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8 May 2025

VIA UPLOAD: <https://olis.oregonlegislature.gov/liz/2025R1/Testimony/HBHHC?meetingDate=2025-05-06-15-00>

Hon. Rob Nosse, Chair
Hon. Cyrus Javadi, Vice Chair
House Committee on Behavioral Health
and Health Care
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

Re: SB 957 – Supplemental Testimony

Chair Nosse, Vice Chairs Javadi and Nelson, and Members of the Committee:

Thank you for the opportunity to share our significant reservations regarding SB 957 with the Committee during the public hearing on Tuesday, May 6th. I write to supplement my oral testimony, in order to address statements by other witnesses that noncompete agreements are not necessary because bonuses, and claw back provisions for these bonuses if physicians leave voluntarily, are an adequate and less-restrictive alternative. These statements appear to be based on a misunderstanding of current federal and Oregon law.


My ORAL testimony during Tuesday's hearing described the value of tailored noncompete clauses for retaining physicians in light of the unprecedented and exceptionally challenging hiring market in Radiology. Those market dynamics currently require the payment of very substantial (low six-figure) recruitment bonuses along with investments in training, equipment and infrastructure to staff positions providing on-site services in rural communities and other health professional shortage areas. Narrowly tailored noncompete's such as those permitted by SB 951 allow practices like Radia to recoup these significant expenses, promote stable staffing and call-coverage arrangements, and ensure the availability of care for the community. By contrast, structuring bonuses in a way that they can be clawed back under current law will reduce the likelihood of recruiting physicians to Oregon in the first place.

Specifically, the National Labor Relations Board has taken the position that so-called "stay-or-pay agreements" are unenforceable unless they're narrowly drafted, apply in only a very limited number of circumstances, and do not require repayment of costs associated with training, equipment, or infrastructure. Likewise, ORS 652.610(3) strictly limits what employers can withhold or deduct from employees' wages, including their last payment upon termination. Indeed, to comply with the requirements of this statute, Radia would have to restructure our current new hire bonuses as loans secured by a promissory note from the physician that would be forgiven after a certain amount of time. In a market in which recruitment bonuses are routinely available with no strings attached, requiring Oregon physician practices to implement a structure that complies with these claw-back limitations in order to protect their substantial investment in newly recruited physicians would materially hamper

Oregon practices' ability to offer positions competitive with those available in other jurisdictions, and would reduce the recruitment of radiologists and other shortage health professionals to Oregon. We respectfully request that the committee move the thoughtful and fully considered provisions in SB 951 forward and not proceed further with SB 957.

Respectfully submitted,

Signed by:

A handwritten signature in black ink that reads "Anthony R. Miles". The signature is written in a cursive, slightly stylized font.

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Anthony R. Miles
Chief Legal Officer