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Alcohol and Drug Policy Commission

To: Senate Judiciary Committee

From: Dr. Reginald Richardson, Executive Director, Alcohol and Drug Policy Commission

Date: February 25, 2019

RE: Testimony in support of SB 725

In the 10 months since I have been the Executive Director of the Alcohol and Drug Policy Commission, nearly every addictions service provider has discussed with me the difficulties they have experienced with prospective employees completing and passing the required background check. Frequently, these prospective employees have their own past addiction experiences, plus their own past criminal histories. These lived experiences are most often the reason why this group of people wants to work and serve those who are currently experiencing their own addiction problems; but it is also the reason why passing a background check can be a long and complicated process, and sometimes one that simply becomes an insurmountable obstacle.

Currently in Oregon, if a person has a criminal history and is seeking employment in a direct care position, the Background Check Unit (BCU) staff at DHS and OHA will conduct a fitness determination, also called a weigh test, to determine the safety risk he or she may pose to others. The weigh test is frequently the part of the background check process that requires the most time and resources to conduct, and often accounts for longer wait times. For instance, one provider shared with my staff that she had 50 prospective employees who were “pended” as of November 15th, 2018, meaning BCU is waiting for more information to make a final determination. Many of these pended cases were of prospective employees who had criminal histories—and, therefore, required a weigh test—with the oldest of these pended cases having waited a month for a resolution.

While a month is a long time to wait for confirmation of employment, there have been times when results from BCU have taken longer. I believe re-establishing a time limit on when certain offenses will be considered, such as what is proposed in SB 725, will help people with older criminal histories through the background check process while still maintaining safety. Prior to 2017, BCU’s rules allowed it to disregard certain offenses if they were older offenses. This time limit for certain offenses allowed people to demonstrate a recent history free of disqualifying events, and reduced BCU resources needed since fewer weigh tests were required. Other states recognize the value of reducing background check barriers and are implementing similar limitations on when state entities can consider certain offenses for employment purposes:

- Maine established three- and ten-year time limits on consideration of convictions in licensing decisions;
- Massachusetts, for licensing purposes, restricts access to certain criminal records that are more than five years old for misdemeanors and ten years old for felonies;
- Texas licensing boards cannot deny license for conviction that is more than five years old, unless it directly relates to occupation;
- Washington limits use of felonies more than 10 years old in certain employment and licensing decisions.

Job readiness and steady employment are essential ingredients for maintaining recovery. Additionally, treatment providers have experienced significant difficulties in hiring qualified peers with relevant life experiences because of their previous substance use disorders and related criminal histories. Other states have taken actions to alleviate some of the barriers people with older criminal histories are facing when seeking employment in direct care positions. For all these reasons, SB 725, which specifies charges or convictions that may not be considered in fitness determinations for direct care employment, is needed and will help Oregonians.