

House Bill 2547 Housing with Services Task Force
Report to the Interim Senate Human Services and House Human
Services Housing Committees

Presented by:

The HB 2547 Housing with Services Task Force

September 2016

Executive Summary

House Bill 2547 (2015) created the Task Force on Housing with Services. HB 2547 required the Task Force to submit a report to the Interim Senate Human Services and House Human Services and Housing Committees. This report served to meet the requirements of HB 2547.

While the Task force did not reach agreement as a body on recommended legislation or on several on the issued listed for consideration in HB 2547, in this report it recommends a definition of Housing with Services that encompasses the following elements of HB 2547:

- Types of settings in which services are provided;
- Types of services provided in these settings;
- Service coordination;
- A process for registration; and
- An oversight role for consumers through the Office of the Long Term Care Ombudsman.

Further, the Task Force strongly recommends that any of these recommendations in the definition do not move forward unless there is adequate funding to support any legislation or other means of implementing these recommendations.

The Task Force on Housing with Services respectfully submits this report and its recommendations to the Interim Senate Human Services and House Human Services and Housing Committees for acceptance.

Pursuant to ORS 192.245, this report and its Executive Summary are available at the following website:

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/ADVISORY/Pages/Housing-Services-Task-Force.aspx>

A copy of this report and its Executive Summary may also be obtained by contacting Max Brown at max.brown@state.or.us or at (503) 945-6993.

Introduction

This report serves to meet the requirements of House Bill 2547 (2015) by providing recommendations and issues for further discussion and consideration as outlined in the bill.

HB 2547 created the Task Force on Housing with Services (hereafter referred to as the Housing with Services Task Force, or HWSTF), consisting of 16 members, including two members of the Senate (one Democrat, one Republican) and two members of the House (one Democrat, one Republican). The bill required the HWSTF to provide the following recommendations:

- A definition for a Housing with Services project that addressed the physical characteristics of the facility, the types of residents served, the supportive and health services that are available and how the services are provided;
- Consumer protections to address resident expectations, needs and grievances within a Housing with Services project;
- Whom the residents may rely upon to assist them in advocating for their rights;
- Whether a standardized tenancy contract should be developed and, if so, what standard provisions should be included;
- Which government agency should be responsible for ensuring that residents' rights are protected, reports of abuse are quickly and thoroughly investigated and residents have a voice and avenue to express concerns and grievances;
- Whether a Housing with Services project should be licensed or registered and, if so, what the thresholds and standards for licensing or registration should be and which government agency should do the licensing or registration;
- Whether there are differences that should be addressed between a Housing with Services project and other licensed and unlicensed congregate senior supportive housing; and
- The safety standards for a Housing with Services project including:

- Fire safety, evacuation requirements, emergency and disaster preparedness and building codes; and
- Whether there should be standards for resident acuity based on the scope of supportive and health services provided, building code standards and potential safety risks.¹

This report outlines the work of the HWSTF, the recommendations of the Task Force to the interim committees of the Legislative Assembly related to human services and housing, and a number of issues and concerns that, while not finalized as recommendations from the Task Force, may be subject to future discussion and consideration.

¹ HB 2547 (2015), page 2.

Background and Process of the HB 2547 Task Force on Housing with Services

Housing with Services is a concept that, in recent times, has emerged as an alternative means to provide services and supports to consumers who are older adults and younger adults with disabilities. Nationally, organizations such as AARP and LeadingAge have recognized and collaborated on several models of service coordination.² More recent efforts by the federal Centers of Medicare and Medicaid Services' Innovation Accelerator Program provide assistance to states to develop programs connecting housing to health.³ At least one state, Minnesota, has a statute addressing Housing with Services as a model of service and support coordination.⁴

In Oregon, a pilot project began in 2014 by Housing with Services LLC, partially funded by federal grants through the Centers for Medicare and Medicaid Services' State Innovation Model grant.⁵ The pilot serves 1,400 older adults and people with disabilities who live in 11 publicly-subsidized apartment buildings in Portland. The pilot's objectives include increasing housing stability, improving access to health and social services, improving health outcomes, increasing resident access to mental health, addiction and culturally specific services, increasing resident and consumer engagement, delaying entry or re-entry into institutional levels of care, and reducing health care costs.⁶

² AARP Foundation, "To Age in Place, Older Adults Need Services Plus Housing," 28 August 2014; <http://www.aarp.org/aarp-foundation/our-work/housing/info-2014/leadingage-aging-in-place.html>, accessed 23 June 2016; LeadingAge, Center for Housing Plus Services, http://www.leadingage.org/Center_for_Housing_Plus_Services.aspx, accessed 23 June 2016.

