HB 3090 Survey and Report Overview

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Oregon Health Authority

Background and History

- In 2015, Oregon legislature passed HB 2023 directing hospitals to adopt and enforce discharge policies for patients admitted to a hospital for mental health treatment.
- In 2017, HB 3090 was put into law. This bill requires hospitals with emergency departments (EDs) to adopt and enforce the same policy requirements for the release of patients from the hospital's ED following treatment for a behavioral health crisis. This includes suicide prevention and intervention measures that must be taken, if necessary. Measures include:
  - Behavioral health assessment conducted by a behavioral health clinician
  - Patient risk assessment and if indicated, development of a safety plan and lethal means counseling
  - A process for case management, and
  - A process to arrange caring contacts to transition a patient to outpatient services. Caring contacts must be attempted within 48 hours of release.

* Oregon Administration Rules: 333-500-0010; 333-505-0030, 0050, and 0055; 333-520-0070 and 333-535-0000. Oregon Revised Statute 441.053.

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Background and History

- HB 3091, a companion bill to HB 3090, also passed in 2017, requires coordinated care organizations to provide and prioritize behavioral health services for members.

- This includes behavioral health assessments and medically necessary treatments for members experiencing a behavioral health crisis.

- The measure also requires group health insurance policies to include behavioral health and related treatments. The Department of Consumer and Business Services under OAR chapter 836, division 053, defines coverage per requirements in HB 3090 and rules adopted by OHA under OAR chapter 333, division 520.

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Background and History

- In August 2018, the Oregon Health Authority (OHA) amended Oregon Administrative Rules (OARs) related to hospitals in response to requests seeking clarification on:
  - Inpatient discharge planning requirements, and
  - Implementing requirements of HB 3090, codified under ORS 441.053.

- The legislation further required OHA to:
  - Compile information about hospitals' progress on and barriers to adopting and implementing policies, and
  - Recommend legislative changes necessary to improve behavioral outcomes for persons released from the ED following treatment for a behavioral health crisis.

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Background and History

- In March 2019, OHA released a report of the first survey.
- In Feb 2020, the Oregon Alliance to Prevent Suicide requested that OHA resurvey the hospitals due to low response rate and other factors with methodology. The Oregon Association of Hospital and Health Systems (OAHHS) also had concerns with the survey.
- In October 2020, OHA reconvened and drafted methodology, survey questions, and survey analysis goals.
- OHA convened a group of partners (advocates, Alliance representatives, hospital representatives) and OHA staff to gain feedback on survey questions, survey results and report recommendations.
- The Alliance and OAHHS provided formal comments on the draft report.
- Final report was released in July 2022 (Emergency Dept. Discharge Practices for Behavioral Health Crisis Care: A Statewide Survey of Hospitals).

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Survey Goals

HB3090 directs OHA:

"The authority shall compile the information submitted by hospitals and, no later than January 1, 2018, report to the interim committees of the Legislative Assembly related to health on the policies, progress on and barriers to implementing the policies and recommendations for legislative changes necessary to improve the behavioral health outcomes for individuals who are released from an emergency department following treatment for a behavioral health crisis."

The purpose of the survey was to collect information on the implementation of the administrative rule requirements to inform technical assistance to hospitals, not for compliance.

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Survey Questions

- The survey had 14 questions developed using the policy requirements in:
  - OAR 333-520-0070(4)
  - OAR 333-520-0070(5), and
  - OAR 333-505-0055(2)(a)(B)-(D) and (3).

- Two additional optional questions were about:
  - Access to training on the policies, and
  - Concerns about billing and reimbursement (related to HB 3091).

- Hospitals were asked if they were implementing the policy requirement (yes/no) and what were barriers to implementation (open text entry that was reviewed and coded).

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Survey Definitions

- For this report, health system status includes two classifications:
  - A single hospital system, and
  - A multiple hospital system.
- A single hospital system is defined as either:
  - A hospital that is not part of an organized health system, or
  - A sole hospital in a health system.
- A multiple hospital system is defined as:
  - A hospital that has two or more hospitals.
- These classifications are noted as “single” or “multi” in charts and tables

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Survey Definitions

- Hospital Types (Oregon-specific and defined by statute):
  - Type A and B hospitals are terms for rural hospitals:
    - A type A hospital, which is a small and remote hospital that has 50 or fewer beds and is more than 30 miles from another acute inpatient care facility
    - A type B hospital, which is a small and rural hospital that has 50 or fewer beds and is 30 miles or less from another acute inpatient care facility
  - Diagnosis-related group (DRG) hospital means a hospital that is not a type A or B and that receives Medicare reimbursement based upon diagnostic related groups.

