

CENTER **for** NUTRITION ADVOCACY



May 26, 2017

**Oregon Senate Health Care Committee
900 Court St. NE
Salem Oregon 97301**

Dear Chairwoman Monnes Anderson and Members of the Senate Health Care Committee:

On behalf of the Center for Nutrition Advocacy (CNA), I am contacting you in opposition to Amendment 3 to House Bill 2303, an amendment which would create a new regulatory structure for those deemed an “alternative behavioral health practitioner” in statute and/or by an undefined advisory committee.

CNA spearheads a broad coalition of nutrition stakeholders including educational institutions, professional associations, consumer advocacy groups, and other organizations. Our mission is to advance the pivotal role of nutrition in healthcare through forward-thinking public and private policy. CNA is part of the Board for Certification of Nutrition SpecialistsSM (BCNSSM), the foremost certifying body for advanced nutrition professionals¹.

It is unclear what significant, existing, and documented harm to the public this amendment seeks to address with its very broad brush approach.

Process

We are concerned that Amendment 3, only recently available to the public and with little to no requested stakeholder input, could have serious unintended consequences for Oregon citizens.

Many categories of trained practitioners who are not currently subject to state registration, certification, or licensure provide behavior change support that benefits countless numbers of Oregonians. These services, particularly with regard to healthy diet and lifestyle, are proven to improve health outcomes while simultaneously reducing health costs, and should be encouraged, not restricted.

Regulatory Structure Risks Antitrust Violation

While the language used in the amendment refers to a “registration” regulatory structure, as opposed to “certification,” or “licensure,” it appears to be “registration” in name only. Registration typically requires individuals with privately held credentials/certification to register with the state, without being subject to an additional and potentially arbitrary set of standards.



Because Amendment 3 allows the advisory committee to determine standards absent *any* guidance in the enabling statute, we would suggest that this bill is actually establishing a new

category or categories of licensure with any and all qualifications left to a quasi-regulatory board. Given recent and increasing concerns of anti-competitive behavior by regulatory boards, the implementation of Amendment 3 would run counter to both state and Federal Trade Commission trends to ensure adequate supervision of regulatory board activities to ensure state regulation is not overly restrictive and does not displace market competition in the absence of a clearly articulated, affirmative state interest in doing so. We have found the FTC guidance outlining its two pronged approach to occupational regulations useful in considering occupational regulations; it is available online [here](#).

An Endless Number of Professions Affected

The open-ended language in the bill is very concerning, not only lacking definitions for who would be on the advisory committee or what the committee would do, but for the types of practitioners listed as “alternative behavioral health practitioner[s]”. Further, the language on Page 1, Line 12 of the amendment, which states that “alternative behavioral health practitioner ***includes***” rather than “an alternative behavioral health practitioner ***is***” (emphasis added) allows any other type of practitioner to be included in this list by the advisory committee-- from physicians to nurses to dentists.

Impact on Existing Practitioners and Their Clients

Amendment 3 could potentially put many of these practitioners out of business by leaving the standards for their training up to an advisory committee which is not defined or laid out in the bill. There is no requirement that this committee be knowledgeable in health care policy, let alone in the specific types of services these “alternative behavioral health practitioners” provide.

For practitioners who do meet the advisory committee’s requirements, the amendment egregiously limits practice settings to only state agencies or those with an undefined “quality assurance process” under undefined “supervision,” thus effectively limiting private entrepreneurship.

As written, this amendment could put many of the state’s existing health and wellness coaches and others providing similar support services out of business, leaving client needs unmet. We oppose the amendment as written for both of these reasons and urge this committee to refrain from voting to add A-3 to HB 2303.

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Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Brittany Dawn McAllister". The signature is written in a cursive, flowing style.

Brittany Dawn McAllister, MPH
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¹ BCNS awards the Certified Nutrition Specialist® (CNS®) credential, to those who have earned an advanced degree in nutrition or clinical healthcare, completed a robust nutrition science curriculum, performed 1000 hours of documented nutrition practice experience, and passed the BCNS' rigorous Certification Examination for Nutrition Specialists. The CNS certification is fully accredited by the National Commission for Certifying Agencies, the preeminent accrediting organization for certifying programs, and is the same accreditation held by the Registered Dietitian® credential. The CNS certification is also listed by the US Department of Labor as an advanced nutrition credential in the definition of the "Dietitians and Nutritionists" profession in the Occupational Outlook Handbook of the Bureau of Labor and Statistics Outlook Handbook of the Bureau of Labor and Statistics. <http://www.bls.gov/ooh/healthcare/dietitians-and-nutritionists.htm#tab-4>