Chair Reynolds, Vice-Chairs Ngyen and Scharf and members of the committee:

Hello, My name is Anneliese Sheahan. I am a Certified Family Child Care provider in the Portland Metro area. I opened my first family child care program on November 2, 2002. I specialize in infant and toddler care up to age 3 with up to 16 infants and toddlers in care each day at my program which employs 7 individuals including myself. I want to thank you for the opportunity to speak today and am hopeful that by working together we can reduce barriers families experience finding child care by passing this legislation:

I am speaking to Sections 6 through 12 of HB 2468, and submitting written testimony with additional information. I know that HB 2468 will help alleviate our child care deserts by:

- bringing back family child care ("FCC") programs closed in the past couple of years by HOAs,
- providing opportunities and encouraging new individuals to invest in and open licensed FCC programs, and
- encouraging formerly licensed FCC providers who now operate as legally exempt providers to return to licensed care allowing those providers to expand from 3 child care slots to between 10 and 16 slots.

Amendment is needed to some of these sections (particularly section 12 by removing "2018" from the HOA language) and I look forward to those amendments to strengthen this bill that will grow the availability of licensed FCC for families and communities in our state more so than any other measures could.

First, I want to share some challenges all licensed child care providers but especially FCC providers face with interactions with ELD/DELC. HB 2468 proposed amendment to section 6 adds a provision (defining):

> (a) "Reasonable time" means at a time when the ability to provide for the well-being or safety of the children currently under care is not impeded.

Anyone who has ever been a parent to one or more young children knows and understands the challenges of caring for young children:

- the importance of routine and structure,
- the anxiety and disruption that strangers cause to many children,
- the importance of a young toddler or infant's nap or bottle feeding or mealtime, and

- how difficult abrupt transitions or disruptions to a child engaged in an activity can be for a child.

We know that these do have a cumulative effect on a child's mental health and their development – particular to and especially on brain development.

Additionally, licensing rules for all types of child care (providers) have strict and specific language about:

- putting children's needs first,
- letting a child form their own patterns of sleeping and eating, and
- supervising young children.

We know as providers (and as a union of FCC providers) that licensing plays a critical role in ensuring programs are safe -- keeping young children safe and healthy. Licensing visits whether scheduled annual renewals or drop-in monitoring visits are necessary to ensure that safety. I have personally had drop in licensing visits that went beyond an hour. I know providers personally (they couldn't be here to speak) whose licensing visits have lasted more than 2 hours and prevented those providers from:

- feeding infants and young children,
- from changing diapers,
- from allowing children to take naps, and
- from enjoying play and opportunities for social emotional supports from their FCC provider,

during the licensing visit. In fact, as renewal visits can go hours (regularly more than 2 hours for most Certified programs), many Certified Family providers will schedule a renewal visit when no children or a minimal number of children are present to avoid the above issues. Licensing specialists and investigators routinely take the provider's attention from the children (and those children's needs) shifting that attention onto the ELD/DELC staff person.

The most recent development has been the requirement to perform a fire drill in front of licensing staff. I believe it is cruel, and goes against everything I have been taught and believe in around Infant Mental Health, to wake a sleeping child to perform an extra monthly fire drill "show" for a licensing specialist. I have brought this up numerous times, including to the RAC and through public testimony to the RAC, that even DOC doesn't interrupt their prisoners' sleep time (nightly) for fire drills. ELD/DELC

say that they can "simply come back another time" but this will cause additional disruption to children at that time.

Additionally, as I have only infants and toddlers in care, we select a day each month in which to do the fire drill. We select a day early in the month and will run that fire drill at the first opportunity where all children are awake, diapered and fed. No small feat as you can imagine. If we aren't able to get the drill done that day, then it happens the next day. I've never had to move the drill to a third day. I submitted to the RAC in both speech and public testimony and subsequently in discussions with ELD/DELC that providers should be able to record and provide to licensing as an alternative to doing an extra drill (as well as other recommendations). Yet, nothing has changed. ELD/DELC's position is rigid and unyielding.

I also want to point out that strangers at this age can be terrifying to young children more so to those with special needs. As a provider working hard with my staff for the children and doing the very best I can to see to the personal needs of each child, I welcome the monitoring and renewal visits; however, I also see the urgent need to ensure that licensing visits do not interfere with my ability to care for and supervise children in a safe manner ensuring the health and welfare of every child. We must find a way to balance the state's very real need and authority to monitor licensed programs with the needs of vulnerable young children. HB 2468 would take steps to place judicious minor adjustments to the unlimited authority ELD/DELC has when making these visits. I suggest that in addition to a time which will not impede the child care operations that the legislature consider limits to the timeframe during which a child care program can be disrupted by a visit.