Survey Results

- All 60 hospitals completed the survey (some individual question response levels varied)
- Forty-two hospitals are part of a multi-hospital system, 24 are urban (DRG) hospitals and 18 are rural (type A or type B).
- Eighteen hospitals are part of a single hospital system, three are urban and 15 are rural.

- Average statewide policy implementation: 84%
- Policy requirements with the lowest overall implementation percentage:
  - Policy 8b, “Does the assessment of the patient’s medical, functional, and psychosocial needs include an inventory of resources and supports recommended by a behavioral health clinician and agreed upon by the patient?” (78%)
  - Policy 11, “Under OAR 333-520-0070(5) and OAR 333-505-0055(2)(a)(B)-(D) is the ED’s behavioral health crisis discharge planning policy posted on the hospital’s website?” (62%)

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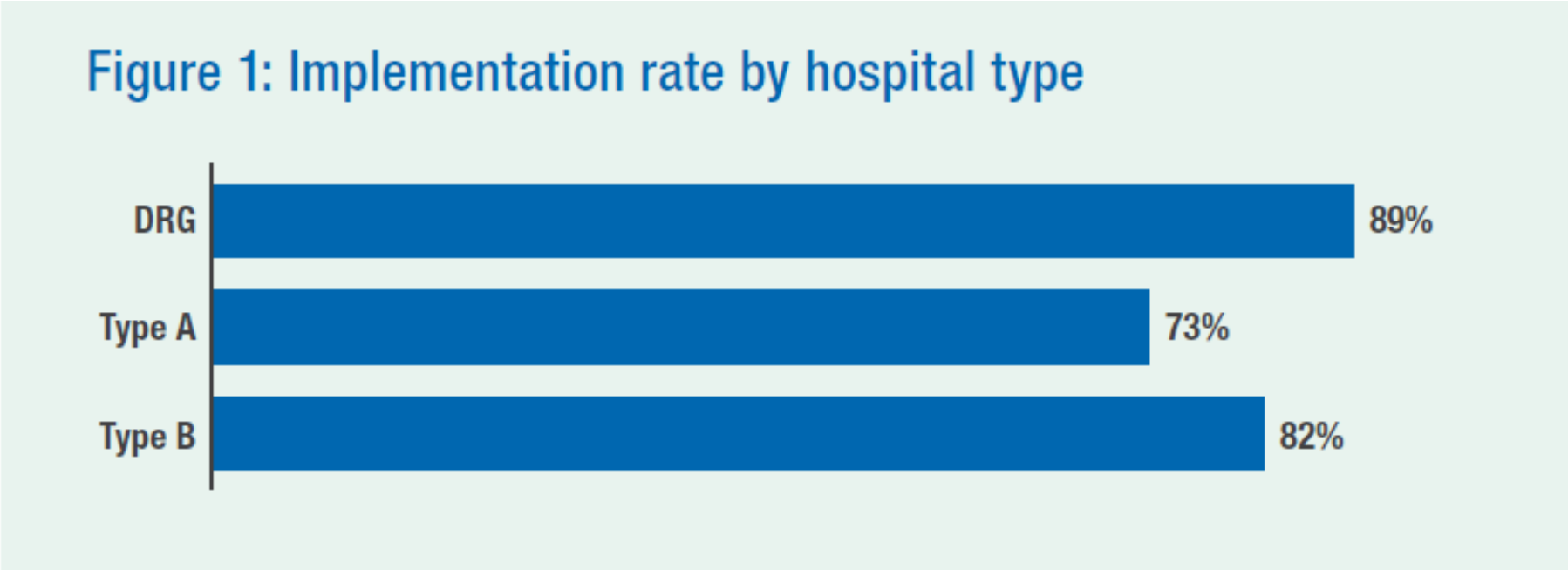
Survey Results

- Overall, urban (DRG) hospitals had higher implementation percentages compared with rural hospitals



