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To: Senate Committee on Health Care: Chair Senator Laurie Monnes Anderson, Vice-Chair Senator Jeff Cruze, Senator Tim Knopp, Senator Chip Shields, Senator Elizabeth Steiner Hayward;
CC: Rep. Bill Kennemer, Rep. Rob Nosse

Regarding: Written Testimony for HB2303 Amendment 3, May 30, 2017 Hearing

Dear Senate Committee on Health Care,

I'm writing to submit written testimony regarding HB2303-A3 for the May 30 hearing, and regarding a regulatory body for alternative therapists. I'm an alternative therapist practicing in Portland, Oregon.

Executive Summary:

I'm requesting that you remove the references to "alternative behavioral health practitioner" from HB2303 Amendment 3 and that you limit the scope of amendment 3 to Qualified Mental Health Associates (QMHA, QMHP).

I'm in agreement with some of the provisions in HB2303-A3 regarding alternative therapists, but I also note that some other provisions that I believe will be essential for successfully regulating alternative therapists are missing from HB2303-A3. Additionally, I think that HB2303-A3 needs a more inclusive definition for alternative therapies.

A process intended to create a regulatory agency/board for alternative therapists had previously been initiated during consideration of HB2361, at the direction of House Committee on Health Care Chair Rep. Mitch Greenlick and through Rep. Kennemer's office. I was involved in this process and have understood from the leadership that the workgroup would continue after the close of the 2017 session with the goal of creating a bill for the 2018 session.

I'm asking that you give your support to this process and push for its completion rather than pursue amendment 3 as a means to regulate alternative therapists.

The Details, Starting with HB2361:

In its initial February hearing, it became clear that HB2361 was a controversial bill and that it would be opposed by alternative therapists. I testified in opposition to HB2361 and proposed a more complete/comprehensive solution – a solution that would create a regulatory body for alternative therapists based on the Vermont Model for consumer protection.

Shortly after that initial hearing, lobbyist Lara Smith (L & E Smith Government Relations) acting on behalf of Rep. Kennemer, invited me to join a workgroup meeting on February 15, 2017 that would consider HB2361 (and 2 other bills) and the possibility of forming a regulatory body for alternative therapists as I had proposed in my testimony opposing HB2361. Representatives from the OBLPCT, OBPE, OPA, and the state bar were also invited and present at the Feb. 15 workgroup meeting, along with the lobbyist for COPACT (Elizabeth R.). The understanding that I had at the conclusion of the Feb. 15 meeting was that another workgroup would be formed with the specific goal of creating a bill for the 2018 session that would create a regulatory body for alternative therapists. I understood that this workgroup would begin meeting after the close of the 2017 session, most likely in August. In the meantime, I've been meeting with various stakeholders and interested parties during the intervening weeks to build a broad consensus and support for a regulatory body for alternative therapists, and to recruit skilled persons who could contribute to the workgroup. Alternative therapists and educators have been responding positively and are taking this opportunity seriously.

Regulating Alternative Therapists in Oregon: A Proposal Based on the Vermont Model for Consumer Protection

Oregon is one of several states that support alternative therapists providing counseling therapy services to those who choose to use it, and the people of Oregon have shown that they're interested in using these services. Because of that interest and utilization, alternative therapy practices have thrived and the number of practicing alternative therapists in Oregon is estimated to number in the hundreds.

Alternative therapists aren't explicitly regulated for consumer protection by the Oregon Regulatory Statutes. Some members of Oregon state government have argued that alternative therapists should be explicitly regulated so that they can be effectively disciplined if ethical infractions are committed. I agree with them, and I'd like to see a regulatory body formed for alternative therapists that is robust, comprehensive, and fits the unique requirements of alternative practices.

A Regulatory Proposal Base on the Vermont Model:

Other states have also faced the need to provide for consumer protection while supporting alternative counseling therapy practices. Vermont also faced this issue and developed a solution that Oregon could look to as a model.

Vermont maintains the "Board of Allied Mental Health Practitioners," administered by the Secretary of State's Office of Professional Regulation. The board's stated mission is "public protection" and it regulates Vermont's licensed and non-licensed (alternative) therapists.

