

Dear Chair Gelser, Vice Chair Anderson and Members of the Committee,

We are writing today to oppose HB2953, which significantly modifies the definition of Community Based Structured Housing in its current form. While the current law will benefit from a few minor modifications, changes made by amendments to this bill change the definition of Community Based Structured Housing (CBSH) in such a way that it will exclude the vast majority of existing and future programs from registration. Because CBSH's serve a vulnerable population it is critical that there be state oversight of CBSH programs. For the reasons below we are asking that HB2953 not advance out of committee.

The current iteration of HB2953 removes the requirement for publicly supported housing “as defined in ORS 456.250,” to register. This broad exclusion removes any programs that:

- “(A) A contract for rent assistance from the United States Department of Housing and Urban Development, the United States Department of Agriculture or the Housing and Community Services Department that contains an affordability restriction; or*
- “(B) A contract that is for any other type of government assistance or subsidy that includes an affordability restriction and that is identified in rules adopted by the Housing and Community Services Department.”*

Congregate residential programs offering services and supports to individuals with mental health and substance abuse issues rely heavily on this funding. Community Based Structured Housing residents have lease agreements with the program operators that define the types of services and supports available to them; their rents are subsidized through an array of state and federal sources.

An exclusion for programs already required to report their array of services to federal agencies was included in the original law and adequately addresses concerns regarding overburdening program operators with regulatory requirements. The existing law addresses these concerns by including a waiver of registration **ORS443.490** and **ORS443.480(8)** stipulating:

“Rules adopted under subsection (3) of this section must avoid imposing on facilities regulated by federal agencies any reporting requirements or review processes that duplicate the reporting requirements or review processes imposed by the federal agency.”

The OAR’s were established in a 2 ½ year process and addressed this concern as directed by statute.

Additionally, HUD guidance states:

“Each recipient of HUD funding must ensure compliance with all state and local housing codes, licensing requirements and any other standards regarding the condition of a structure and the operation of the housing and/or services.”

We also have concerns with the residential care exclusion in HB2953. This exclusion conflicts with the definition of “services and supports,” creating a potential point of confusion. However, an exclusion for “treatment” as defined by ORS 443.400(14), which is a level of care that requires licensing and is beyond the scope of CBSH programs, would be prudent.

We appreciate the hard work that has gone into drafting HB2953. The process indicated the lack of communication between the agencies was one of the issues hampering implementation of the existing law. We understand there is now a commitment to address this deficiency; this is a positive outcome. However at this time, for the reasons stated above, we cannot support the passage of HB2953 out of committee. Thank you for your consideration.

Linda Mokler

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Background and Involvement

After a tragic 2010 incident in which a resident of a congregate community-based program was ultimately sentenced to a lengthy stay in prison we began looking into the oversight of residential community mental health programs. During this process we identified a regulatory gap that left residents in community facilities lacking state oversight and, in some cases, not receiving the appropriate service level needed to succeed. We worked with Former Rep. Joe Gallegos, agency staff, Disability Rights Oregon and NAMI to find a remedy. The result was HB3230, creating and defining Community Based Structured Housing which all stakeholders supported.

After the bill was enacted in 2015, we participated in the lengthy administrative rules process. We believed that the OAR's that were finalized in March of 2018 would ensure the effective registration of Community Based Structured Housing. Unfortunately, when we checked-in with OHA in 2019 we were informed that the agency had identified and registered only one facility. We were advised by staff that they believed a minor statutory fix would be needed.

HB3230 Background:

HB3230 passed in the 2015 regular session, established the Oregon Health Authority's ability and obligation to register congregate-living facilities providing support and services to adult residents who have mental, emotional, behavioral or substance use disorders. Facilities licensed or registered under any other statute were excluded from registration.

It also created and defined Community Based Structured Housing facilities as this new registration level.

HB3230's aim was to capture programs that house and provide services to individuals where neither the setting nor the services provided meet the statutory definition of a residential treatment facility or home. Prior to HB 3230 the Oregon Health Authority did not have licensing or registration authority over these programs. For example, if a program operated on a less than 24/7 basis, or they did not provide what is statutorily defined as residential care and treatment, the program could not be licensed, and therefore was not subject to any statutory safeguards for the benefit of vulnerable clients.

It was hoped HB3230 would also allow the State to determine locations and services being provided at these important components of Oregon's mental health program. At the time of passage, the agency estimated at least 50 such programs existed in the state. Six years after passage of the bill OHA has registered, at last count, just 2 CBSH facilities.

Following the recommendation of the Legislative Fiscal Office the legislature allocated funds for a part-time employee to oversee the new registration program. LFO believed that in conjunction with other regulatory staff being added in that year .5 FTE was all that was required. OHA had asked for a full-time position. Clearly there was enough information to believe that more than 2 programs would require registration over the last 6 years.