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Emergency physician, testifying on behalf of myself  
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To: Oregon House Committee on Healthcare  
RE: House Bill 2394 (2017)  
Position: **Against**

Thank you to the committee chair, Rep. Greenlick, and members of the Committee.  
Here is my testimony.

1. When the only tool that you have is a hammer, every problem looks like a nail. The current “impaired health professionals” program has both statutory and OAR language that are specific to monitoring and treatment of health professionals with addictions, with the patchwork addition of the words “and mental disorders” by the 2009 legislature. Simply adding the words “**and physical health conditions**” does not change the fundamental nature and structure of this program, its function, its staffing, staff competencies, or program capabilities.

“Impaired professionals programs” originated as “diversion” programs, to be used in lieu of discipline, for professionals who showed up for work under the influence of drugs or alcohol. They remain fundamentally disciplinary programs, designed to give health care providers a chance to sober up and thus save their professional careers.

Impaired professionals programs are “compliance-based”, which means that an enrollee must comply with each and every request made by the program or be reported to their licensing board for disciplinary action. They are “abstinence-based”, which means that enrollees must abstain from the use of alcohol and all other potentially mind-altering drugs (including many medicines used for sleep, anxiety, pain, congestion, allergies, asthma, diarrhea, cough, and other conditions).

The current impaired professionals program is a “pig in lipstick” -- a one-size-fits-all addictions program with the words “and mental disorders”

appended by the 2009 legislature, and now with proposed addition of “and physical health conditions” being considered. Forcing professionals to enroll in this program based upon their diagnosis (or more likely, prejudice about their diagnosis) will actually discourage health professionals from obtaining necessary personal health care due to lack of privacy and due to their very real fear of being subjected to a disciplinary program if they receive the wrong “diagnosis”.

2. Neither the “impaired health professionals” program (formerly called HPP, currently called HPSP) nor health licensing boards are permitted to diagnose or treat healthcare professionals -- though they advertise themselves as “helping” physicians. Health licensing boards in Oregon are currently staffed by attorneys and retired law-enforcement officials, not healthcare professionals.

However, health licensing boards can and do refer participants to a closed list of “preferred” and “pre-approved” consultants, providers and facilities who are financially incentivized to provide the boards with the “diagnosis” and “treatment plan” (including mandatory impaired health professionals program referral) that the board desires. This deprives healthcare licensees of the fundamental right to healthcare privacy and autonomy guaranteed to virtually all other citizens of Oregon (including health licensing board staff, legal counsel, board members, and their approved consultants). This also includes the lawmakers and other citizens in this room.

3. There are ethically and legally questionable financial ties between health profession licensing boards and their “preferred” consultants, providers, and treatment facilities -- including contractual agreements that are rife with conflicts-of-interest.

ORS 676.200 (1)(a) “A health profession licensing board that is authorized by law to take disciplinary action against licensees may adopt rules opting to participate in the impaired health professional program established within ORS 676.190 and may contract with or designate one or more programs to deliver therapeutic services to its licensees.”

See attached, current list of HPSP (and health licensing board) list of “approved” evaluators and treatment programs (not covered by health insurance or professional liability insurance).

4. Direct out-of-pocket costs for enrollees of the current impaired health professionals monitoring program for a typical physician:
  - a. \$ 5,000 96-hr evaluation at preferred facility
  - b. \$ 50,000-\$150,000 90-day residential substance abuse treatment at preferred facility
  - c. \$150/month for “non-therapeutic monitoring group” fee
  - d. \$200/month for random drug and alcohol testing
5. Illness and disability are not the same as workplace impairment. Applying the prejudicial and deeply offensive label of “impaired” to any professional imposes additional and unreasonable burdens, including the statutory implication that they are unable to perform their professional duties with reasonable skill and safety. The label of “impaired” is currently applied by OAR’s to any health profession licensee with a diagnosis of a substance use disorder and/or a mental disorder. The Oregon Medical Board’s current rules define these terms as follows (DSM is the American Psychiatric Association’s current Diagnostic and Statistical Manual of Mental Disorders):

840-065-0015

(13) “Mental disorder” means a clinically significant syndrome identified in the current DSM that is associated with disability or with significantly increased risk of disability.

(18) “Substance abuse” means a disorder related to the taking of a drug of abuse (including alcohol); to the side effects of a medication; and to a toxin exposure, including: substance use disorders (substance dependence and substance abuse) and substance-induced disorders (including but not limited to substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorders and mood disorders) as defined in DSM criteria.

#### 6. FISCAL IMPACT:

The “monitoring” provided by the impaired professionals program is extremely costly and overly burdensome to enrollees, and it does NOT keep the citizens of Oregon safer.

Expect that millions of dollars of additional Oregon taxpayer money will be spent on legal expenses for the Oregon DOJ to defend the health licensing boards against civil suits for violations of the Americans with Disabilities Act. Many

health conditions and health disabilities can and should be reasonably accommodated in the workplace -- without imposition of additional burdens and/or stigma.