³ Centers for Medicare and Medicaid Services, "Promoting Community Integration Through Long-Term Services and Supports," <https://www.medicare.gov/state-resource-center/innovation-accelerator-program/community-integration-ltss/ci-ltss.html>, accessed 23 June 2016.

⁴ MINN. STAT. 144D.001-144D.11; Task Force staff researched other states that have housing with services, such as Michigan, North Carolina, New Jersey, and Indiana. One question for future research is the extent to which other states' models for housing with services overlaps with Oregon's model for assisted living. See US Department of Health and Human Services, *Compendium of Residential Care and Assisted Living Regulations and Policy: 2015 Edition*, June 2015

⁵ Other funding sources include The Henry and Jeanette Weinberg Foundation, Inc. Health Center Construction Grant, Housing with Services LLC Partner Equity Contributions, Enterprise Communities-Vulnerable Populations Grant, HEDCO Foundation Grant, Meyer Memorial Trust, Providence Health Systems, FamilyCare and Enterprise Community Partners.

⁶ Oregon House Committee on Human Services and Housing, HB 2547 A Staff Measure Summary, 17 April 2015; Howard Klink, "Housing with Services, Portland, Oregon, Version 3.0: A Work in Progress," presented to the HWSTF, 14 December 2015.

At the beginning of the 2015 Legislative Session, the Department of Human Services (DHS) convened a Housing Policy Workgroup, composed of many stakeholders from the housing community as well as providers and consumer advocates within the long term services and supports community. Over the course of the next several months, the Workgroup explored several existing models of housing and congregate forms of long term services and supports. The Workgroup then began work on a definition of Housing with Services in May and June.

During the 2015 Legislative Session, HB 2547 was introduced as an effort to define a Housing with Services project statutorily. After hearing testimony on the bill, the House Human Services and Housing Committee amended it to form a Task Force on Housing with Services (HWSTF), which would provide recommendations to the Interim Committees on Human Services and Housing. The amended bill passed the 2015 Legislative Assembly and was signed by Governor Kate Brown.

In addition to the four members of the Oregon State Legislature, the Governor appointed twelve members to the Task Force. As required by HB 2547, stakeholders included representatives from the following organizations:

- Two individuals representing an affordable housing provider, a health care organization serving Medicaid consumers, or a community-based social service provider;
- One individual representing counties;
- One individual representing DHS's Aging and People with Disabilities (APD) program;
- One individual representing a residential care facility;
- Two individuals representing a statewide, non-profit organization that advocates for the service needs of seniors;
- One individual representing a labor union for home care workers;
- The Long Term Care Ombudsman; and
- One individual representing Oregon Housing and Community Services (OHCS).⁷

⁷ A roster of the HWSTF membership is provided in Appendix A.

The HWSTF also sought input from stakeholders representing other organizations, as specified in HB 2547. HB 2547 required the Task Force to report to the Legislature by December 1, 2015, but its membership was not determined until early November 2015, and its first meeting held on November 19, 2015. As such, DHS (the agency providing staff support for the HWSTF) respectfully requested an extension of the deadline at the request of the Task Force members.

The HWSTF met six times and had a presentation on a similar program in another state. During the early course of its work, the HWSTF reviewed the requirements of HB 2547, examined the work of the Housing with Services Workgroup that met earlier in the year, and reviewed materials on consumer protection, resident rights, and Oregon Administrative Rules (OARs) and Oregon Revised Statutes (ORS) on these subjects.

Next, the HWSTF was provided with presentations on the Housing with Services project in Oregon, independent living, and on the programs of Providence ElderPlace as well.⁸ Following these presentations, DHS provided the HWSTF with a “Housing Comparison Matrix” that outlined licensed congregate settings, including nursing facilities, residential and assisted living facilities, adult foster homes, and memory care units. Task Force members suggested adding other licensed and unlicensed settings such as specialized living, Housing and Urban Development’s (HUD’s) Congregate Housing Support Program, and Naturally Occurring Retirement Communities (NORCs).

