



Oregon

Kate Brown, Governor

Board of Pharmacy

800 NE Oregon St, Suite 150

Portland, OR 97232

Phone: 971/ 673-0001

Fax: 971/ 673-0002

Email: pharmacy.board@state.or.us

Web: www.pharmacy.state.or.us

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Chair Greenlick and Members of the Committee

Thank you for the opportunity to submit testimony regarding HB 3174 on behalf of the Oregon Board of Pharmacy (OBOP).

The mission of the Oregon State Board of Pharmacy is to promote, preserve and protect the public health, safety and welfare by regulating the practice of pharmacy and the quality, manufacture, sale, and distribution of drugs. HB 3174 as written would prevent the OBOP from fulfilling this mission.

HB 3174 would prevent OBOP staff from conducting a full and complete investigation of complaints by placing notification requirements to a licensee prior to beginning an investigation of the complaint. HB 3174 requires that the OBOP share the existence of a complaint, the outcome of the investigation, and the adjudication of the complaint by the board before staff begins an investigation. In effect, it requires the notification of the results of an investigation and its adjudication prior to the beginning of the investigation itself.

Many investigations require the gathering of information prior to interviewing the licensee involved. Notification prior to beginning an investigation would:

- Have a chilling effect on the complaint process
- Allow a licensee to destroy or alter documents critical to an investigation
- Allow a licensee to pressure or coerce testimony from others
- Allow a licensee to destroy or alter time sensitive information critical to a controlled substance use or diversion investigation
- Significantly drive up DOJ attorney costs
- Cause the OBOP to miss two legislatively mandated key performance measures by lengthening the time of investigation and diverting resources from inspections to investigations.

Additionally, the OBOP Attorney General advises us that there are legal problems with several aspects of HB 3174. Section 1 3(b) requires the OBOP to advise the person to retain an attorney when the OBOP has no statutory authority to require a licensee to retain counsel. Additionally, many of the words used in Section 1 3 (a) are “terms of art” in administrative law and their usage in this section is confusing and contrary to their application in law.

The Oregon Board of Pharmacy has a long history of attempting to ensure licensee compliance through education and outreach. This approach has resulted in high compliance rates with a reduced level of disciplinary action.

I am not aware of the circumstances that lead to the introduction of HB 3174, but I would like to offer my time to address any concerns the bill sponsors might have regarding the actions and procedures of the OBOP in the hopes of resolving their concerns while avoiding a statutory solution.

Thank you again for the opportunity to comment on HB3174.

Marcus Watt R.Ph.
Executive Director
Oregon State Board of Pharmacy