



# Oregon

Kate Brown, Governor

**Mental Health Regulatory Agency**  
Board of Licensed Professional Counselors and Therapists  
3218 Pringle Road SE, Ste. 120  
Salem, OR 97302-6312  
(503) 378-5499 • Fax (503) 470-6266  
Oregon.gov/OBLPCT

February 5, 2020

Mr. Chair and Members of the House Committee on Behavioral Health:

I am the current Chair of the Board of Licensed Professional Counselors and Therapists and one of the first licensees of the Board after it was formed in 1989. I am now an inactive member of the Oregon State Bar, but have been a lawyer for over 20 years, mostly with the Oregon Department of Justice. During my tenure at the Department of Justice, I represented this Board and other health licensing boards, primarily in the Oregon appellate courts. I am testifying in support of HB 4031, Section 1 only. The Board is neutral on all other sections.

The Board's original Practice Act was drafted in 1989. The intent of the original exemption in the Practice Act was to grandfather in counselors who did not meet the new educational and supervision requirements but had master's degrees and an established practice. That intent changed in 2009, when the current educational exemption in ORS 675.825(4) was introduced. Most of the practitioners like myself from 1989 were either continually licensed or retired by that time. The 2009 exemption was primarily designed to protect the jobs of alternative practitioners.

But a statutory scheme must be read in its entirety. The 2009 amendments to the Board's Practice Act also defined "professional counseling" and "marriage and family therapy" as diagnosing, assessing, and treating mental disorders, which were enacted as ORS 675.607(6)(a) and (7)(a). As a result, if a practitioner is not diagnosing, assessing, or treating mental disorders, the Board has no jurisdiction. Thus, even without the exemption, the Board's jurisdiction is self-limiting – the Board has no jurisdiction over alternative practitioners who do not diagnose, assess, and treat mental disorders. Life coaches, hypnotherapists, and parent trainers are outside our jurisdiction; their jobs are not threatened by eliminating ORS 675.825(4) – unless they diagnose or treat mental disorders. But the exemption as now written allows *anyone*, even untrained and uneducated practitioners, to diagnosis, assess, and treat mental disorders. That was not the intent of the 1989 drafters of the Practice Act and creates a public safety issue.

Complaints to the Board regarding unlicensed practitioners are a small percentage of the investigatory cases the Board handles every year. Nevertheless, these practitioners are causing real harm to unsuspecting clients, including allegations of sexual misconduct with clients, resulting trauma such as divorce, and even child predatory behavior.<sup>1</sup> Significant harm to even one client is too high a price to pay for a loophole in the Board's jurisdiction.

---

<sup>1</sup> Since 2016, the Board has handled approximately 469 total investigations, with 122 cases resulting in the discipline of licensees. Of the total number of investigations, 51 have been unlicensed complaints. Of that total, 14 cases have been dismissed due to

A registry for alternative practitioners is an interesting concept, but is outside of the Board's purview and not at issue in HB 4031 as it currently stands. To be sure, regulation of alternative practitioners would require a new statutory scheme, distinct and apart from closing the exemption loophole in the Board's Practice Act.

I support Section 1 of HB 4031 and urge the Committee to eliminate the education exemption loophole with its passage. However, I am very amenable to participating in work sessions designed to provide a forum for a larger conversation and find a viable solution to the problem HB 4031 is intended to address.

Thank you for your consideration.



Carolyn Alexander, MS, JD  
Chair, Board of Licensed Professional Counselors and Therapists

---

the education exemption. It must be noted, however, that some unlicensed practitioners have refused to provide their education and training during investigation, and many of the 2019 cases are still open.