At a subsequent meeting, the HWSTF also reviewed information on the programs offered by HUD, including the Section 811 Project Rental Assistance Demonstration, the Service Coordinator Program, and the Real Estate Assessment Center (REAC) program. During a break in the HWSTF during the February 2016 Legislative Session, the Task Force received a presentation by Nancy Eldridge from the National Center on Healthy Housing about Support and Services at Home, a long running Housing with Services project in Vermont.⁹ Another meeting focused on examples in settings other than Housing with Services projects in which residents experienced confusion about services available to them, and with no

⁸ Klink, op. cit.; Nicolette Merino, “Housing with Services,” and Cynthia Noordijk, “HB 2547 Housing with Services Task Force, Providence ElderPlace-Portland Presentation,” presented to the HWSTF, 14 December 2015.

⁹ Nancy Eldridge, “Oregon Task Force on Housing with Services,” presented to the HWSTF, 26 February 2016.

readily available resource to which they could pursue their grievances and concerns.

Starting in the third meeting of the HWSTF, members began work on a definition of a Housing with Services project. The first task was taking a poll on the distinguishing features of such a project. The Task Force took a poll on what a Housing with Services project includes and does not include, based on the criteria provided in HB 2547. This exercise led to a general agreement that a Housing with Services project includes:

- Both consumers who are private pay and Medicaid eligible;
- Such projects include care coordination;
- Services may be provided in both publicly funded and private market housing settings;
- The target population would be older adults and younger adults with disabilities; and
- Services would be optional to participants.

Also, consensus was reached that the service components of such a project would not include the provision of services assisting with Activities of Daily Living (ADLs), as those services are currently provided in licensed and regulated settings.

After taking this input, DHS staff worked on a draft definition to present to the HWSTF at its fourth meeting. This definition focused on the physical characteristics, supportive services and state requirements called for in HB 2547. The draft definition encompassed Housing with Services projects as well as other settings in which there were elements of service coordination in congregate settings.

HWSTF members agreed to work on comments received regarding the draft definition; two more meetings were held to develop a definition that the group could support. Several questions included:

- Does the scope of the definition only include projects established as Housing with Services projects, or does it include other congregate settings with elements of service coordination?
- Does the scope of the definition encompass only publicly-subsidized housing, or does it extend to private rate market housing?

- What constitutes service coordination for purposes of a definition? Is it inclusive of programs coordinating one or two services, or does it only include programs coordinating several services?
- Are services provided directly by the program, coordinated with services provided by separate entities, or is it a mixture of both?
- Should Housing with Services and other settings be regulated by the state, or should they be registered?
- If registration is included in the definition, should there be exemptions and data sharing to register programs or entities already registered and/or regulated by other state agencies, to avoid duplication?
- What is the role of the Office of the Long Term Care Ombudsman in subject entities?

With these considerations in mind, the HWSTF and a subcommittee worked on a final version of a definition to discuss at its sixth and final meeting.

Housing with Services Definition

In response to the requirements of HB 2547, the HWSTF agreed to the following definition to include as part of its recommendations in its final report:

(1)(a) Housing with Services project means an entity that coordinates two or more health and social services for seniors and people with disabilities who are living in publicly subsidized or private congregate settings.

(b) “Housing with Services project” does not include:

- (A) A health care facility under ORS 441.015;
- (B) A residential facility under ORS 443.410;
- (C) An adult foster home under ORS 443.725;
- (D) A continuing care facility under ORS 101.020;
- (E) Program of All-inclusive Care for the Elderly (PACE) as defined in ORS 441.045; or
- (F) A hotel as defined in ORS 320.300(11) and 699.005.

(2) “Coordinates” means proactive and systematic assistance in obtaining, facilitation of, connection with and advocacy for health and social services. Coordination may be performed through communication, collaboration and sharing of information among providers of health and social services.

(3) “Health and social services” includes:

- (A) Case management;
- (B) Health navigation;
- (C) Mental health and addiction supports and services;
- (D) In-home supports such as housekeeping, personal care, meal preparation, laundry services and transportation;
- (E) Information and referral;
- (F) Food insecurity interventions; and
- (G) Wellness and preventative health services.

