OREGON PSYCHIATRIC PHYSICIANS ASSOCIATION

Date: March 27, 2025

To: The Honorable Chair Sara Gelser Blouin
The Honorable Vice-Chair Diane Linthicum
Members of the Senate Committee on Human Services

From: Daniel Nicoli, DO, Chair
Oregon Psychiatric Physicians Association

RE: SB 1113 Restraint and Seclusion

Chair Gelser Blouin, Vice-Chair Linthicum and members of the committee:

My name is Dr. Daniel Nicoli. I'm a child and adolescent psychiatrist and Chair of the Oregon Psychiatric Physicians Association Legislative Committee (OPPA). The OPPA, a district branch of the American Psychiatric Association, was established in 1966. OPPA serves as the organization for Oregon's medical doctors specializing in psychiatry who work together to ensure effective treatment for persons with mental illness, including substance use disorders, and compassion for them and their families. **We respectfully oppose SB 1113 in its current form and recommend HB 3835 as a more balanced and practical alternative.**

1. Acknowledging Positive Intent but Unintended Consequences
We recognize the intent of SB 1113 to protect children in care from harm. However, the complexities of the proposed changes raise significant concerns about unintended repercussions that could compromise access to essential psychiatric care and disrupt the already fragile continuum of services for children with acute mental health needs.
Acute and Subacute psychiatric facilities in Oregon routinely experience the gaps in our continuum of care. Adding more onerous or confusing regulations around restraint, seclusion, and supervision can inadvertently reduce the availability of specialized programs and settings that serve children most in need.

2. Key Concerns with SB 1113
Redefining "Serious Bodily Injury"
SB 1113 narrows the definition to require an imminent risk of outcomes like "substantial risk of death" or "unconsciousness." In crisis situations, expecting staff to parse these definitions in the heat of the moment places an unrealistic burden on them. This high threshold may also send a problematic message to youth that certain harmful behaviors—like unwanted sexual contact—are not worthy of intervention unless they cross an extreme threshold of physical harm.

Complicating Definitions of Child Abuse

The bill proposes to label as abuse any restraint not performed according to an individualized service plan (ISP) for children receiving developmental disability services. While individualized planning is vital, we must allow staff and clinicians the flexibility to respond to crises that vary widely from one child to another. The fear that a well-intentioned, clinically necessary intervention might be labeled "child abuse" deters providers from accepting children with significant behavioral needs, further straining inpatient units.

Requirement for Continuous RN/MD Supervision

Section 10, Part 4 (page 12, line 29) mandates continuous monitoring by a physician or other licensed health care professional for any use of physical restraint. This effectively bars qualified mental health professionals (QMHPs) or children's emergency safety intervention specialists (CESIS) from overseeing restraints—even though these practitioners are specifically trained for de-escalation and crisis intervention. Requiring 24/7 RN/MD coverage during each restraint is neither clinically practical nor financially feasible for many programs, risking program closures and fewer treatment options for children in crisis.

Restricting Seclusion for Children with IDD

SB 1113 appears to bar any use of seclusion for a child "receiving developmental disability services." Some parents, advocates, and providers actually prefer seclusion to physical contact in acute safety situations, especially for children with heightened sensory sensitivities. Banning this outright could force staff to use hands-on interventions that may be more invasive and distressing for these children.

Increased Licensing Fees and Civil Penalties

New licensing fees and expanded civil penalties will create additional financial barriers for residential and psychiatric treatment programs—particularly nonprofits—diverting limited resources away from direct care. In the current workforce and funding climate, imposing more penalties and fees could push vital programs to close or reduce capacity.

3. Why HB 3835 Is a Better Solution

OPPA believes HB 3835 offers a more balanced framework by setting a clearer, more workable threshold for when restraint is permissible—"serious physical harm," consistent with U.S. Department of Education and Joint Commission standards. This standard is:

More Understandable: "Serious physical harm" is a commonly recognized legal and clinical term that does not require staff to diagnose "substantial risk of death" or "extreme pain" in a crisis.

Protective Yet Practical: It continues to require robust documentation and oversight of all restraints while allowing staff to intervene when a child's behavior places themselves or others in immediate danger (e.g., breaking up a classroom fight or preventing sexual harm).

Aligned with Clinical Realities: HB 3835 maintains accountability but gives providers, teachers, and other professionals the clarity and assurance to act swiftly and safely in urgent situations.

4. Conclusion

OPPA stands ready to partner with the Legislature, state agencies, and other stakeholders to ensure our children's mental health system is both safe and accessible. While we share the overarching goal of protecting children in care, SB 1113's approach poses significant risks for those

very children by further constraining already limited treatment options and inadvertently discouraging qualified providers from serving high-needs youth.

We respectfully urge you to oppose SB 1113 and instead support HB 3835. We believe this alternative framework preserves safety while recognizing the complexities of child and adolescent psychiatric care.

Thank you for the opportunity to provide input, and we look forward to continued collaboration on strengthening Oregon's continuum of care for our most vulnerable children.