provided by licensed providers and determine the medical necessity of the care.
    - Section 1(7) states "If the healthcare navigator assigned to the AIC determines that the department is not providing medically necessary care to the AIC, the healthcare navigator shall provide a written report to the department describing the needed care.

- Many aspects of the bill have an unclear meaning and unknown legal effects.
    - 1(4)(a)(C) "contact" should be better defined. The department has no control over whether an outside provider is receptive and responsive to our attempt at contacting.
    - 1(6)(a) states the department shall provide care that is medically appropriate and meets or exceeds recognized standards in the medical community.
    - 1(6)(b) states provide full spectrum reproductive and gender-affirming care, which is ambiguous. By way of example, this could include cosmetic care.

- 1(6)(e) states the department shall "ensure the continuity of care with medical and mental healthcare the adult in custody previously received in the community, including the provision of all treatment prescribed by the primary health care provider for the AIC".

  This is problematic for many reasons. DOC currently continues care until a DOC provider can assess the patient and determine an appropriate plan of care. This section would require the provision of all care be continued. This is problematic for two main reasons:
  1. DOC does not feel it is appropriate to require any provider to continue the exact care of a previous provider for various reasons. Providers are independently licensed to provide care and providers can have a difference in opinion of care.
  2. There are some aspects of care which are different in a correctional setting and it would be unsafe to continue all aspects of previous care in the manner it was previously ordered.

- The bill forces in statute the prescription of healthcare. This would potentially force DOC providers to prescribe care they medically do not agree with.

- There will also be a significant fiscal.

**Requested Action:**

In closing, DOC has significant concerns with the bill as written. We are willing to work with the sponsor of the bill to address these concerns.

Thank you for your time and consideration. I am happy to answer any questions you may have.

*Submitted by:*
Oregon Department of Corrections
Joe Bugher, Assistant Director for Health Services
Joe.a.bugher@doc.state.or.us
Phone: (503) 378-2857