(4) A Housing with Services project must have policies and procedures ensuring the following:

- (A) Release and sharing of information;
- (B) Confidentiality;
- (C) Privacy protection;
- (D) Consent to participate;
- (E) Consumer/resident choice regarding health plans and service providers;
- (F) Grievance and complaint procedures;
- (G) Culturally specific services;
- (H) Resident involvement in program development, implementation and ongoing project oversight;
- (I) Resident rights;
- (J) Resident involvement in development of service and support plans; and
- (K) Health Insurance Portability and Accountability Act (HIPAA) compliance.

(5) Resident participation in HWS in any housing setting is entirely optional, and accepting services shall not be a requirement of living in a housing setting served by a Housing with Services project.

(6) Registration: All entities register with the Department of Human Services (DHS) and renew their registration every two years. The following applies:

- (A) Unless required by another state or federal agency, all ownership, managers, and employees of the entity are subject to background checks as a condition of registration, registration renewal, and employment;
- (B) Entities registered with another state or federal agency will not be required to register with DHS; DHS will obtain this information from the other agencies;
- (C) Entities demonstrating a hardship may have the registration fee reduced or waived;
- (D) Proceeds from the registration fees will be used to administer the registry;
- (E) All entities are under the purview of the Long Term Care Ombudsman Office; and

- (F) DHS reserves the right to promulgate administrative rules regarding the registration of entities.

Outstanding Issues for Future Discussion

The HWSTF, in forwarding this recommendation for a definition, does not have any recommendations for legislation in this report. However, the HWSTF strongly recommends that any of these recommendations in the definition do not move forward unless there is adequate funding to support any legislation or other means of implementing the recommendations. For example, if the settings included in the above definition are under the purview of the Office of the Long Term Care Ombudsman (LTCO), then the LTCO will require greater resources to carry out that role.

Additionally, the HWSTF held extensive discussions regarding the need to collect data on public and private entities providing the coordination of services for older adults and people with disabilities. A statewide survey may be an initial step in gathering information to determine the number of entities falling under the proposed definition, the extent to which these entities have capacity to register with DHS through the process outlined in the proposed definition, and the overall fiscal impact to implement the proposed definition.

In creating this definition, the HWSTF had robust discussion on several issues that may require further consideration in the future:

- *Alternative Definitions for Housing with Services:* This question goes to the essence of one of the requirements for this report – defining physical characteristics of a Housing with Services project. While such a model of services and supports may exist in apartment buildings or other congregate settings, housing with services can also be defined as the coordination of services, and not through a more building-, facility- or institutional-based lens.
- *Housing with Services vs. Other Settings with Service Coordination:* HWSTF members raised a number of important issues about the scope of future regulation or registration. Beyond the Housing with Services pilots, what other programs or entities should be included? For example, if an entity only offers two or more limited, optional services such as congregate meals or van rides, should that be a subject entity? At the same time, HWSTF

members discussed other residential models, such as buildings that have some floors that are licensed settings and other floors that are unlicensed residential settings, mobile home parks, and even naturally-occurring retirement communities (NORCs). In consideration of any future regulation or registration, the HWSTF members emphasized the importance to define the problems or potential problems facing consumers that the solution would address. Task Force members also emphasized the importance establishing tangible outcomes, anticipating unintended outcomes in any future development of registration or regulation. Finally, Task Force members strongly recommended adequate resources to keep regulation, registration, and other forms of oversight sustainable.

- *Service Coordination vs. Provision of Services and Housing Entities vs. Service Coordination Entities:* The Housing with Services project in Oregon coordinates services through a separate and legally-established, non-profit Limited Liability Corporation (LLC). Some advantages of this model of service coordination include reduced costs, establishing clear liability protections and defining conflicts of interest. More specifically:
 - Many publicly subsidized housing sites have Resident Services Coordinators (RSCs) employed by the housing agency that do assist residents with services coordination. This service coordination is primarily very light touch information and referral. These RSCs serve very large numbers of residents, and as employees of the housing agency, have limited capacity and operate under extreme limitations with regard to the resident information they can share and/or have access to.
 - HWS, as defined in the report, refers to an "entity" but does not specify the meaning of this term. Some Task Force members maintained that an entity, be it a 501c3, Limited Liability Corporation (LLC) or established by contract agreements, must be organizationally and administratively separate or independent from the housing organization. This separation means that the service providers and coordinators participating in the entity are not employees of the housing agency and can share information to improve services coordination or services delivery and not violate resident privacy, confidentiality, HUD or HIPAA rules.

