



# Oregon

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## Board of Nursing

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Before the  
Senate Committee on Health Care, Human Services, and Rural Health Policy

### HB 4009A

Testimony of Holly Mercer, Executive Director  
Oregon State Board of Nursing

The Oregon State Board of Nursing (OSBN) wishes to submit testimony in favor of House Bill 4009A.

HB 4009A would abolish the monitoring entity that is part of the Health Professionals' Services Program (HPSP).

According to the legal advice received at the time, the monitoring entity was intended to protect the confidentiality of compliant, self-referred licensees, while ensuring that non-compliant self-referred licensees would be reported to the Board. Information must flow freely between the HPSP and its licensee participants, so participants must sign a release of information to allow this. In the event that that the participant was non-compliant with the terms of the program and rescinded their consent to disclose information, it was intended that the monitoring entity would then convey certain information to the Board, including the licensee's name and certain documents. At that point, the Board could protect the public by conducting its own investigation into the licensee's non-compliance.

However, a recent circuit court decision held that if a self-referred licensee rescinded his or her consent, the monitoring entity was not permitted to provide any information to the Board. The court decision clearly negates the intended purpose of the monitoring entity.

HB 4009A would eliminate the ineffectual monitoring entity, resulting in a streamlined reporting process and a biennium cost savings of \$180,000, \$115,000 of which would be saved by the Nursing Board.

We would be glad to answer any questions the Committee may have. Thank you for the opportunity to submit testimony on House Bill 4009A.

#### Fully Enrolled Licensees

| Boards        | Board Referred | Self Referred | Totals     |
|---------------|----------------|---------------|------------|
| Nursing       | 202            | 3             | 205        |
| Medical       | 48             | 41            | 89         |
| Pharmacy      | 14             | 2             | 16         |
| Dental        | 14             | 1             | 15         |
| <b>Totals</b> | <b>278</b>     | <b>47</b>     | <b>325</b> |

# HB 4009A Summary

## **What was the intended purpose of the monitoring entity?**

When HB 2345 was drafted in 2009, one of the challenges faced by the workgroup was how to protect the confidentiality of compliant self-referred licensees, but ensure that non-compliant self-referred licensees be reported to the board. The monitoring entity was created as a mechanism to obtain preliminary information from a self-referred licensee. In the event the licensee was noncompliant and the licensee rescinded their consent to disclose information, the monitoring entity would be able to convey certain preliminary information to the board, including the licensee's name and certain documents. The Board would then be able to protect the public by conducting its own investigation into the licensee's noncompliance.

## **Did the mechanism work?**

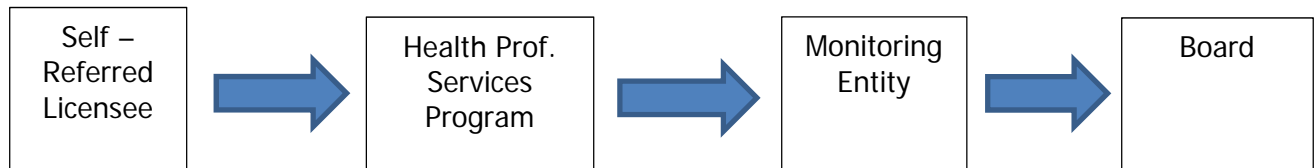
A recent circuit court decision held that if a self-referred licensee rescinded their consent, the monitoring entity was not permitted to provide any information to the Board, including the licensee's name and certain documents held by the monitoring entity. The court decision clearly negated the intended purpose of the monitoring entity.

## **Why do we need legislation?**

Removing the ineffective monitoring entity will streamline the reporting process and create efficiencies within the program, resulting in a biennium cost savings of \$180,000.

## **Current Process**

Self- Referred Licensee signs release of information (noncompliance report given to Board)



Self- Referred Licensee rescinds release of information (noncompliance report not given to Board - HPSP must pursue an order from Circuit Court **prior to** reporting noncompliance to the Board)

