Robert Plamondon
36475 Norton Creek Road
Blodgett Oregon 97326
robert@plamondon.com
(541) 740-6509

To: Senate Committee on Health Care

Date: March 28, 2017

Bill: HB 2303 A

Subject: Arguments against registering alternative behavioral health practitioners

Senators,

I propose the following reasons why all references to "alternative behavioral health practitioners" should be dropped from the amendment to HB 2303:

1. The public is better protected by existing programs.

The rationale for the amendment is that "consumers have nowhere to go if the OHA cannot hear their complaints." This is simply not the case. In its 2016 Top Ten list, the Consumer Protection Program of the Oregon Department of Justice listed health-related complaints at #5, with 300 complaints handled.

(See http://www.doj.state.or.us/releases/Pages/2016/rel030716.aspx).

The state can very simply protect the public without changing any laws, and protect it far better than today. Simply add a clear reference to the Consumer Protection Program on the "How to File a Complaint" pages of the Oregon Health Licensing Agency and the mental-health licensing boards.

The Consumer Protection Program has broad powers, including creating remediation agreements for errant practitioners, suing for damages on behalf of consumers, and petitioning the court for injunctions. These powers are much stronger and more results-focused than those asked for by the amendment.

2. The amendment has no pastoral exemption.

Churches provide many of the functions listed in the amendment. For example, life coaching, parent coaching, and wellness coaching. The amendment has no pastoral exemption. Thus, every member of a church or Tribe currently providing

such services will be required to register with the state. Has anyone tested their reaction to this?

3. The amendment is overly broad.

The amendment attempts a monumental task: to medicalize fields that most consumers see as being non-medical. For instance, it seems unlikely that most consumers consider "parent coaching" to be a medical specialty.

It's one thing to insist that tattoo artists, who pierce customers with needles, are medical enough that the OHA should insist that they wash their hands and sterilize their needles. But "alternative behavioral health practitioners" engage in non-contact activities that are, in essence, simply a conversation between two people. That's as non-medical as an activity can be.

Remember, the level of buy-in for the "medical model of mental health" is far from complete even among licensed mental-health professionals. By pushing the definition far beyond its current limits, the amendment is making a bold political statement.

4. The amendment may violate Federal antitrust and civil rights law.

The right of citizens to earn a living is a hallmark of both Federal antitrust law and Federal civil-rights law, repeatedly upheld by the US Supreme Court. Recently, the Federal Trade Commission has increased its focus on bringing the states into line, especially in the area of prosecuting unlicensed/unregistered practitioners in violation of the Federal Trade Commission Act and the Sherman Antitrust Act. State agencies and boards are not allowed to prosecute unlicensed/unregistered practitioners unless strict guidelines are met. The HB 2303-A3 amendment seems to fail these tests.

(See the Supreme Court's recent North Carolina Dental case: https://www.supremecourt.gov/opinions/14pdf/13-534_19m2.pdf).

5. No need has been established.

In the last working session, the case of an Oregon psychologist was discussed. The psychologist had her license revoked, but there was no injunction or other barrier to practicing in another field. She could hang out her shingle as a parenting coach.

But this means nothing, because the Oregon Board of Psychologist Examiners is *already* empowered to request an injunction (ORS 675.150). The OBPE chose not to pursue an injunction. So there was no failure of existing Oregon statute. If there was a failure at all, it was a failure of the OBPE.

This was the only example offered to justify the registration of alternative behavioral health practitioners.

Admittedly, the amendment is not about injunctions *per se,* but a registration process that can be used to blacklist practitioners that the OHA disapproves of. But that's even worse.

6. An engineer's viewpoint.

As an engineer, I'm trained to focus on effectiveness and efficiency. In this case, that means, "What circumstances create favorable therapeutic outcomes for people who seek talk therapy, and which of these are most reliable and cost-effective?"

Decades of research continue to demonstrate that talk therapy is highly effective—but it doesn't rely on any kind of secret sauce that's only available to people with graduate degrees.

In studies of therapeutic effectiveness that pit licensed professionals against paraprofessionals with zero-to-moderate training, the paraprofessionals hold their own. In many studies, they do better than the licensed professionals.

(See, for example, http://www.scottdmiller.com/wp-content/uploads/2016/09/The-need-for-empirically-supported-psychology-training-standards-Psycho....pdf).

This implies that many inefficiencies are built into our formal mental-health system, leading to increased costs without corresponding benefits, either to consumers or to license-track students. But this is a problem for the formal health-care system.

For those of us, the majority of Oregonians, who are not part of the formal heath-care system (and don't want to be), I urge you to prune or reject the amendment to HB 2303 A. Confine the OHA's authority to within its original mandate and its core competences.

Robert Plamondon