There was some support for narrowing the definition to entities that utilize this “separation” model, but the majority of HWSTF members thought the definition should encompass entities that may also provide some of the services directly, or coordinate services internally within the entity.

- *Publicly-Subsidized and Private Rate Market Rental Housing:* The Housing with Services project in Oregon serves individuals residing in publicly-subsidized housing. One question considered by the HWSTF was whether the definition should be limited to publicly subsidized housing, or also include private rate market rental housing. Some concerns were raised about the sheer number and types of entities included if the definition included private market housing, as well as if it included all publicly-subsidized housing. Other perspectives included acknowledging the existing safeguards and regulations in place for residents in publicly-subsidized housing, and the potential vulnerabilities for consumers, including low income consumers, in the private housing market. The HWSTF ultimately included both types of housing, but facilities where at least two or more services were coordinated for residents who chose to participate in the program.
- *Registration:* The HWSTF opted for a definition and recommendation to have registration of Housing with Services entities rather than a regulatory structure. Since many entities are already regulated by other state or federal agencies, the definition includes an opt-out for them, as DHS can obtain registry information from these agencies, and to avoid duplication of oversight for these providers. However, several concerns remain regarding registration, including the purpose registration would serve for protection of consumers, as well as the extent to which registration would lead to the development of more regulation. Further, regarding the policies and procedures section of the proposed definition, there was support for flexibility in implementing these requirements in order to give subject entities time to assess, revise or create their policies and procedures to meet these requirements. Strengths of registration included the need to get information on where Housing with Services entities exist in the state, and to have a basic infrastructure and mechanism to identify consumer needs that may need to be addressed in these settings.

- *Other Issues from HB 2547:* There were other issues in HB 2547 that the HWSTF did not reach agreement on in the course of its discussions, but were discussed to some extent in the Task Force’s proceedings. Some of the issues, including safety standards, are addressed in some settings through housing regulations, while licensed long term service and supports settings safety standards are addressed through DHS’s Office of Licensing and Regulatory Oversight. These issues on which there was discussion but not a final agreement on a recommendation or finding include:
 - Whether a standardized tenancy contract should be developed and, if so, what standard provisions should be included;
 - The safety standards for a Housing with Services project, includes:
 - Fire safety, evacuation requirements, emergency and disaster preparedness and building codes; and
 - Whether there should be standards for resident acuity based on the scope of supportive and health services provided, building code standards, and potential safety risks.
 - Investigating the market demand for Housing with Services projects.

Conclusion

House Bill 2547 created the Task Force on Housing with Services, consisting of four members of the 2015 Legislative Assembly and twelve representatives of consumers, housing and long term services and supports providers, state and county government agencies, and other organizations. While the Task Force did not reach agreement as a body on recommended legislation or on several issues listed in HB 2547, it recommends a definition of Housing with Services that addresses types of settings, types of services, service coordination, a registration process, and an oversight role for consumers through the Office of the Long Term Care Ombudsman. The Task Force also finds that these recommendations do not move forward unless there are adequate resources to support the recommendations. The Task Force on Housing with Services respectfully submits this report served to meet the requirements of House Bill 2547 (2015).

Appendix A: Task Force Roster

Members:

Senator Sara Gelser, Co-Chair

Representative Bill Kennemer, Co-Chair

Senator Tim Knopp

Representative Rob Nosse

Ashley Carson Cottingham, DHS Aging and People with Disabilities

Jerry Cohen, AARP Oregon

Gwen Dayton, Oregon Health Care Association

Lee Girard, Multnomah Aging and Disabilities Services

Howard Klink, Housing with Services Project Director

Kenny LaPoint, Oregon Housing and Community Services

Kyndall Mason, SEIU 503

Nicolette Merino, Avamere Health Services

Cynthia Noordijk, Providence ElderPlace

Fred Steele, Long Term Care Ombudsman

Dan Valliere, REACH

Tom VanderVeen, DHS Office of Licensing and Regulatory Oversight

Past Members:

Joe Greenman, Oregon Health Care Association

Donna Keddy, DHS Office of Licensing and Regulatory Oversight

Staff:

Julie Jacobs, Advocacy and Development

Deborah White, Advocacy and Development

Max Brown, Advocacy and Development