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Before the Senate Committee on Health Care and Human Services
Senate Bill 101—Impaired Health Professional Program

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Please accept this testimony on behalf of Northwest Permanente, P. C., Physicians and Surgeons, an independent, multi-specialty group practice comprised of 1,100 physicians and allied clinicians responsible for the medical care of Kaiser Permanente enrollees in Oregon and Southwest Washington.

Senate Bill 101 proposes two relatively small changes to current law concerning the Oregon Health Authority's impaired health professional program. This program monitors licensees' conduct, but does not provide treatment for "impaired" licensees. The program is statutorily required to enroll all health profession licensees who have been diagnosed with alcohol or substance abuse or a mental health disorder—whether they are "impaired" (as defined by statute) or not.

First, the bill would remove the requirement on employers of health professionals that they "... establish training requirements for supervisors of enrolled licensees." Removing this obstacle is warranted.

Second, the bill would remove as a type of substantial noncompliance with a diversion agreement admission "... to the hospital for mental illness or [the licensee's being] adjudged to be mentally incompetent." This change raises the question whether "substantial noncompliance" should include only conduct within the licensee's control—being impaired at work or criminal conduct, as examples—or should include other instances of disability. Is a short-term hospitalization for mental illness "substantial noncompliance"? Is a two-week hospitalization "short-term"? The bill proposes that any hospital admission for "mental illness"—whether just an overnight or a month-long one—will not constitute substantial noncompliance; but we recognize that drawing any such line is necessarily arbitrary.

We recommend your support of SB 101.

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In addition, we urge the committee to consider other changes to the statutes governing the impaired health professional program, whether in SB 101 or in similar legislation also under consideration today in the House of Representatives.

We believe that one of the major deterrents to health licensees' seeking treatment for physical or mental impairment is contained in ORS 676.190 (1) (b)—page 1, lines 11-13 of SB 101—where a licensee must:

. . . sign a written consent prior to enrollment in the program allowing disclosure and exchange of information between the program, the licensee's board, the licensee's employer, evaluators and treatment entities in compliance with ORS 179.505 and 42 C.F.R. part 2.

Even if this requirement is warranted in the case of an impaired licensee referred to the program by his or her licensing board lieu of disciplinary sanctions, including loss of the practitioner's license, it is a significant obstacle to licensees' voluntarily seeking treatment, because not only their licensing board will be able to receive information about the licensee's treatment, but because his or her employer will too. It is not clear what an employer or agency is expected to do with this information, but in both cases, it seems likely that they would need to initiate their own investigations of the employee's condition, including possible personnel or license disciplinary sanctions.

Northwest Permanente offers its clinicians and employees confidential counseling and treatment services to encourage early and voluntary participation. But few would participate if they knew that both their employer and their licensing board would be furnished information periodically about their involvement.

We would urge the committee to consider whether licensees should be required to allow their employers and licensing boards to be notified of their participation in the OHA's impaired health professional program. In addition, we believe that a more thorough legislative examination of all the requirements imposed on the program may be warranted to assure that they successfully address the needs of patients and of health professionals.

Thank you for your consideration.