TESTIMONY TO THE
HOUSE COMMITTEE ON BUSINESS AND LABOR
IN OPPOSITION TO
HB 2764
February 26, 2015

Submitted by Ramona St. George
President and CEO
Majoris Health Systems, Inc.

Chairman Holvey and Members of the Committee:

Thank you for the opportunity to submit this **testimony in opposition to HB 2764**. While I oppose the bill in its entirety, both in theory and substance, I will focus my comments on the sections of the bill that directly impact my industry.

Majoris Health Systems is a state-certified workers' compensation managed care organization in the State of Oregon. We provide medical services to injured workers in all areas of the state, and to all types of insurers and self-insurers.

My primary objection is to the language proposed in Section 6 of the bill, amending ORS 656.385, specifically the language '*including an administrative proceeding before a managed care organization'.*

This language directly contradicts both the intent and the language of the MCO statute. Managed care organizations came to be as part of the major workers' compensation reforms in 1990. One of the primary goals was to take the matter of medical disputes and decision making out of the hands of lawyers and place it where it should be, under the purview of medical professionals. Outside parties are specifically excluded from the internal MCO decision making process in ORS 656.260 (7), which reads:

(7) Any issue concerning the provision of medical services to injured workers subject to a managed care contract and service utilization review, quality assurance, dispute resolution, contract review and peer review activities as well as authorization of medical services to be provided by other than an attending physician pursuant to ORS 656.245 (2)(b) shall be subject to review by the director or the director's designated representatives. The decision of the director is subject to review under ORS 656.704. Data generated by or received in connection with these activities, including written reports, notes or records of any such activities, or of any review thereof, shall be confidential, and shall not be disclosed except as considered necessary by the director in the administration of this chapter. The director may report professional misconduct to an appropriate licensing board.

This language allowed the medical professionals involved in medical decision making within MCOs the ability to work without the interference of adversarial parties. Neither the attorneys nor the insurers have access to this process. Neither party may submit evidence, attend committee meetings, make arguments, etc. Since there is no role for an attorney in the process, it seems logical that no fee should be paid.

In addition, the process for requesting review of a medical decision by an injured worker is incredibly simple. There are not specific forms involved, no requirement to provide legal or medical reasoning, or any other requirement other than submitting a written request for appeal of a decision. Workers are advised of this right and how to proceed in every notice of a decision made by the MCO.

Furthermore, introducing attorneys and associated fees into the process could very well be detrimental to the worker. For instance, an MCO may receive a request for any injured worker to treat with a physician who is not part of the MCO network, and does not qualify under the statute for out or network authorization, Majoris may currently review and allow the worker the ability to treat out of the network anyway, if there is perceived to be greater convenience and no compelling medical reason to deny it. If attorney fees will be assessed when making this accommodation, the MCO would be much less likely to make an accommodation that is not required by law. There are many more circumstances where the worker simply provides information that changes their subjectivity to the MCO, or the MCO uncovers the information through the intake process, that could unnecessarily result in the addition of an attorney fee, for essentially doing nothing.

Finally, the Management Labor Advisory Committee has not yet provided a recommendation on this bill. In fact, they have asked the Oregon Trial Lawyers' Association, the Oregon Self-Insurers' Association, and Associated Oregon Industries to work jointly to negotiate a package of legislation that all parties agree upon. That negotiation has not yet taken place. Therefore, I would encourage the Committee to table this bill until that process and an MLAC recommendation have occurred.