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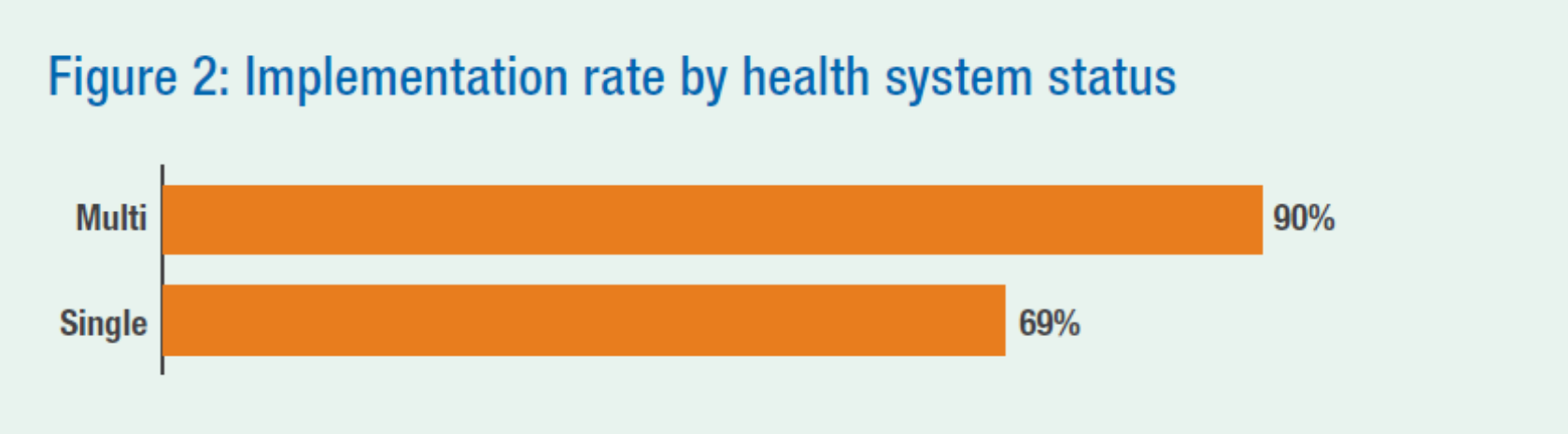
Survey Results

- Hospitals associated with a multi-hospital health system also showed a higher overall implementation percentage with hospitals in a single hospital health system



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Survey Results

Table 2: Statewide barriers to implementation

Barriers preventing implementation	Frequency	Percentage
Hospital resources	37	27%
Current practice or no policy	23	17%
Community resources	18	13%
Policy in draft	16	12%
No reason given	15	11%
Contracted duty	13	9%
Staff compliance	5	4%
Staff training	3	2%
Legal barriers	3	2%
No barriers	2	1%
Patient compliance	1	1%
EHR barriers	1	1%

Survey Results

Table 3: Barriers to implementation by urban or rural hospital status

Barriers preventing implementation	Urban	Rural
Hospital resources	47%	18%
Current practice or no policy	19%	16%
Community resources	9%	15%
Policy in draft	7%	14%
Contracted duty	7%	11%
No reason given	5%	14%
Staff compliance	0%	5%
Staff training	2%	2%
Legal barriers	2%	2%
No barriers	2%	1%
Patient compliance	0%	1%
EHR barriers	0%	1%

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Survey Results

Table 4: Barriers to implementation by health system status

Barriers preventing implementation	Multi hospital	Single hospital
Hospital resources	28%	26%
Current practice or no policy	19%	14%
Community resources	15%	12%
Policy in draft	13%	10%
Contracted duty	13%	6%
No reason given	1%	20%
Staff compliance	6%	1%
Staff training	1%	3%
Legal barriers	1%	3%
No barriers	0%	3%
Patient compliance	1%	0%
EHR barriers	0%	1%

Survey Results- Optional Questions

- **Have staff been able to access training on the policy?**
- Forty hospitals responded to the question on access to training:
  - Thirty-seven hospitals indicated staff had access to training, and
  - Three hospitals indicated no training access for staff.

- **Issues/concerns with billing for these services required in HB 3090 and specifically the caring contact services as HB 3091 (2017) that caring contacts and the case management services are reimbursable?**
- Thirty-eight hospitals responded to the question about issues or concerns about billing for services required in HB 3090:
  - Twelve responded they had no issues or concerns, and
  - Twenty-six responded they either did not know they could bill for these services or were facing challenges in billing for the services.
    - » Fifteen were DRG hospitals
    - » Nine were type B, and Two were type A.
- Hospitals not billing for services most often commented they were unaware they could bill for the services. Other comments indicated hospitals were contracting for the services and thus not billing the service.

