May 7, 2020

Governor Kate Brown
900 Court Street NE, Suite 254
Salem OR 97301

COPACT
Coalition of Oregon Professional Associations for Counseling & Therapy

Dear Governor Brown:

The Coalition of Professional Associations of Counselors and Therapists (COPACT) advocates for the 6,000 Licensed Professional Counselors (LPCs), Marriage Family Therapists (LMFTs) and Registered Interns who provide clinical mental health diagnosis and treatment to all Oregonians each week through our work in agencies, universities, corrections, health clinics, rehabilitation and private psychotherapy practices.

We are writing in response to a letter dated April 22, 2020, from Representative Janelle Bynum and co-signed by numerous esteemed legislators, elected officials, providers and advocates brings up several important systemic failures that impede access to appropriate behavioral health care in Oregon, especially for communities of color, non-urban, poor and other marginalized groups.

For the last several years, COPACT's primary focus has been advocating for policies at the state level that improve access to quality mental health care for all Oregonians. Through our work we have identified several key factors that conspire to impede access to mental health care. We believe many health insurance providers in Oregon (both commercial and Medicaid) are not currently in compliance with the mental health parity requirements found in ORS 743A.168 or the network adequacy requirements in ORS 743B.505. Those statutes respectively require insurers to cover behavioral health treatment at the same level as medical treatment and to contract with a sufficient number of accessible, in-network counselors and therapists so that clients receive treatment without unreasonable delay. Historically low reimbursement rates for mental health services, as well as low pay and unrealistic workloads for counselors and therapists employed in community mental health agencies are the primary factors contributing to the shortage of in-network providers available to meet Oregon's mental health treatment demands.

COPACT believes Representative Bynum's letter offers only a partial solution to the problem of recruiting and retaining providers to the behavioral health field and therefore increasing access. It is imperative that the access to care problem rest on the shoulders of those responsible for the low reimbursement rates: the payers - Medicaid as well as commercial insurance – whose benefit plans lack parity (not to mention, respect) for the difficult work we do. Later in this letter, we offer some additional insights.

Representative Bynum's letter addresses three issues in particular on which COPACT can offer some additional perspective: allowing interns (new LPC or LMFT graduates) to contract with

insurance companies for reimbursement; reducing the hours required for full licensure; and developing a COVID-19 Mental Health Relief Fund.

1. Allow mental health interns on insurance panels so they can bill insurance.

COPACT does not believe that a mandate for insurers to contract with specific types of providers is the answer. Most insurers require a specific number of supervised hours or years of experience in the field before they will contract with a counselor or therapist. We believe it is appropriate for these commercial payers to continue to determine their own qualification guidelines as long as they adhere to all Federal and State laws. Additionally, the ability to bill insurance isn't a silver bullet – in fact, many licensed providers choose not to contract with insurance companies because the reimbursement rates are so low it is unaffordable to treat patients in-network. This is a problem that goes far beyond just the interns in the field.

Counselor interns in Oregon would be much better served with a significant salary increase and reduction in caseload for community mental health workers. Registered LPC and LMFT interns working in most agencies and clinics already qualify for reimbursement through Medicaid depending on which CCO is contracting with that agency.

Research indicates that it is primarily economic disincentives that keep talented people out of the profession. The Parity Implementation Coalition has identified *lack of oversight* as the primary reason insurers have been able to get away with lower reimbursement rates for mental health care. The best way to remedy this situation is to "…*require health plans to provide comparative quantitative and non-quantitative data covering factors such as out-of-network use and reimbursement rates so that these disparities can be addressed."* Insurers often take advantage of minimal oversight and most consumers (and providers alike) don't fully understand their rights or don't know where to turn when those rights have been violated.

Despite the enactment of the Mental Health Parity and Addiction Equity Act in 2008 (29 USC section 1185a), which requires health insurers to provide the same access to behavioral health care as they do for primary medical care, mental health providers continue to be paid lower reimbursement rates on average than primary care providers for the same services; and sadly, this pay disparity has actually been increasing over the past few years, primarily due to a lack of oversight. According to a 2019 report commissioned by the Mental Health Treatment and Research Institute, primary care reimbursement rates were 23.8% higher on average than behavioral reimbursement rates in 2017 (an increase from 19. 8% in 2014). Eleven states reimbursed at over a 50% higher rate for primary care office visits in 2017 (an increase from nine states over 50% in 2015). Unfortunately, Oregon is one of the eleven with *a 57% higher reimbursement rate for primary care visits* (8th highest disparity in the nation and an increase from 37% in 2014).

Low reimbursement rates force counselors and therapists, especially those in private practice, to only offer out-of-network services to clients if they wish to keep a roof over their heads, which leads to higher out-of-pocket costs for clients in need of mental health services that

should be covered by their health insurance plan. In fact, clients nationwide are almost six times (572%) more likely to pay for out-of-network treatment for outpatient mental health care than they are for out-of-network primary care services. Oregonians are paying even more than the national average as we are over eight times (803%) more likely to pay out-of-pocket for mental health services than we are for outpatient primary care services.

