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Oregon Association of Provider Agencies

March 14, 2025

OPPOSITION TO HB 3838: HCBS WORKFORCE STANDARDS BOARD

To: Chair Grayber, Vice-Chairs Elmer and Munoz, and Members of the House Committee,
From: Tracy Young, President Oregon Association of Provider Agencies
RE: HB 3838, HCBS Workforce Standards Board

The Oregon Association of Provider Agencies, and its member providers, strongly oppose HB3838 and the establishment of a Workforce Standards Board. The proposed bill is viewed as problematic on a number of points.

A solution without a problem

The proposed bill is a classic "solution looking for a problem." This bill does not appear to address any clearly identified problem or evidence-based need. It does not suggest improved access to services for individuals with disabilities, the development of an expanded workforce, improved competitiveness in the broader labor market, or funding to provide for standardized wage models. Rather, it creates yet another layer of bureaucratic oversight with no funding guarantees to meet its mandates.

SEIU Representation & Motivations

The Service Employees International Union, is actively attempting to position itself as the leading representative and authority figure for workers in Community-Based Care facilities. However, their current representation within this sector is minimal, with only around 10% of Community-Based Care facilities having SEIU members. This discrepancy between their actual representation and their ambition reveals their strategy as a power grab disguised as a workforce solution.

By pushing their influence into a sector where they lack substantial representation, SEIU is attempting to expand their power and control. This move can be seen as a strategic maneuver to gain authority and leverage in an area that is currently not under their dominion. This bill raises concerns about their motives and whether their actions are genuinely in the best interests of the Community-Based Care workforce.

Duplicative of Existing Oversight Mechanisms

The HCBS Board described in HB 3838 is duplicative of existing oversight mechanisms in the HCBS service system. Intellectual & Developmental Disability services are already regulated by multiple agencies, including the Oregon Department of Human Services, Occupational Safety Health Administration, Bureau of Labor & Industry, Oregon Health Authority, Community Developmental Disability Programs, Brokerages, and Ombudsmen. This board would add yet another regulatory layer to an already broad array of oversight.

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The core responsibilities of the board as detailed in the bill include:

- Adopting rules establishing minimum standards that are designed to ensure the health and welfare of workers. But such rules are already considered and adopted by applicable state agencies using due processes that include public opportunities for input.

- Establishing curriculum for education and professional development opportunities for the HCBS workforce. This is already the purview of the Oregon Home Care Commission.

- Investigative authority over a broadly defined area of complaints and violations reports. This is already the responsibility of the Oregon Office of the Long-Term Care Ombudsman.

Authority of the Board

Our worries stem from the board's potential administrative authority, which could override the usual procedures directed by the Oregon Department of Disabilities Services (ODDS) and the Oregon Department of Human Services (ODHS) and the numerous Oregon Administrative Rules (OARs) already guiding many of the roles assigned to the Board.

There is unified concern with the requirement for employer agencies to provide the names, phone numbers, and home addresses of employees to the Board. This plays no relevant role for the Board’s oversight and is a clear effort by the SEIU to have access to the entirety of the private workforce. This also draws serious concerns around the protection of the private information of these individuals.

The bill grants expansive investigatory and subpoena powers to the Workforce Standards Board, enabling the board to compel testimony and the production of sensitive documents. This could result in overly adversarial enforcement actions that erode collaborative relationships between providers and workforce members, potentially creating a contentious environment rather than promoting cooperative solutions.

The explicit provision for civil actions against employers within the bill, alleging non-compliance with board standards, significantly escalates the potential for litigation. This heightened risk could compel providers to divert substantial resources away from direct patient care and towards legal defense strategies. This reallocation of resources could result in increased operational costs, which may necessitate cuts in other areas, potentially leading to a decline in service availability, staff reductions, or even service closures. Furthermore, the protracted nature of legal proceedings and the potential for significant financial penalties could create a climate of uncertainty and instability within the service sector.

Potential Fiscal Impact with No Guarantee of Funding

The Board would set standards and wages with no guarantee of funding for the provider agencies. These processes would exist outside of the ODDS Wage & Rate studies that set current provider rates, and do not consider other mandated expenses as applied by relevant OARs. Current wage offerings are already constrained by the rates paid by the state, and are currently outside of the power of the organizations to adjust for inflation.

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Conclusion

In conclusion, OAPA and its member agencies are strongly in opposition of this bill and its impact on employer organizations. There is no relevant evidence that this additional layer of bureaucracy and oversight will expand the workforce, reduce turnover, improve existing services, or expand access to disability services across the state. The application uses a one-size fits all approach to training and wages, and does not account for market pressures, geographic variations in the labor market, or the challenge of fixed funding. Rather, it will simply create another hurdle and reporting agency for employer organizations to manage in order to deliver services.

Thank you for your serious consideration of our feedback.

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