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Barriers and Recommendations

Barrier: Lack of hospital policies available on public-facing websites or given to patients. Some hospitals had policies posted on their websites. However, many did not have policies at the ready. More than one-third of hospital respondents reported they do not give a summary of the ED's behavioral health crisis discharge planning policy to the patient and their lay caregiver upon admission or release from the ED.

- Recommendations:
  - OHA will issue a revised memo to hospitals about this requirement by summer 2022.
  - Hospitals should develop policy summaries to give patients and lay caregivers upon admission and release from the ED.
  - OHA and partners should review current guidance to hospitals from OHA and
  - OAHHS and identify where more guidance is necessary.
  - OHA and partners should review current information from OHA and OAHHS to patients, families and caregivers and identify where there is a need for more guidance.

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Barriers and Recommendations

Barrier: Misinterpretation of rules by hospitals. Multiple comments in the survey alluded to some elements not being implemented due to a lack of patient compliance. An example given was the challenge of conducting a caring contact when the patient does not have a phone or is houseless. This is a misinterpretation of the rules by hospitals. Rules require hospitals to create a process that seeks to improve safer transitions outside of the hospital. These rules are about what the hospital needs to do with and for the patient as opposed to patient compliance with rules.

- Recommendation:
  - OHA will issue a revised memo to hospitals of this requirement and provide active outreach by summer 2022.

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Barriers and Recommendations

Barrier: Responsibility of hospitals when contracting out rule requirements. Several hospitals identified that performing certain requirements is contracted out, such as performing caring contacts, to other service providers. This is allowable and appropriate in some cases. However, hospitals must maintain the responsibility to ensure that any contracted care activities are fulfilled.

Recommendation:

- Hospitals should ensure that contracts with vendors clearly define responsibilities, expectations and deliverables such as the vendor reporting process measures and outcomes. This accountability mechanism will ensure requirements are met by the vendor.

Barriers and Recommendations

- **Barrier: Lack of understanding about how policies are meeting intended goals.** This legislation intended to ensure support for patients, families and caregivers who go to an ED with a behavioral health crisis. It is not currently well understood whether these policy changes are improving the support hospitals provide to patients and families.

Recommendations:

- The Legislature should integrate these requirements into larger behavioral health improvement efforts, such as the Behavioral Health Committee required by HB 2086, to support robust accountability metrics. This outcome and performance management should consider the unique barriers of and for the following:
  - » Hospitals in different regions of the state
  - » Populations, including children
  - » Houseless adults, and
  - » Patients who experience substance use disorders (SUD) with co-occurring disorders.

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Barriers and Recommendations

Barrier: Lack of understanding about how companion bill HB 3091 supports implementation efforts. HB 3091 (defined under ORS 441.053) was a companion bill passed with HB 3090 to address elements of care and services related to case management and care coordination that were not reimbursable. HB 3091 was developed by a workgroup representing commercial insurers and Medicaid to ensure each insurer is reimbursed at the same rate as defined in the rule. Almost half of the hospitals indicated they did not know about or are not receiving, reimbursement for services required by HB 3090/3091 and administrative rules since the rules have been in place (December 2019).

Barriers and Recommendations

Barrier: Lack of understanding about how companion bill HB 3091 supports implementation efforts.

Recommendations:

- OHA will issue guidance for hospitals on how to receive reimbursement for required services. OHA will also recommend administrative rule changes needed to address reimbursement challenges.
- OHA should consider convening partners to address HB 3091 barriers and identify solutions to current reimbursement issues. To inform and implement proposed solutions to identified reimbursement issues the following should be involved:
  - » The Department of Consumer and Business Services, which oversees rules related to HB 3091
  - » Hospitals, and
  - » OHA's Medicaid fee-for-service partners.
- State and local behavioral health services should leverage current mental health and behavioral health efforts such as HB 3046 (2021). This behavioral health bill defines parity. It requires insurers to cover both immediate crisis and underlying conditions and treatments.

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Barriers and Recommendations

Barriers: Lack of referral options for hospitals to support patients with care coordination. Hospitals identified a lack of organizations and agencies to refer patients to as the result of an under-resourced behavioral health system. Services continue to be underfunded or nonexistent. This was particularly identified by rural hospitals. Of hospitals that identified having strong connections to the community, a challenge was a smaller subset of people who do not engage in care coordination efforts due to a history of trauma or dislike of institutions. Barriers were identified for patients experiencing houselessness. Also, for patients who may not have phone or internet access.

