



MHRA Feedback on House Bill 4071 (Introduced)

February 9, 2024

Thank you for considering information provided by the health professional regulatory boards that would be impacted by HB 4071.

MHRA oversees two health boards- the Board of Psychology (BOP) and the Board of Licensed Professional Counselors and Therapists (BLPCT). The operations of MHRA and the Boards are fully funded by Other Funds, meaning fees from licensing. In 2023, these Boards issued 131 psychologist licenses, 647 professional counselor licenses, and 167 marriage and family therapist licenses. During this time period, we tracked our licensing timeliness (Key Performance Measure #4) and found that it took our staff an average of two calendar days to approve an application from the time the file was completed. We are aware that many legislators have recently received complaints from constituents regarding licensing timeliness with ours and other boards, and we have appreciated the opportunity to research these situations and respond in detail. As we have been able to demonstrate, the situation is typically not as it appears.

Testimony was heard during the House Interim Committee on Behavioral Health and Health Care informational meeting on January 10, 2024 which included an apparent misunderstanding about the licensing process that you may hear clarified from other boards as well. MHRA's Boards do not have any requirement for an applicant to have physical presence in Oregon or possess an Oregon driver's license as a prerequisite to licensure. We license those who live and work in other states on a daily basis, and this has become more common as teletherapy practice becomes more widespread. Section 1, (2)(e) of HB 4071 would add a residency requirement that the Boards to not currently contemplate, which stands in opposition to current licensure processes. For those licensure applicants who do intend to relocate to Oregon, many begin the process well before their relocation to avoid delays in the beginning of their practice, and we highly encourage this. Additionally, both Boards offer limited permits (HB 3300 just added this authority for BLPCT in 2023) for licensees of other states to practice in Oregon on a limited basis. BOP issued 132 permits in 2023, one greater than the number of licenses it issued.

It was appropriately noted that individuals who have committed crimes or are under scrutiny with other licensing entities for serious misconduct can and do attempt to hop states to avoid detection. As part of their public protection charge, health professional regulatory boards carefully screen for fitness concerns during the licensing process. Per Oregon law, if a board proposes to deny or revoke a practice authorization, the respondent is entitled to a hearing, and it tends to be a more significant burden to remove an already issued authorization than to deny one up front, in particular if an administrative law judge opines that the conduct which forms the basis for the action is one that the board should have discovered prior to issuing the authorization. It is possible that those practicing under a temporary authorization may be more likely to request hearings, which can be costly, since they are already practicing and have

become established in Oregon. Perceivably, unqualified individuals (or those who fail to document qualifications) could simply reapply for licensure 10 days before their allotted one year practice authorization has tolled, be granted another authorization with 10 days, and continue to practice in Oregon without paying renewal fees, reporting continuing education, or being held to other standards required of licensees.

We recognize that there are outliers to our average two calendar days to approve completed application files. There are added review processes that apply to applicants who disclose (or fail to disclose) criminal history, and for those who hold degrees from unaccredited programs which require a more detailed review by staff. There are also factors that preclude completion of the application, such as applicants submitting incomplete information, failing required examinations, or less frequently, pending investigations being completed in other states. However, from a consumer protection standpoint, authorizing a person to practice in Oregon without processing the complete application and ensuring standards are met may be considered reckless, placing the public at risk for harm by bad actors. The small additional time to fully vet an application is minimal compared to the risk of harm perpetrated by unethical or incompetent mental health providers who serve our most vulnerable populations, often in unsupervised private practice settings.

MHRA's boards have been engaged in significant work to reduce barriers to licensure following the completion of the [Diversity Study](#) by Keen Independent Research in December of 2022, followed by MHRA's [Written Report](#) of its plan to review the Study's recommendations. In 2024 alone, these initiatives include new licensing fee reductions for both boards, a change from annual to biennial license renewals for BLPCT, and BOP's significant streamlining of the process for licensure by endorsement (out-of-state licenses), including reductions in the paperwork required. Similarly, BLPCT filed a [Notice of Proposed Rulemaking](#) on February 7, 2024 that proposes to reduce the licensing burden for reciprocity applicants and help facilitate interjurisdictional mobility while maintaining strong consumer protection standards consistent with the Board's mission. We continue to strive for positive change while maintaining our mission by ensuring that Oregonians have access to mental health providers who are qualified, competent, and safe.

Finally, the timeframes set forth in HB 4071 will be challenging to implement and maintain. The measure becomes effective on the 91st day following adjournment sine die, or mid-June of 2024. This is a short turnaround time for MHRA to implement a new practice authorization within its three regulated license types, which includes administrative rulemaking, system development, establishment of procedures and staff roles, and web updates. The measure's requirement that boards issue a practice authorization within 10 days of receipt of an application would be challenging to maintain, even if documentation of most of the statutory and rule required licensure requirements were disregarded. This is insufficient time for the Board to receive licensure verifications from other states, which may reveal allegations or findings of misconduct in those states. The 10-day timeframe only allows boards to require limited demonstration of competency within the four corners of the application submitted by the applicant themselves, without external verification safeguards like the background check (of which the timing depends on when the applicant chooses to complete their fingerprinting). Also as mentioned above, Section 1, (2)(e) adds a new residency requirement that would need verification. These additional

requirements will result in the need for additional staffing resources, which may result in licensing fee increases.

Again, thank you for allowing us to provide information. Please let me know if you have questions.

Respectfully,

A handwritten signature in cursive script that reads "Charles Hill".

Charles Hill
Executive Director

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