Vermont's statutes define in [Ch. 26, title 78, an entity called the "Roster of Psychotherapists Who Are Non-licensed and Non-certified."](#) Alternative therapists in Vermont are listed on the Roster of Psychotherapists and are regulated by legislation and by rules set by Vermont's Allied Mental Health Board. Vermont's model provides for public protection through the following provisions:

1. **Professional Training Disclosure:** Vermont's "Rostered Psychotherapists" are required to provide detailed disclosure about their training, qualifications, and scope of practice to the public. This "Professional Disclosure" is made available to consumers so that they can make well informed decisions concerning their choice of providers. This disclosure is at the heart of making an informed choice between alternative therapies and other state licensed forms of counseling.
2. **Ethical Standards:** The Vermont statutes and rules define standards of professional conduct that must be adhered to, and also explicitly define unprofessional and unethical conduct. Alternative therapists on the Roster of Psychotherapists are required to agree to practice according to these ethical standards.
3. **Complaint Process:** A process is defined for filing a complaint against a Rostered therapist with the Allied Mental Health Board. The Board is empowered to investigate complaints that are filed against Rostered Psychotherapists.
4. **Disciplinary Process:** If an investigation determines that a Rostered Psychotherapist has committed unethical or unprofessional conduct, a disciplinary process is defined for the Allied Mental Health Board to deal with unethical conduct by the Rostered Therapist.
5. **Additional Public Protection:** Any Allied Mental Health Practitioner whose license, certification, registration, or state endorsement is suspended or revoked by Vermont or any other jurisdiction is ineligible for entry on the Roster and banned from practicing.
6. **Fees:** Vermont statutes define fees paid by Rostered Therapists so that the program is funded by the membership it serves.

7. **A Professional Board:** Vermont's Board of Allied Mental Health Practitioners is composed of 6 members, one board member being a Rostered Psychotherapist. Two other members of the board are ordinary members of the public who have no connection to or vested interest in therapy or mental health.

The Vermont Model defines alternative therapies in a broad way that can encompass the wide range of therapies that address human behavior. The Vermont Model doesn't attempt to explicitly list all known alternative therapies, so it remains open to including new alternative therapies as they are introduced into the state. The Vermont Model also doesn't attempt to address certifications, define scope of practice, or to scientifically validate efficacy for alternative therapies. Instead, it relies on the mandated full disclosure by therapists about their modality and training to provide consumer education and informed choice.

The relevant concepts from Vermont's "Roster of Psychotherapists Who Are Non-licensed and Non-certified" could be adapted for Oregon to provide for consumer protection while preserving the alternative therapy services that Oregonians have shown that they want to use. A system like the Vermont model would unify alternative therapy practices under a single code of ethical and professional conduct. It would implement an additional layer of consumer protection for the benefit of those who choose to use alternative therapies for their counseling or therapy needs.

I'm proposing that we develop similar legislation for Oregon to create a regulatory body for alternative therapists that would provide for each of the 7 provisions that I've listed above. I'm proposing that this regulatory body be charged with writing administrative rules to define the specific implementation details for these provisions. As is defined by HB2303-A3, I agree that the Oregon Health Authority and Oregon Health Licensing Agency would be an appropriate organization to manage this regulatory body.

What I'm Asking From the Senate Committee on Health Care

I'm asking that the Senate Committee on Health Care remove the references to "alternative behavioral health practitioner" from HB2303 Amendment 3 and instead restrict amendment 3 only to apply to QMHAs and QMHPs.

I'm in agreement with some of what I read in HB2303-A3, but not all of it. For example, I agree about the need for consumer protection, and I agree that the Oregon Health Authority and Oregon Health Licensing Agency would be an effective group to manage a regulatory body/board for alternative therapists. I agree that the regulatory body should be charged with writing administrative rules. But I think the legislation needs to address therapist's professional disclosure for consumer protection, and address the definition of alternative therapies in a more robust and comprehensive way. I'd like to see the eventual legislation address the 7 provisions that I summarized from the Vermont Model. With all respect to the members of the Senate Health Care Committee, I don't see amendment 3 meeting that goal.

In conclusion, I respectfully ask that the Senate Committee on Health Care put the weight of their support behind a workgroup effort to draft legislation for 2018 that will create a regulatory body for alternative therapists. I'm asking the committee to support this effort so that the workgroup will bring this long-standing matter to completion. I'm hopeful that the combined weight/urgency of the Senate Committee on Health Care and the House Committee on Health Care could push a workgroup process to completion. I'm hopeful for legislation that's comprehensive and robust, so that it can regulate alternative therapists in a manner that will benefit all involved – both the public and the practitioners of Oregon.

Supporting the workgroup process would also provide the time necessary to build consensus and support among groups of alternative therapists who are fearful about regulation and fearful about HB2303-A3.

Sincerely,

Stephen Shostek, Portland, Oregon