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MEMO

To: Mr. Tom Holt
Cambria Health Solutions/Regence Blue Cross Blue Shield of Oregon
From: John C. Powell
Re: Legislative History of ORS 743.730 (29) (a)
Date: February 1, 2015

Tom:

You asked me to research the legislative history of ORS 743.730 (29) (a) to determine, if possible, when and why the statutory language, "***the majority of whom are employed within this state***" was included in the definition of "Small employer."

(29) (a) Small employer means an employer that employed an average of at least one but not more than 100 employees on business days during the preceding calendar year, ***the majority of whom are employed within this state***, and that employs at least one eligible employee on the first day of the plan year.

In the 1991 legislative session, then Senate President John Kitzhaber sponsored SB 1076 (began as LC 1961), which piggy backed on the efforts from the previous two legislative sessions focusing on small group health insurance reform (and the Oregon Health Plan). SB 1076 directed the Department of Insurance and Finance to develop what was termed "basic health benefit plans" that all small group health insurance carriers would have to offer as well as reforming the rules for the small group health insurance market. The passage of SB 1076 is where we get the above referenced language, "***the majority of whom are employed within this state***" in the definition of "Small Employer" that is found in ORS 743.730 (29) (a).

From the beginning of the legislative process, including in LC 1961 and the first draft of SB 1076, the definition of "Small employer" included the language in question. It also appears that the definition of "Small employer" may have been taken from the then National Association of Insurance Commissioner's (NAIC) model act, but the public record did not confirm that. SB 1076 had fourteen committee hearings/work sessions in three different committees throughout the 1991 legislative session. After reviewing all of the available written exhibits and listening to the audio recordings of the hearings and floor debates at

the Oregon State Archives, I was unable to find any discussion in the legislative history on the language in question. Based on the public record, there simply appeared to be no controversy regarding the language in question and no mention written or otherwise as to exactly why the limiting words, "***the majority of whom are employed within this state***" were included in the definition of "Small employer." During a hearing in the Senate Health Insurance and Bio-Ethics Committee, Senator Kitzhaber's chief of Staff, Mark Gibson, walked the committee line by line through the bill. But when Mr. Gibson got to the language in question, then Sen. Frank Roberts stated, "I don't think there are any particular definitions we need to go through." And Mr. Gibson then skipped the section of the bill with the language in question and went on to explaining the next section of the bill to the committee.

In short, the legislative history of SB 1076 did not lend insight as to why the 1991 legislature adopted the phrase, "***the majority of whom are employed within this state***" in the definition of "Small employer."

Sincerely,

John C. Powell