

Laurie Monnes Anderson
State Senator



Exhibit #4

STATE SENATE
DISTRICT 25

John Kitzhaber, MD
845 NW 137th
Portland, Oregon 97229

September 20, 2018

Dear Governor Kitzhaber

RE: Legislative Intent of Provider Non-Discrimination Provisions found in ORS 743B.505

I am requesting validation and clarification of your legislative intent for the provider non-discrimination language currently found at ORS 743B.505(2)(a-c). It is my understanding that when you as governor instructed then insurance commissioner Laura Cali to insert this provider non-discrimination language into the original draft of the "network adequacy" legislation prior to Ms. Cali presenting the draft to a work group of stakeholders she convened. Ms. Cali's work group met over roughly 9 months with their work product becoming HB-2468 passed during the 2015 legislative session. Apparently due in part to flawed guidance issued April of 2013 by the federal government - specifically the Center for Consumer Insurance Information and Oversight (CCIIO) and subsequently parroted by DCBS on April 20, 2013 - there appears to be much continued confusion among insurers, health plans, health care providers, and Oregon consumers. As a consequence, I am convening a work group of stakeholders in hopes of clearing up some of this confusion and asking you to validate and clarify the intent and meaning of this statutory language.

ORS 743B.505(2)(a-c) states,

(2)(a) An insurer may not discriminate with respect to participation under a health benefit plan or coverage under the plan against any health care provider who is acting within the scope of the provider's license or certification in this state.

(b) This subsection does not require an insurer to contract with any health care provider who is willing to abide by the insurer's terms and conditions for participation established by the insurer.

(c) This subsection does not prevent an insurer from establishing varying reimbursement rates based on quality or performance measures."

Please validate and clarify what it means to discriminate against any health care provider as per;

1. Participation
2. Coverage
3. Varying reimbursement rates based on quality or performance measures.

Thank you in advance for your time and consideration,

Sincerely,

