



# Oregon

Tina Kotek, Governor

## Residential Facilities Ombudsman Program Office of the Long-Term Care Ombudsman

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March 25, 2025

To: House Judiciary Committee

From: Leslie Sutton, Residential Facilities Ombudsman

RE: Opposition for HB 3080, allowing healthcare providers to appoint health care representatives

Chair Kropf and Members of the Committee:

The Residential Facilities Ombudsman uses advocacy to create change in people's lives and system policy so that people with disabilities can live full lives in Oregon's communities. We support people who live in Adult Mental Health Residential or Foster Homes, Adult Developmental Disability Group or Foster Homes, and Child Developmental Disability Foster, Host and Group Homes. We oppose HB 3080 in the current or -1, -2, or -3 proposed amended versions because this conversation is happening too fast and without proper stakeholder input to ensure the bill targets the intended circumstances, providers, individuals and timelines.

Everyone deserves to have control and autonomy over decisions impacting their body and healthcare. HB 3080 removes that right for people who "healthcare providers" deem "incapable" by allowing healthcare providers to appoint a healthcare representative for the person. Conversations about bills that involuntarily remove rights to control decisions over your body are complex, emotional and important because they go to basic autonomy that is the core of what makes us human.

Unfortunately, HB 3080 has not had sufficient or diverse stakeholder involvement or input to fully inform this conversation. We would be happy to have more complete discussions with the sponsors and other stakeholders in the interim to ensure that we get this idea right. Oregonians who would be impacted by this bill deserve no less than our full attention to ensure the bill properly captures the circumstances where this could happen, who can make the decision to appoint and how long the appointment lasts.

Substantively, we have at least three concerns with the bill after reviewing the testimony offered during the March 25, 2025 public hearing.

First, the testimony and committee discussion were clear that this bill is intended to address Emergency Department situations where decisions need to be made quickly. HB 3080 as introduced and proposed amendments do not make this clear. Instead, the language is much more far reaching to apply well beyond emergency situations – which is very concerning. As the bill is intended to only address emergency situations, the language should address, but does not, the definition of applicable Emergency Department circumstances where this can be invoked, which professionals can invoke it and that it lasts for a very short amount of time that constitutes the period of emergency.

Second, the bill allows "healthcare providers" to appoint a healthcare representative under HB 3080. Healthcare providers can include a healthcare facility under ORS 127.505(12)(b). Inherent in someone using a facility's services is a business relationship between that person and the facility because the

facility will be paid to provide care to the person. Under no circumstances should a facility appoint someone to be a healthcare representative if the person is utilizing the facility's services. An attending physician is an individual who is treating the person whereas a facility is a business entity with a financial interest in the person. We would like a court to decide if someone is incapable. Barring that, then the attending physician which knowledge of the person's condition should make the determination.

Third, HB 3080 says the health care representative would be in place for 6 months. Emergency Department situations do not last six months. Given that HB 3080 involuntarily removes a person's liberty to make decisions about their own body without a court hearing or determination, the period for involuntary healthcare representative appointment considerably shorter as in 72 hours with the possibility for extension twice.

We look forward to continued engagement and discussion on this important topic.

Thank you,

A handwritten signature in black ink, appearing to read "Leslie Sutton" with a stylized flourish at the end.

Leslie Sutton  
Residential Facilities Ombudsman