

To: Oregon Legislature & Health Committees

Re: HB 2394

Meeting to consider this bill on Feb 22, 1917 3pm HR-E

From: Ralph L. Read

The Oregon Legislature has provided enormous power to licensing Boards, especially the Oregon Medical Board. Ideally, honest members of this Board would use the power to become excellent judges. Instead, prosecutors have managed to deceive or confuse the Board members and turn them into super-prosecutors. Board members may believe that because they have immunity for violations of civil rights, they "cannot" violate civil rights.

The referral of individuals to private companies for evaluation or monitoring has often been a way to punish the individual while denying "due process" rights, or making it very very expensive to defend those rights.

The only changes "needed" are changes which would bolster the licensee's rights. This might include MORE recourse to real judges who have ethics that hopefully might make violation of civil rights less likely. Real judges are NOT prosecutors.

The existing State framework actually may be a violation of the Constitution, but too expensive and time-consuming for any licensee to attack. (See Article I Section 10 regarding "bill of attainder"). The OMB can create a law that affects only one person, or simply interpret anything the individual has done as an "ethical" violation (without prior warning). Then the OMB can decide guilt, and assign punishment. Any appeal to a real court suffers from being an appeal on procedural issues (not fake facts).

The best way to understand what is ACTUALLY happening is to look at conviction rates, which are essentially 100%. Actually the best way is to note how many licensees choose to CONFESS, once they get informed by an expensive lawyer that "the truth" will not help them even a little.

I myself had my license "inactivated", without reason. When I repeatedly wrote to ask that this inactivation be justified, the OMB was told that I "insisted I deserved an active license". This was a simple lie, and easy to disprove, but was accepted without question by OMB members. The OMB "referred" me to CPEP (a private, very EXPENSIVE testing agency in Colorado- 1000 miles away). This was not done to obtain any evaluation, because there was no decision pending! Thus no evaluation was needed for any Board purpose. Actually I filed in small claims court to obtain a license fee refund once I realized there was not going to be any truth or justice.

The OMB Order was simply punitive. But it developed that the Order was also impossible to comply with because the Colorado company (CPEP) did not provide the evaluations ordered. And later it developed that the Order was contra-indicated by CPEP policy because the OMB had concealed ethical complaints.

The OMB and other licensing agencies are controlled by prosecutors who enhance their reputation by successful prosecution, supported by violations of due process rights and falsified evidence and "hearsay" evidence, not by provision of honest justice.

They even help create complaints that they KNOW are totally false. If someone bet me that was not true, I could win by referring to my case record.

The OMB punished me with an unnecessary (impossible, contra-indicated) Order. When they eventually learned it was impossible and contra-indicated, they found me guilty of "failure to comply" with the Order because I had not found a way to get them to change the unnecessary Order to one that was possible (although still unnecessary, and contra-indicated). Actually I had tried, but they ignored my efforts- the proof of my efforts is in the form of a letter from OMB investigator to me, mentioning my phone call to him regarding the Order.

There was no testimony or evidence to support the OMB verdict regarding my responsibility to somehow affect OMB operation. Nor had there been a hearing on the charge that I had an ethical duty (bill of attainder?) to inform the OMB about it's (malicious impossible unnecessary contra-indicated) Order for evaluation.

The OMB (and other licensing agencies) may be out of your control. Giving them more power to injure licensees without finding a way to protect those licensees will simply result in more injury to licensees - and will NOT protect anyone. Eventually this may punish Oregon citizens, as professionals are eliminated and other ones may realize they should go elsewhere.

You need more oversight of the violations of due process rights and the daily use of fabricated imaginary facts, and "expert witnesses" who are themselves being charged by the OMB and thus under pressure to give the story the OMB wants.

Giving any of these agencies more power to punish individuals without allowing a real judge to get involved is unlikely to serve the best interests of the State.

Why simply "hope" these agencies will selectively punish individuals who are not very essential to the public? These referrals for evaluation or ongoing evaluation might sound like an effort to protect the public, but they actually are ONLY a way to punish licensees until they give up and go away. Their civil rights are ignored, but there is no recourse because these agencies are NOT liable for violations of civil rights. You do know that, don't you? They can violate civil rights and be immune from State and Federal liability. Always. Every time. That FACT does not actually make them reluctant to violate civil rights; it makes violation of civil rights a daily event! Involving more judges who know they are judges (not prosecutors) might help this situation.

Punishment by delay can be avoided by legislating the "stay" of any action until the judicial hearing occurs - this would encourage the Agency to stop stalling, or maybe not act at all to punish individuals when there has been no serious problem proved.

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