

David T Petley

Coos Bay Oregon

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Oregon Legislature – House Committee on Health Care

900 Court St. NE

Salem, OR 97301

Subject: Opposition to House Bill 3045, Section 10

Dear Chair Nosse, Vice-Chair Javadi, Vice-Chair Nelson, and Members of the Committee,

My name is David Petley, and I am a licensed pharmacist in Oregon. I am submitting this testimony to oppose Section 10 of House Bill 3045, which allows the Oregon Board of Pharmacy to mandate pharmacists under investigation to undergo mental, physical, chemical dependency, or competency evaluations at their own expense based on “objectively reasonable grounds” for concern.

While I fully support measures to ensure patient safety and uphold the integrity of pharmacy practice, I believe this provision is overly broad, lacks necessary due process safeguards, and places an undue burden on licensed professionals.

#### 1. Lack of Due Process and Presumption of Guilt

Under HB 3045, the Board of Pharmacy can compel medical or psychological evaluations before any formal finding of wrongdoing. This violates fundamental due process rights by treating professionals as guilty before they have the opportunity to defend themselves.

- The bill does not specify what constitutes “objectively reasonable grounds,” leaving too much discretion to the Board without independent oversight.

- No other legal system—whether criminal or civil—imposes forced medical or psychological testing without substantial evidence and an impartial review process.

Without requiring clear and convincing evidence before compelling these evaluations, this bill sets a dangerous precedent for administrative overreach.

## 2. Unfair Financial Burden on Pharmacists

HB 3045 forces the accused pharmacist to pay for their own evaluation, which can cost hundreds or even thousands of dollars. This financial burden is imposed even if the complaint is later proven to be false or unfounded.

- Many pharmacists, especially those in rural or independent settings, cannot afford such costs, effectively forcing them to choose between financial hardship or surrendering their license.
- There is no provision in the bill for reimbursement if a pharmacist is cleared of wrongdoing, which makes this policy punitive rather than protective.

If the state believes these evaluations are necessary, then the burden of cost should fall on the state or the licensing board, not on the accused professional.

## 3. Opens the Door for Abuse and Retaliatory Complaints

By allowing the Board to require evaluations without high evidentiary standards, HB 3045 creates an easy tool for harassment, personal vendettas, and bad-faith complaints.

- Patients, colleagues, or competitors could weaponize complaints to subject pharmacists to unnecessary investigations and costly medical evaluations.
- Unlike criminal cases, where false accusations carry legal consequences, this bill offers no penalty for individuals who file knowingly false complaints.

A higher threshold of evidence, such as multiple corroborating reports or documented behavioral concerns, should be required before forcing an evaluation.

#### 4. No Independent Oversight or Appeals Process

Currently, the bill allows the Board to unilaterally decide when a pharmacist must undergo these evaluations, without requiring an independent third-party review.

- There should be an independent panel to determine whether an evaluation is truly justified.
- Pharmacists should have the right to appeal the decision before being forced to comply.

#### 5. Psychological Harm to Licensees from Forced Evaluations

The forced mental health, physical, and substance abuse evaluations required by HB 3045 can have significant psychological harm on healthcare professionals, especially when mandated before any judgment or finding of wrongdoing.

- Healthcare professionals already face high stress and emotional burden from their demanding jobs. Adding the threat of forced evaluations, without a prior substantiated finding of impairment, further compounds their distress.
- The American Medical Association (AMA) has long argued that substance use should be treated as a disease, not a criminal process. Their policy emphasizes supportive treatment over punitive measures and calls for healthcare providers to receive care and rehabilitation instead of facing severe consequences like forced testing. In line with the AMA's focus on substance use disorders as health issues, professionals who face substance use challenges should be offered access to confidential treatment options rather than subjected to invasive investigations that undermine their professional standing and mental health.
- Studies have shown that investigations and disciplinary actions can lead to severe emotional and psychological consequences, including depression, burnout, and, tragically, suicide among healthcare professionals. Forcing evaluations without clear and convincing evidence of impairment exacerbates the psychological toll, leading to feelings of isolation, shame, and anxiety.

In light of these concerns, mandatory evaluations should be reconsidered, especially when they are implemented without due process or significant evidence of impairment.

## 6. Inconsistencies with How Nurses and Physicians Are Treated in Oregon

While House Bill 3045, Section 10 aligns with some authority granted to the Oregon Medical Board (OMB) and Oregon State Board of Nursing (OSBN), it lacks key safeguards that those boards provide for their licensees.

- The Oregon Medical Board may require physicians to undergo evaluations when there is reasonable cause to suspect impairment. However:
  - Evaluations must be performed by board-approved, impartial specialists.
  - Physicians are not automatically financially responsible for the cost of evaluations. In some cases, the Board or third-party programs cover expenses, especially if no impairment is found.
  - Physicians can challenge the Board's decision before being required to undergo testing.
- Similarly, the Oregon State Board of Nursing has ORS 678.113, which allows for evaluations only under specific circumstances:
  - Nurses must be provided with a clear rationale for why an evaluation is required.
  - There is a defined process for contesting an evaluation request.

In contrast, HB 3045 lacks these essential due process protections. It allows the Board of Pharmacy to unilaterally order testing without requiring an independent review, does not ensure fair cost allocation, and provides no clear appeals process before compliance.

## 7. HB 3045 Creates a Harsher Standard for Pharmacists

If the intent of HB 3045 is to align pharmacist regulations with those of physicians and nurses, it should include the same due process protections that those professions receive.

- The current language in HB 3045 grants broader authority to the Oregon Board of Pharmacy than the Medical and Nursing Boards have over their licensees.

- If Oregon does not subject physicians and nurses to arbitrary, unchecked evaluation mandates, then pharmacists should not be held to a harsher standard.

To ensure fair and equal treatment across all healthcare professions, I strongly urge the Oregon Legislature to amend HB 3045 to include:

- ☑ Independent Review – Require an independent panel (similar to OMB's process) to determine whether an evaluation is justified.
- ☑ Financial Protections – If no impairment is found, the Board or state should reimburse the pharmacist for evaluation costs, just as physicians often receive support through the Medical Board's impairment programs.
- ☑ Right to Challenge – Pharmacists should have the right to appeal an evaluation order before being forced to comply.

#### Conclusion

House Bill 3045, Section 10, grants excessive power to the Oregon Board of Pharmacy with little oversight, violates due process, imposes unfair financial burdens, and creates a system ripe for abuse. The psychological toll these investigations and evaluations place on healthcare professionals is significant, and we must not treat these licensees as guilty before due process.

I urge the Committee to reject Section 10 in its current form or amend it to include necessary safeguards that balance patient safety with pharmacists' rights and well-being.

Thank you for your time and consideration. I welcome any questions and would be happy to discuss this issue further.

Sincerely,

David T Petley, Pharm D, RPh, BCCCP, BCPS

Contact information withheld due to public nature of document.