Though COPACT has been working diligently to increase access to care for those insured through the Oregon Health Plan, mental health services covered by Medicaid continue to be limited to large community mental health agencies and county-run clinics which are notorious for long waiting lists and infrequent contact with providers. Despite the fact that the counselors and therapists who work in these clinics are providing treatment and care for clients with the most severe and persistent mental illnesses and are often burdened with incredibly high caseloads, these jobs offer abysmally low starting salaries, especially when compared to other masters-level professions in Oregon.

Below are the most updated Occupational Employment and Wage Estimates for Oregon according to the US Bureau of Labor and Statistics (as of May 19, 2019):

Occupation	**Avg. Salary**
Licensed Counselor or Therapist	$ 53,600.00
Librarian	$ 64,560.00
Chiropractor	$ 70,220.00
Respiratory Therapist	$ 70,480.00
Teacher (kindergarten-postsecondary)	$ 77,039.00
Speech and Language Pathologist	$ 86,800.00
Physical Therapist	$ 87,200.00
Acupuncturist	$ 87,830.00
Occupational Therapist	$ 92,730.00
Nurse Practitioner	$ 113,430.00
Physician Assistant	$ 114,320.00

Please understand that the average salary figure for Licensed Counselors or Therapists does not reflect the much lower pay for Registered Interns and all other clinicians working in Community Mental Health Agencies, most of whom owe significant amounts of money they borrowed to get their graduate training. The persons providing mental health care to our most vulnerable Oregonians are in a financial squeeze between low pay and academic debt. It is our belief this is a major factor in the poor access to mental health care for persons of color Representative Bynum's letter is addressing. An additional factor that Representative Bynum has identified as possibly contributing to the limited number of counselors and therapists in the field is that most LPC and LMFT interns must pay out of their own pocket for supervision during their 2-year, post graduate internship.

Another issue of import that contributes to poor access to mental health care for those Oregonians on the Oregon Health Plan is the huge caseloads carried by Registered Interns and Clinicians working in Community Mental Health Agencies. As Oregon has sought to implement Health Care Reform, most of the emphasis has been on cost containment, rather than the quality of care. What we have heard many times is that Registered Interns and Licensed Clinicians are leaving the profession because of the unreasonable and unethical caseloads of hundred or more clients they are required to carry. That kind of caseload leads to brief client contacts with long delays between sessions. Keep in mind this is to serve the most troubled Oregonians. Many Interns and Clinicians burn out and leave rather than participating in what they consider to be unethical treatment of their clients.

Through SB 860 (2017) the legislature directed the Insurance Commissioner at the Division of Financial Regulation to "examine the parity of reimbursement paid by carriers to mental health providers and physicians," look into reimbursement practices of commercial insurers and report on whether mental health parity law was being followed, and make recommendations on whether the Division needs more enforcement authority and/or if the mental health parity law should be strengthened and updated. COPACT is anxiously awaiting the DFR report which is scheduled to be released by September 2020. Once the DFR makes their recommendations, COPACT will reassess.

2. Reduce the direct hourly requirement for full licensure to 1,200 hours.

COPACT does not agree that this is a viable solution. Reducing the licensure qualifications for counselors and therapists in Oregon results in lower quality mental health services, which means that we are lowering the bar to fit the already abysmal pay rates*, rather than increasing the pay rates to meet the Federal Parity requirements and continuing to provide quality mental health treatment in Oregon.* Lowering the bar plays right into the hands of the insurance companies who don't want to pay for mental health treatment in the first place. Does Oregon really want to be known as the place to go if you can't make it through your internship? COPACT is opposed to reducing the number hours required for licensure.

There is a long-standing issue with barriers to licensure, both for interns and providers new to Oregon who were previously licensed in another state. COPACT would like to make it easier for people to become LPCs and LMFTs, but the intern period contributes to the economic disincentives that deter talented people – and likely makes it impossible for historically marginalized groups to pursue the profession.

After graduating from a Master's program, would-be LPCs and LMFTs must complete 36 months (three years) of clinical supervision and 2,400 hours of client face-to-face hours. This can include 400 pre-degree hours from graduate school. And specifically for LMFTs, they must 1,000 hours of that 2,400 total seeing couples and families. [Full details are available on the Oregon Board of Licensed Professional Counselors and Therapists website.] As mentioned above, often that supervision is not provided by the agency, or the supervision provided by the agency is provided by a person with very little experience, both of which often require the

intern to purchase supervision outside of the agency, at a cost that can be substantial. *[Often the only way to make it worthwhile for a supervisor is to pay them an hourly rate to make up for the hours they are not directly billing for client services.]*

The April 22 letter oversimplifies the differences in intern hours required by other states. Specifically, it does not take into account the number of indirect hours required. According to the American Counseling Association, the number of intern hours required in California is 3,000 or 3 years (with 1,200 for direct contact), while Idaho requires 1,000 hours – Idaho's licensing terms are confusing, as their interns are referred to as LPCs, while their fully licensed providers are LCPCs.