Recommendations:

- Align with current state efforts to address workforce staff shortages and crisis system improvements. This includes developing the statewide crisis care system and supporting infrastructure.
- The Legislature should consider leveraging the significant behavioral health funding initiatives passed during the 2021 and 2022 legislative sessions to support the intent of HB 3090 rules.

Barriers and Recommendations

Barriers: Lack of referral options for hospitals to support patients with care coordination.

Recommendations con't:

- Hospitals should develop and enhance community resources in rural communities to support rural hospital execution of care coordination rules as a part of their:
  - » Community Health Needs Assessments, and
  - » Community Health Improvement Plans.
- Hospitals should consider the unique needs of people who have a history of trauma and dislike engagement with institutions. Also, hospitals should develop strategies and systems to support these people.
- OHA should engage coordinated care organizations to determine how community-based outpatient programs for Medicaid beneficiaries can be better used.
- Hospitals should develop creative ways to contact hard-to-reach people, including those experiencing houselessness and those who may not have a phone or internet access.
- Hospitals should encourage the use of statewide supports such as warmlines6 to bridge gaps in services.

Barriers and Recommendations

Barriers: Lack of approved staff to provide services. Nurse case managers are often used to follow up with patients. Although, under the current OARs, registered nurses are not allowed to conduct caring contacts. However, not all case managers are social workers who are allowed to provide caring contacts per OARs. Nurse case managers often have the best relationship with the patient and are best to provide follow-up after an ED visit.

Recommendations:

- OHA will propose changes to OARs to set criteria for what types of personnel can be trained to provide caring contacts.
- Hospitals should provide training to nurses and nurse case managers on:
  - » Use of a person's pronoun
  - » Use of person-centered language, and
  - » Techniques to identify psychosocial issues in a nonjudgmental way.
- Hospitals should provide sufficient mental health training for staff, especially in rural areas. This training needs to be culturally responsive and trauma-informed.

OHA Initiatives of Interest

- The Compass Modernization Portfolio addresses both the need to eliminate data silos and improve data quality by:
  - Introducing a new Behavioral Health Data Warehouse;
  - Replacing the Measures and Outcomes Tracking System;
  - Implementing a Longitudinal Enterprise Assessment Portal to collect assessments and help determine appropriate levels of care;
  - Updating the Gambling Process and Monitoring System; and,
  - Automating manual processes with a Data Online Collector.

- Resilience Outcomes Analysis and Data Submission (ROADS): OHA intends ROADS to be a single, web-based data submission and reporting solution for BH partners and OHA. OHA expects ROADS to eventually replace the current Measures and Outcomes Tracking System (MOTS).

HB 3090* Information and Resources

- July 2022 Emergency Department Discharge Practices for Behavioral Health Crisis Care: A Statewide Survey of Hospitals: Legislative Report
- OHA Health Care Regulation and Quality Improvement: Health Facility Licensing and Certification (look under hospital section)
  - Information for Licensees (look under hospital section):
    - Mental Health Discharge Survey Tool – Emergency Departments
    - Mental Health Discharge Tool- Inpatient Departments
  - Information for Public:
    - Current List of Hospitals
    - Fact sheet: Discharge planning for patients presenting with behavioral health crisis or hospitalization for mental health treatment
  - File a Complaint: www.healthoregon.org/facilitycomplaints

* Oregon Administration Rules: 333-500-0010; 333-505-0030, 0050, and 0055; 333-520-0070 and 333-535-0000. Oregon Revised Statute 441.053.

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HB 3090 Information and Resources

- Oregon Association of Hospitals and Health Systems (OAHHS)*: https://www.oahhs.org/state/behavioral-health.html

  - Under Emergency Department Release heading:
    - OAHHS Emergency Dept. Mental Health Release Guidelines
    - OAHHS Emergency Dept. Mental Health Release Checklist
    - OAHHS Lay Caregiver Emergency Department Brochure
  - Under Inpatient Psychiatric Discharge heading:
    - OAHHS Inpatient Psychiatric Discharge Guidelines
    - OAHHS Inpatient Psychiatric Discharge Checklist
    - OAHHS Lay Caregiver Hospital Inpatient Brochure

* Information from OAHHS is not provided by OHA. OHA does not own these materials.

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