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May 3, 2021

SPECIAL TESTIMONY OPPOSING BOTH HBs 2114 & 2117

EGREGIOUSLY UNETHICAL LEGISLATIVE PROCESSING ON THE PART OF THE MENTAL HEALTH REGULATORY AGENCY (MHRA) & THE OREGON BOARD OF PSYCHOLOGY

Part I: Fact Set A on OBOP’s Covert Processing of HBs 2114 & 2117

To: The Honorable Senator Sara Gelser, Chair of the Oregon Senate Committee On Human Services, Mental Health and Recovery;

Date: May 3, 2021

From: Christian Wolff, MA, Oregon Licensed Psychologist Associate (Inactive)/ Executive Co-Director of Healthcare Alliance for Regulatory Board Reform

Position on HB 2114: Against

Position on HB 2117: Against

Request & Recommendation: In the least, the two bills should be tabled until such time as the public, licensees, Psychologist Associates, and all other OBOP “interested parties” have been made fairly aware that these bills have been submitted *as bills* to the Oregon Legislature’s 2021 Session.

1) **Oregon Licensed Psychologist Associates do not want their license-type sunsetted.** We made this abundantly clear to the Oregon Board of Psychology (OBOP)* in 2008 when the board proposed our sunseting as an Oregon Administrative Rule (OAR). We asked them instead, to “get their shoulder behind the wheel” and lift us UP. The support from Psychologist Associates & Psychologists (doctoral level) alike was overwhelming OPPOSED to the sunseting of our license-type. OBOP. In 2014, OBOP again tried to create a OAR which would sunset the Psychologist Associate license-type. Again, we Psychologist Associates made it abundantly clear that we OPPOSED the sunseting of our license-type and that we wanted, again, for OBOP to get their “shoulder behind the wheel” to lift us UP instead. Now, OBOP is proposing this as a bill before the legislature as HB 2117. They alerted NO one of this legislative action.

2) **OBOP nor the Mental Health Regulatory Board (MHRA) provided ANY notice to anyone** on their (I believe statutorily mandated) mailing list* that HBs 2114 and 2117

had been submitted as actual bills to the 2021 legislature.

I discovered the possibility of these bills merely by accident. In reviewing OBOP Public Meeting minutes they we mentioned merely as “legislative concepts.” Even this could not have been known by ANYONE until January 8, 2021 when the board met and approved these November 14, 2020 minutes. It gets worse. As of March 19, 2021, the November 14, 2020 were still the most recent minutes posted meeting minutes from OBOP despite OBOP having had 2 more Regular Public meeting since. This prompted me to write them a letter. They then posted the minuted for the January 8, 2021 minutes on March, believe on March 20 (but not before). The January 8 minutes reflected NO discussion of HBs 2114 or 2117.

3) Meanwhile, HBs 2114 & 2117 worked their way through the legislative procedures beginning January 11, 2021, unbeknownst to the General Public, unbeknownst to OBOP licensees generally, unbeknownst to Psychologist Associate licensees specifically, unbeknownst to those known by OBOP to be “interested parties,” unbeknownst (I will assume) to the press, and unbeknownst to those on OBOP’s mailing list (which I believe they must retain by statute). That is, unbeknownst to anyone signed up for “OBOP Updates” and “[OBOPeNews]”

HBs 2114 & 2117 followed similar paths through the Oregon House:

They were First Read on January 11, 2021 and referred to the Speaker’s desk.

Referred to the House Committee on Health Care on January 19, 2021.

A Work Session was held on January 28, 2021

Referred to House Committee on Behavioral Health on January 29.

Public Hearing was held on February 3, 2021.

Work Session was held on March 24, 2021

Do-pass recommendation was made by the House Committee on Behavioral Health on March 26, 2021. It passed unanimously (no no votes).

HB 2117 passed unanimously (no no votes) on the House floor on April 9, 2021.

By the time I even new the bills had been seen in the legislature on January 11,2021 HB 2117 it was April 6, 2021. It was too late for me to take ANY meaning full action but to wait until a Public Hearing before some then yet-to-be-determined Senate Committee.

The next step (according to OLIS) was the First Reading in the Senate. It was sent to the President’s Desk on April 12.

It was referred to the Senate Committee on Human Services, Mental Health and Recovery on April 15, 2021.

A Public Hearing is now scheduled for HB 2117 on May 4, 2021 before said Senate Committee with a possible Work Session scheduled for May 6, 2021.

4) **Charles Hill, OBOP Executive Director and Lareé Felton, OBOP Policy Advisor WERE THE ONLY TWO WITNESSES IN ATTENDANCE, and both were, of course in favor of the bills.** In my experience, I find this not only to be exceedingly rare, but odd and suspicious. Neither HB 2114 nor HB 2117 are simplex or without opposition. My experience in both the legislature and in Public meetings of OBOP, tells me that WHEN known about, matters such as these are VERY OPPOSED and MANY witnesses show up to testify. It is my opinion that OBOP created this opacity deliberately in order to make these bills *look* unopposed.

5) **There is reason believe the the Oregon Psychological Association (OPA) or at least a few of its members were made aware of the board's intentions.** With regard to Legislative Concept (LC), 0473, later to become HB 2114, the OBOP November 14, 2020, states, *"It was a collaborative effort with OPA members Drs. Dix, Marlow, and Peterson."* It seems OPA has a "special relationship" with OBOP and is given unwarranted special inside information about what OBOP is thinking, doing, and planning. There is nothing legally special about any private professional group.

OPA has 497 psychologist members as of May 2, 2021 according to their website. OBOP has 2,194 licensees as of January 8, 2021 according to their last published minutes to date. This means more than 77% of all OBOP licensees (including myself*) have chosen to NOT be members of OPA. *Less than 23%* of all OBOP licensees have chosen to have membership in OPA. With less than 23% of OBOP's licensees, there is no way they can be thought to represent the other 77% of licensees yet they seem to be afforded SPECIAL privileges in shaping OBOP policy. In THIS matter, it seems 77% of licensees were left unconsulted and COMPLETELY IN THE DARK.

6) **OBOP (nor OBLPCT) have the legitimate State oversight to qualify them as a State entities** (as opposed to arbitrary random private groups) in accordance with the 2015 U.S. Supreme Court North Carolina State Board of Dental Examiners v. the Federal Trade Commission [North Carolina].

According to ORS **675.166 Agency oversight; centralized service**, [t]he Mental Health Regulatory Agency shall provide administrative and regulatory oversight and centralized service for: (1) The Oregon Board of Licensed Professional Counselors and Therapists, as provided in ORS 675.715 to 675.835; and (2) The Oregon Board of Psychology, as provided in ORS 675.010 to 675.150. [2017 c.104 §3]
Charles Hill and LaReé Felton are the top two executives for BOTH OBOP and MHRA and the Oregon Board of Licensed Professional Counselors (OBLPCT).

In my opinion, this conflict of interest negates the legitimacy of "meaningful oversight," as described in the opinion written by Justice Kennedy.

There is another Fact Set forthcoming. As I hope I have made apparent, I have not had much time to prepare my

testimonies. The next Fact Set will deal less with the unethical processing of these bills by OBOP/MHRA and more on the substantive reasons **HB 2117 SHOULD NOT PASS** out of committee.

Thank you so much for your time and attention.

Sincerely,

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