As we look toward telehealth as an option not just during public health crises, but in order to increase access to hard-to-reach patients, we need to be sure care can be provided across state lines. If Oregon reduces its internship requirements too drastically, its providers will have a hard time getting licensing reciprocity in other states, something this COVID-19 crisis has demonstrated is crucial.

It may be possible to establish a provisional license for interns, so they have the certification of the state's oversight board even as they establish themselves as trustworthy professionals. Currently, a Registered Intern has been vetted by OBLPCT, but not licensed. Interns work under the oversight of the board but with few of the benefits of licensure.

One of the easiest ways to reduce the waiting period for out of state counselors and therapists to obtain licensure is if OBLPCT makes the COVID-19 temporary reciprocity allowances permanent. Portland State University is familiar with the reciprocity issue as they often hire counselors and therapists with out of state licensure. To solve this problem, PSU asked the legislature to pass HB 2030 (2019), which allows PSU employees to be exempt from Oregon licensure requirements. PSU is now able to put providers directly to work in their University clinics without Oregon licensure or oversight from OBLPCT. This is a band-aid approach to a real and serious problem. We feel that eliminating licensure requirements for Universities, or any organization, is an unfair and rather drastic measure that could lead to unqualified providers treating vulnerable clients without proper oversight.

The state needs to make it easier for employers to put qualified providers to work by expediting the licensing process without compromising quality. That likely means investing in the licensing board to provide staff to vet candidates for licensure.

3. Develop a COVID-19 Mental Health Relief Fund.

COPACT supports this idea. We would caution that because of the systemic issues that suppress the economics in the profession, we don't think this fund could adequately solve all of the barriers to entry in the long run. We need the legislature to re-examine mental health parity and ensure that state policies are incentivizing people from all communities to pursue the profession if they are interested.

The most important thing to address to make more persons wish to become licensed behavioral health providers, is to find a way to greatly increase funding for mental health services which would lead to increased salaries for providers in community mental health agencies. So often we hear Government officials trumpeting the cost containment structures built into CCOs, which is valid, but they ignore the miserably low pay providers receive to work with Oregon's most troubled population. That keeps many worthy people from either wanting to work in agencies, or from entering the field at all. Many interns go directly into private practice thinking they will make more income that way. The result is that access to mental health care continues to degrade. If agency providers were paid a more equitable rate for a graduate level position, we would see an increase in licensees and interns willing to do the important work with troubled Oregonians in agencies and clinics.

COPACT's recommendations for improving access to behavioral health care

COPACT has its own recommendations for increasing the supply of providers from all walks of life and therefore ensuring that every Oregonian can access culturally and specialty appropriate care when they need it. COPACT believes that it boils down to creating access to quality behavioral health care by enforcing and enhancing Oregon's current mental health parity and network adequacy requirements. We started this process with SB 860 (2017), and we look forward to partnering with the legislature to take future action. We've attached our letter to the DFR asking them to look at particular issues in their SB 860 review of insurance practices.

1. Oregon's mental health parity law should be updated to ensure that patients have access to clinically appropriate mental and behavioral health care. A strong mental health parity should put enough pressure on insurance companies that they are forced to pay more and contract with enough providers to meet the requirements. This means, in part, putting the following provisions in place:
    a. Insurance benefit plans pay for the same number of primary and specialty visits in behavioral health as they would in medical care;
    b. There is an appropriate ratio of providers to covered lives on in-network contracts (panels);
    c. There is an appropriate array of specialization in the provider network to meet the needs of the insured lives;
    d. The waiting period for an appointment is clinically appropriate and not too long;
    e. The reimbursement rates and co-pays are reasonable to encourage providers and patients to use their insurance benefits and not go out-of-network;
    f. There are no excessive "utilization management" requirements such as prior authorizations in place.

2. Oregon should ensure that its own dollars are paying for adequate behavioral health care. CCOs, county mental health divisions, and state universities are exempt in statute

from using licensed providers to provide mental health care to their patients. That drives down the value of licensed providers and potentially puts our most vulnerable populations in the care of less-educated providers.

3. COPACT would like OBLPCT to streamline its reciprocity requirements so that any licensee in good standing from any state in the union would have no trouble becoming licensed in Oregon. Now that many providers have adjusted to telehealth sessions, it is important that Oregon continues to advocate for its consumers of mental health care.

4. COPACT has worked for over a decade to ensure that LPCs and LMFTs are statutorily equal to Psychologists and Social Workers. We want to make sure that if there is a reduction in required hours for licensure, that Social Workers and Psychologists have a similar reduction. Furthermore, the most important thing we are seeking on the national level is Medicare access for LPCs and LMFTs. That is crucial to our future as professions. Social Workers and Psychologists already have that access. We do not. Therefore, we will have to be careful to ensure that Oregon licensees are not out of sync nationally with other states in terms of training standards or we might find ourselves out of the running for Medicare access when it eventually it is passed in the US Congress.

We want to thank the legislators and other policy makers who are focusing on the issues related to access to behavioral health care. It's a complex set of policy issues, and they are all related. COPACT wants to be part of the conversation as a resource and representative of LPCs and LMFTs in Oregon.

Thank you.

Larry Connor, LPC
President, COPACT

Cc: Representative Janelle Bynum