



Kate Brown, Governor

Testimony
SB 714 amendment
May 30, 2017

Presenter: Lynne Saxton, Director of the Oregon Health Authority

Good afternoon Chair Barker and members of the committee. I am Lynne Saxton, Director of the Oregon Health Authority. With me today is Micky Logan, the Director of Legal Affairs for the Oregon State Hospital.

Background

As you may know, the State Hospital Review Panel (SHRP) was created in 2011 under ORS 161.327. Similar to the Psychiatric Review Board, SHRP determines when – and under what conditions – Oregon State Hospital patients may be placed in the community after they have successfully plead “Guilty Except for Insanity” (GEI) to a crime. PSRB does this for Tier 1 crimes, and SHRP does this for Tier 2 crimes. Tier 1 crimes include: all forms of murder, sodomy, rape, assault 1 and 2, robbery, arson, and the like. Tier 2 crimes are all crimes not listed as Tier 1 (ORS 161.332).

I’m here today in support of an amendment to SB 714 that would repurpose SHRP to do a similar task, but for the “Aid and Assist” population instead of those found “Guilty Except for Insanity.”

When someone is accused of a crime but found too mentally ill to stand trial, the courts send the defendant to the Oregon State Hospital to be restored to competency. We refer to this population as “.370” – referring to the statute governing the process, ORS 161.370 – or as “Aid and Assist,” because these patients are unable to aid and assist in their own criminal defense.

Over the years, the number of these patients at OSH has continued to climb. In 2011, the average daily .370 census was around 100 patients. In October of 2016, the census peaked at 248 patients. The census has been fairly steady over the last few months, at around 190 patients, but recent weeks have seen the trend going back up. Our current census for this category is 200 patients.

In the last several years, the state has made investments in community mental health services, including community “Aid and Assist” restoration services. Therefore, some non-violent individuals can be safely restored in the community. At close to \$1000 per day, Oregon State Hospital is the most intensive and costly level of care in the state. With a limited number of beds, we should reserve admission to OSH to only those who actually need hospital-level care. It is not the appropriate place for people who have been arrested for public urination, general nuisance crimes, or drug-induced behaviors. These people would be better served in a lower-cost setting specific to their needs.

As the numbers of Aid and Assist patients have risen over the years, the result is that people who have been civilly committed end up waiting in the emergency department (ED) for weeks before a bed at OSH is available. This “ED psychiatric boarding” issue would potentially be alleviated as a result of this amendment.

Amendment Summary

This amendment would make it possible for the court to commit the defendants accused of non-violent crimes to Oregon State Hospital and to the State Hospital Review Panel (SHRP). The judge would indicate in his/her court order that there is no current community placement available for the defendant, but that defendant can be re-placed in the community for restoration services should an appropriate bed become available. Upon assessment, SHRP would then monitor available community services, and upon availability, order an appropriate placement for that individual’s health care needs. If the person requires a hospital level of care, they would remain at OSH.

In addition, this amendment would require:

1. The courts to notify SHRP of upcoming .370 hearings so that a delegate may attend, and
2. SHRP to notify the Court, District Attorney, and Defense Attorney of the defendant’s community placement.

Currently, the SHRP consists of a psychiatrist, a psychologist, a probation officer, an attorney and a member of the general public. We would likely replace the probation officer member with a Community Mental Health Director or other professional relevant to this particular population. We are open to working with the other stakeholders on this component – which is currently in rule.

Closing

Because SHRP has a stellar record of successful placements in the community, OHA believes it has the knowledge, skills, and judgement to be able to perform a similar task for patients pre-adjudication.

At OHA, our motto is better health, better care, lower costs. This amendment allows us to potentially achieve this triple aim for the .370 population and be better stewards of public health care dollars.

As such, we would greatly appreciate your support for this amendment.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.