



Essential Services LLC
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March 12th, 2025 – Opposition to HB3838: Submitted by Branden Walters on behalf of Essential Services LLC.

To: Chair Grayber, Vice-Chairs Elmer and Munoz, and Members of the House Committee,

Regarding: Opposing HB3838, which would establish the Home and Community-Based Workforce Standards Board.

My name is Branden Walters, and I am the Compliance Manager at Essential Services LLC, one of the state-certified Standard Model Agencies that provide in-home and community-based supports to the amazing individuals in our Intellectual/Developmental Disability (I/DD) community here in Oregon.

I am providing verbal testimony on behalf of our provider agency, the Direct Support Professionals (DSPs) that we employ, and the clients that we provide in-home and community-based supports to through Attendant Care, Day Support Activities, and Respite Care services. Essential Services LLC stands to oppose HB3838 with the main concern that implementing a workforce standards board would severely impact the foundations of I/DD services as person-centered by reducing the variety of choices that an individual with disabilities may be able to choose from by negatively impacting provider agencies, residential care facilities, group homes, and other privately owned entities. These concerns are driven by the administrative power this board would have that supersedes the standard administrative procedures under guidance from the Oregon Department of Disabilities Services (ODDS) and the Oregon Department of Human Services (ODHS) through the wide variety of Oregon Administrative Rules (OARs) that we are expected to follow.

To preface our opposition, we agree that additional oversight is needed from ODDS to ensure that every paid support that an individual in the I/DD community receives is driven through person-centered regulations that ensure all aspects of provider care are done ethically, professionally, and legally, through various ways and means that can ensure these individuals have the ability to choose all aspects of how their care is provided, including what type of provider they would like to work with. We also agree that all providers should have access to fair wages, benefits, and trainings through ongoing oversight from the State of Oregon in ensuring that private entities are providing employees with these supports.



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Regarding our opposition to HB 3838, Provider agencies and other private entities who are certified to provide these supports will continue to set this standard of following state and federal regulations that can provide additional oversight through future policies such as the Center for Medicare and Medicaid Services (CMS)'s 2024 Access Rule, which will require providers of personal care services to spend a minimum of 80% of Medicaid payments on compensation for employees with reporting on these numbers being due in 2027 before becoming effective in 2030. While this is just one example, our concern is that the expectation of a workforce standards board that consists of 13 individuals being able to implement these dynamic changes when an entire State-driven Principal Agency such as ODHS with a large number of staff can't implement these types of changes in a short period of time.

HB 3838 mirrors past attempts from groups such as SEIU 503, who lobbied SB 602 back in 2023 prior to the 2023-2025 biennium. SB 602 called for a similar board to be established that covered similar grounds regarding wage standards, which failed to pass. SEIU also recently lobbied for HB 3838 last month which could raise concerns about the equitable balance of the power this board would have overall 60,000+ APD and I/DD direct care staff in Oregon between both state-employed care staff such as Personal Support Workers (PSWs) and Health Care Workers (HCWs), or employees hired through private entities such as DSPs and Direct Care Workers (DCWs)

If passed, the Home and Community-Based Workforce Standards Board would be able to effectively set pay standards for all PSWs and DSPs in the I/DD field while being able to subpoena records from agencies, depose managers under oath, and sue entities for violations of rules that could include new rules that this board would have the power to enforce. At a minimum as identified in **HB3838 (2)(2)(b)(c)**, the board would include **“Four members who represent the home and community-based services workforce OR worker organizations”** and **“Four members who represent employers of individuals of the home and community-based services workforce or employer organizations.”** There is no clarification on whether these board members would be part of the SEIU union or if they could include individuals who represent private facilities and the DSPs that are employed under them. This raises a very large concern in that if established, this board could potentially have an uneven representation across the I/DD provider network, which could affect the individuals in the I/DD community who choose to utilize private care services and the DSPs that are employed under them.



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ODDS contracted with Burns & Associates in 2024 to complete a rate/wage study for provider rates across all APD and I/DD services. After this study was completed, a public comment section was opened for discussion and there were multiple comments about other rates being higher than what PSWs/HCWs receive with additional comments stating that these state-employed groups should be receiving the additional funding instead even after this study acknowledged that rates for both sides of the employment field should be increased. Further comments in this study even advocated for the creation of a ‘workforce standards board’ to be created, which lines up with the entirety of HB3838. Due to this, HB3838 raises immediate concerns that the Home and Community-Based Workforce Standards Board could potentially cut funding for agencies to be able to provide the higher level of supports that we are contracted to provide as identified in **HB3838 (4)(2)(a)** by **‘setting compensation rates for paying individuals in the home and community-based services workforce, provided that the rates are not less than the minimum wage rate established under ORS 653.025’**. One of our key concerns in this area is that the Home and Community-Based Workforce Standards Board may not be fully aware of what costs are calculated into higher rates for agencies, group homes, and other private care facilities as opposed to rates and benefits that state employees providers have in place with the State of Oregon through their collective bargaining agreements.

One of the other key points addressed in HB3838 includes the ability for the board to ‘adopt uniform requirements, standards, and criteria for certifying a **‘worker organization’ to provide training to home and community-based services workforces.**’ as identified in **HB3838 (7)(2)**. This would directly conflict with mandated training requirements that each paid provider entity must follow per state guidelines. For example, In-Home Standard Model Provider Agencies are required to provide each employee with 24 hours of paid training and this expenditure is not reimbursed or included in any future projections of oversight; this includes the 2024 Access Rule which states that training costs are to not be included in the 80% minimum requirement as described above.

Another point that raises concerns to our agency is that the board would be able to compel employers to turn over employee demographical information (**HB3838 (4)(2)(g)**), subpoena records from private care facilities (**HB3838 (8)(a)**), depose management of said facilities under oath (**HB3838 (8)(b)(c)**), and sue private entities for violations of rules (**HB3838 (6)(2)(e)**); which could potentially include new rules that the board would have the power to put into effect.



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We oppose this bill as it would impact the individuals in the community by putting agencies at risk of not being able to provide the higher level of supports that we are endorsed and certified to provide through additional funding provided from state and federal funds. Oregon's I/DD community support needs have been growing at a very fast pace over the last decade and some individuals prefer the ability to just communicate with their Personal Support Workers (PSWs), their relevant Case Management Entity, Employer of Record, and Designated Representative; while there are also individuals who truly enjoy having Direct Support Professionals (DSPs) and agency staff available to provide additional resources such as events, activities, visiting with staff, and having an additional communication support besides from their relevant Case Management Entity.

With the growing number of individuals receiving I/DD services increasing each and every year while the I/DD field continues to struggle with workforce shortages, we believe that continuing to keep the pre-existing structure in place to have different service models can provide the person-centered approach these services are meant to accomplish. Disability care services should always be first and foremost set up to ensure that individuals have the right to choose where their care is provided, who provides that care to them, and what that freedom of choice looks like to them. From living in a group home, working with a PSW, or signing on with a provider agency to receive supports from DSPs, other support methods, and even sometimes multiple combinations of these supports, our community can continue thriving and growing while we work in tandem. These services and structures are still growing as our community strives to do better than in the days of institutions.

In conclusion, we humbly consider that you vote NO on HB3838 in the coming days while ODDS continues to improve oversight and accountability of all support models while ensuring that both sides of the employment network can have equitable supports that truly maintain the standard of person-centered care.

As an employee in the I/DD field and an ongoing advocate for continuous growth and development in the I/DD community, thank you all for taking the time to read this.

Sincerely,

Branden Walters

Compliance Manager at Essential Services LLC