



03/01/22

Timothy G. Sekerak

Chief Clerk of the House

RE: Vote Explanation on HB 4142A

Dear Chief Clerk Sekerak,

I wish to explain for the record my “No” vote on House Bill 4142A. Based on my concern regarding our criminal justice system’s disparate treatment of BIPOC individuals and those with mental health diagnoses, I am deeply uncomfortable with this policy as it stands today. This is also due to the extensive personal insight I have into how situations come to pass in which patients often lash out in a healthcare setting. I very much wish to help protect hospital workers and unfortunately I do not believe this policy will accomplish this outcome. I am committed to working in the interim to this end with policy and OSHA changes that will lead to safer workplaces for healthcare workers.

I have had extensive outreach from colleagues in healthcare as well as members of my community on this bill. Some very strongly asserted the symbolic importance of my supporting this policy due to the clear understanding we share that violence in the healthcare workplace is an enormous problem. Equally vigorous was the outreach I received from many who shared my concern that this policy will have very little impact on healthcare worker safety and can lead to disproportionate harm to people who are often at their most vulnerable when in the hospital. My “No” vote today is not a reflection of a lack of concern for my colleagues who work in healthcare, it is due to my being convinced that this policy will do little to nothing to improve the safety of our workplace, and may do harm to people who are hurt and in crisis.

We heard heartfelt and difficult testimony while sitting in the House Committee on Judiciary from many committed healthcare workers, stories we all agree are unacceptable and need to be prevented. Unfortunately, it is my opinion and belief that this law change will not improve the majority of the situations discussed. All four categories of assault (I, II, III, and IV) are available to prosecutors and law enforcement when analyzing reports of assaults on healthcare professionals. The stories I heard about serious injuries should have and could have been charged as felonies, regardless of who the victim was. Those we heard of frightening threats without physical contact would not be addressed by this bill.

I will be totally candid; I have gone back and forth on how to vote on this bill after I was unsuccessful in championing an amendment to HB 4142A. I proposed the [-6 amendment](#) because of my concern that this

law change will not lessen the number of assaults suffered in healthcare settings. Thirty-eight other states have increased penalties for this type of offense, elevating it from a misdemeanor to a felony. However, these states have [not seen this deter patients](#) from committing assaults. I fear this will happen in Oregon as well. This amendment would have led to a retrospective 3-year review of the impact of this policy and a report to the legislature to help us understand whether the bill had the intended impact on the safety of healthcare workers, whether it led to prosecutions and if so, what demographics were most impacted. I was supportive of this policy if we had a clear path to look at its downstream impacts and assess whether it was successful in making healthcare workers safer. This amendment had significant support but didn't get amended to the bill due to the cost of the study. Without this amendment, I am a "No" on the bill.

This bill may inadvertently target certain at-risk groups as a result of unconscious bias and racism. Patients who are Black or brown are more likely to be thought of as [violent or "less innocent"](#) than their white counterparts, even [children](#). Patients with historically Black-sounding names are perceived in peoples' minds as [larger, more violent, and more threatening](#). [Data](#) suggest that security is called more frequently on Black patients than other patients and it is in these escalated situations that I anticipate this statutory policy would be more likely invoked.

Another group that this bill would likely disproportionately impact would be vulnerable patients in psychiatric care settings, where the [majority of healthcare violence](#) exists in part because people with mental illness are interpreted as inherently [dangerous](#). Although the word "reckless" was removed from the bill in attempts to avoid targeting patients with altered mental state or mental illness, I am concerned at the court's interpretation of "intentionally" and "knowingly" and hope that these specifications will do enough to prevent such vulnerable populations from being criminalized in their times of need. Psychiatric patients convicted of crimes are sent to jail and then to the Oregon State Hospital in Salem, but wait times for admission to the hospital can result in long jail times without access to medical care. This costs taxpayers millions of dollars ([\\$165 million between 2012 and 2018, to be precise](#)), and this bill would do nothing to reduce that cost.

Specific groups of people aside, I am philosophically opposed to charging a patient with a crime for becoming violent when they are at their most vulnerable in a hospital setting. As healthcare providers, I do not see how this would allow patients to heal and promote a nurturing and compassionate environment. I fear it would inspire more mistrust in the healthcare system and cause sick patients to avoid seeking care. A recent [survey](#) of fourth year OHSU medical students also found that the majority are in opposition of this bill for similar reasons.

I do not believe this bill will decrease or change the number of charges pressed by healthcare professionals. A [2018 survey](#) amongst emergency room healthcare professionals from across the US found that hospitals only advised healthcare professionals to press charges against violent patients 6% of the time and that hospital security arrested the patient for assault or enlisted law enforcement to arrest the patient only 21% of the time. Therefore, a large amount of violent interactions that occur in the hospital are not reported. This data indicates that given charges are rarely pressed against violent patients, this bill may not have a sizable impact.

I do greatly respect and empathize with healthcare workers who are fighting for a safer work environment. I join them in this work. As a physician, I have suffered assaults and threats as have

virtually every person I work with in medicine. This is not acceptable and yet is a persistent issue no matter what situation or setting we work in. I have seen and felt the stress and trauma of my partner and colleagues when this occurs, and want to work toward a system that will protect us all. However, I also see the pain, mental health challenges, and stress of the patients who respond violently in a hospital setting and know the situations that lead to this behavior often could have been avoided and de-escalated. This is where our opportunity is most apparent to make effective changes.

The way to improve the health and safety of my healthcare colleagues is through safe staffing ratios, doing in-person de-escalation training for workers most likely to be impacted, robust reporting of situations in which healthcare workers are threatened and harmed, OSHA rule changes to improve safety, reporting assaults when they occur to the authorities, performing retrospective evaluations of violent patient outbursts to assess from a system perspective how to mitigate risk in the future and other potential interventions and changes. We need to work to change the policies that lead to unsafe hospital work environments and our interventions that ineffectively respond. The need for this work is urgent and I am dedicated to working on this in the coming 2023 session. I hope my colleagues will join me.

Sincerely,

A handwritten signature in black ink, appearing to read "Maxine Dexter". The signature is fluid and cursive, with a large initial "M" and "D".

Representative Maxine Dexter, M.D.
House District 33 (NW Portland and NE Washington County)