For nearly two years, ODHS has been sending late billing forms and processing those forms outside of the timeframe established nearly 20 years ago. Billing forms issued after the first of the month have caused me to lose thousands of dollars. I don't take these claims to small claims court or collections as I know that I will never see the lost funds. As a provider, I have a dilemma first of the month when I don't have billing forms for families – do I continue care into the new month hoping and praying I will get a billing form or do I stop care until and unless I get a billing form? In more than a dozen cases, I have provided care for a family into the mid-month only to learn from ODHS that the family is no longer eligible and no billing form will be sent. Even though I have in good faith continued to provide care, I now alone must shoulder the financial loss for providing that care. If I stop care, ODHS has a new "enrollment based" policy (that isn't really enrollment based as universally defined at the federal level) which specifically precludes me from being able to bill for the days a family's care is suspended while I wait for payment. My private pay families pay me on or most often before the first of the month so I

never have to worry about getting paid for their slots. ODHS directs providers to not do care until a provider has the family's billing form in hand but this would require me to suspend care for a family leaving them unable to go to work for a day or two, sometimes more in recent months, while I won't be paid for those days. ODHS policies and practices contradict one another and no matter what, it is always the child care program that is stuck shouldering the financial burden.

When ODHS sends out late billing forms, the payments on those forms will come later in the month as well. Additionally, ODHS inconsistently pays billing forms – it is not unusual for myself or another provider to send in 6-10 billing forms, have ODHS pay on some but not all of the forms. When I have billing forms on the 1st of the month, depending on where holidays and weekends fall, I know I have about a week before I receive payment. If you own a small business or if you receive a paycheck, you know what late payments mean to your ability to cover your bills. Family child care providers rarely have large rainy day accounts and if they do, those accounts would be paying out nearly every month over the last couple of years in a continual cycle of borrowing from and replenishing the fund. I have staff that must be paid on the 1st of the month and again on the 16th (besides all of the other bills). I have to buy formula and food for the children beyond what my household uses. Providers such as myself incur banking overdraft fees or steep fees and interest when the bank covers our accounts or uses a line of credit each month to cover the late payments. Reimbursing providers for care mid-month is not acceptable and is not sustainable. HB 2468 section 9 seeks to pay providers the damages they experience for late payments absent any true reform on billing forms issuance and payments.

ELD/DELC and ODHS have a great deal of power in taking enforcement actions against licensed FCC providers. As I already mentioned, the vast majority of FCC providers are small businesses with few financial reserves if any. Hiring an attorney is very costly. FCC providers often have to choose to accept an enforcement action and lose the business that supports the provider and their family, leaving them unemployed because they cannot afford an attorney and are not equipped to proceed to a hearing unrepresented. Changes to ORS Chapter 183 in 2021, and 2022, pushed back law that provides for our union representatives to provide that representation as laypersons – a common practice agencies like ODHS use. Please do not allow those changes to be pushed back any further.

Additionally, the burden on the agencies to establish their proof against a provider is so low that agencies can operate unchecked as their discretion is so thorough that it is nearly impossible to win any hearing on any action. The word MAY is so commonplace within ELD/DELC and ODHS's regulatory authority that they are able to take actions knowing the bar is so low that they will automatically establish

their burden of proof and that the vast majority of providers will never be able to get judgement in their favor.

Section 12 of HB 2468 addresses HOAs and calls for a restriction on HOAs regarding the prohibition of licensed family child care programs. As mentioned earlier, HOAs no matter how far back they go, no matter when they were established and filed their By-Laws and CCRs should not be able to prohibit an individual from licensing and operating a FCC in their own home. Licensed FCC programs are considered (in Oregon) a residential use. We have one of the worst child care deserts in the United States. In places like Washington County where there are numerous HOAs which prohibit FCC in their homes and their neighborhoods, there is not enough child care. With more parents working from home than ever, this means families must travel farther, outside of their neighborhood creating unnecessary traffic congestion and risk of auto accidents (which are plentiful in Oregon) to take their child to care. This means nursing mothers are not close enough to their child to make nursing breaks happen. Parents often must travel an hour each way to take their children to a FCC program that accommodates their schedule oftentimes traveling during peak hours and sometimes in the dark of night. While driving they are unable to take care of their child's basic needs. Would it not be prudent and reasonable to encourage FCC programs to populate every neighborhood for the benefit of children and families living in those neighborhoods?

We need FCC programs in all our neighborhoods – that is the idea and the tradition of family child care. The child is cared for close to home by someone the parent considers a neighbor. This is part of community building. There are dozens of people, mostly women, who want to open a new FCC in their home but their HOA is stopping them. I know 3 women so far in March whose HOA has forced them to close their FCC program. Their neighbors – also HOA residents – now find themselves suddenly without child care, in a child care desert, where there isn't any child care in the neighborhood and they have to travel (significant distance and/or time in almost every case) to find new child care thus disrupting their child's secure attachment and bond to the provider they have known their whole life or most of their life, and their friends, to go somewhere new and unfamiliar. We know for decades of research that this is not good nor is it right for young children. HOAs are contributing to our child care deserts and stopping Oregon from adding hundreds of new openings for children. We must act to stop this.

I urge you to pass HB 2468 on behalf of all providers – we are working every single day to make sure that Oregon's families have access to high-quality, accessible care for their children and we need your support. I urge you to pass HB 2468 for families and children. Let's take real action that will have immediate effect on Oregon's child care desert. Thank you for your time and support today.

3/20/23