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Opposition to House Bill 4088

VOR – A Voice of Reason is a national non-profit advocating for high quality care and human rights for individuals with intellectual and developmental disabilities (I/DD) and autism. We submit testimony today on behalf of the many people who are more severely impacted with ID/A. Many of our family members do not communicate verbally and are prone to physical outbursts when experiencing symptoms of an illness or when in unfamiliar, stressful situations. We understand that the intent of this HB 4088 is to protect hospital workers, but we believe this bill fails those workers while criminalizing our loved ones with ID/A for behaviors that are inherent to their disabilities and for outbursts that have no criminal intent.

Hospitals bear an unfair burden when asked to addressing the medical needs of those with the most severe and profound intellectual disabilities, because these patients bring their disabilities with them – disabilities that require a further level of understanding and care than many hospital workers are trained to provide. In a best-case scenario, a family member or direct support professional (DSP) would accompany the individual to the hospital and be with them 24/7 to help bridge the distance between the medical staff's understanding of the patient's medical care and the sensitivity to their emotional and behavioral idiosyncrasies required to safely facilitate their medical care.

But that is not the reality we face. The care system for people with I/DD and autism is undergoing a severe shortage of DSPs, and most facilities that look after our loved ones lack the medical resources to treat more severe medical matters. DSPs are not trained to be doctors, and doctors (and hospital staff) are not trained to be DSPs. Adding to this crisis in quality care, Oregon closed all of its intermediate care facilities for individuals with intellectual disabilities, and there are fewer resources available for individuals who need medical, behavioral, and psychiatric services as part of their regular treatment plan.

So how do we deal with this reality?

We believe that the hospital needs to bear responsibility, not the patient, in a case where an intellectually disabled individual suffers a behavioral episode, loses control, and injures a hospital worker. We cannot train people with ID/A to behave better when in a hospital environment. We can, however, train medical staff to better understand the needs of this population – especially as this population continues to increase, waiting lists for services grow longer, and the caregivers, DSPs, are in short supply. The likelihood that a hospital worker will encounter someone with autism accompanied by a behavioral disorder today are much higher than they were 10 years ago. And if not today, tomorrow, or the next day. We need to train medical professionals to better understand the protocols of dealing with people with I/DD and autism.

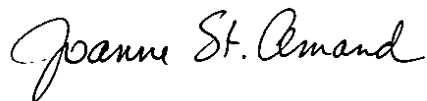
No one wants to place a further burden on our overworked and underappreciated hospital employees, but we see no other solution. We cannot criminalize people who, by no fault of their own, do not have the cognitive capacity to understand the consequences of their actions.

Criminalizing people with I/DD and autism for their behaviors in a stressful situation is, in itself, a crime. It compounds the failure of the system that is supposed to provide for these vulnerable individuals by further punishing those it failed to protect. Our family members are not criminals. They do not engage in outbursts with criminal intent.

We are concerned that the carve-out for people with ID/A, as stated in **Section 6, part 3**, but we may not be enough to protect our loved ones from criminal or civil prosecution. As a result, families or providers of residential services for people with ID/A may be reluctant to bring someone to a hospital. This bill should not act as a deterrent to seeking treatment.

In conclusion, we ask that the legislature look for better solutions to address this problem. Look to other states for successful measures and protocols they have put in place to deal with these situations. Find ways to increase the number of DSPs throughout our DD System, that they may be available to help both patient and doctor when people with I/DD need medical care. And provide better training for hospital workers – on all levels – as to how they may best interact with people with ID/A. It's not only about treating the illness. It's about treating the patient.

Thank you for your time and consideration,



Joanne St. Amand – President



Hugo Dwyer – Executive Director