

A-Engrossed
House Bill 3233

Ordered by the House May 4
Including House Amendments dated May 4

Sponsored by Representative MACPHERSON; Representatives BARKER, BERGER, WHISNANT (at the request of Oregon Sex Offender Supervision Network and Attorney General's Sexual Assault Task Force)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates Sex Offender Treatment Board [*and Sex Offender Treatment Advisory Board*] **within Oregon Health Licensing Agency**. Authorizes board to regulate sex offender treatment specialists and impose penalties. Continuously appropriates moneys to [*Sex Offender Treatment Board from moneys received by board*] **Oregon Health Licensing Agency from moneys collected by agency for fees, charges and penalties related to sex offender treatment specialists, to be used only by agency for administration and enforcement of Act.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to sex offender treatment; creating new provisions; amending ORS 676.606, 676.610, 676.612,
3 676.613 and 676.992; appropriating money; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) The Legislative Assembly hereby declares that the comprehensive eval-**
6 **uation, treatment and monitoring of sex offenders who are subject to the supervision of the**
7 **criminal justice and juvenile justice systems and the Department of Human Services is nec-**
8 **essary in order to work toward the elimination of sex offenses. The Legislative Assembly**
9 **hereby recognizes that sex offender therapists who examine and treat sex offenders there-**
10 **fore occupy a vital role in protecting the public from sex offenders who remain in the com-**
11 **munity prior to or following disposition or who will reenter the community following a period**
12 **of incarceration.**

13 **(2) The Legislative Assembly further finds that the qualifications, practices, techniques**
14 **and levels of effectiveness of sex offender therapists vary widely and that the court's ability**
15 **to effectively determine appropriate sentencing and monitoring for sex offenders, thus cur-**
16 **tailing the incidence of recidivism in such offenders and enhancing the protection of victims**
17 **and potential victims, is undermined by a lack of regulated practices.**

18 **(3) The Legislative Assembly recognizes the right of sex offender therapists to practice,**
19 **consistent with the paramount requirement of public safety. Public safety is best served by**
20 **regulating sex offender therapists whose clients are being evaluated and treated under al-**
21 **ternative sentencing or disposition, parole, post-prison supervision or supervision by the**
22 **Department of Human Services, a county juvenile department or the Oregon Youth Author-**
23 **ity.**

24 **(4) Section 4 of this 2007 Act establishes the titles certified clinical sex offender therapist,**
25 **certified associate sex offender therapist and certified sexual arousal and interest examiner.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 Sections 1 to 12 of this 2007 Act do not prohibit others from providing services to evaluate
2 and treat sex offenders. However, only those certified under sections 1 to 12 of this 2007
3 Act shall represent the designated titles to the public. Adult and juvenile parole and pro-
4 bation authorities and the Department of Human Services may restrict their referrals to
5 those providers who are certified under sections 1 to 12 of this 2007 Act.

6 **SECTION 2.** As used in sections 1 to 12 of this 2007 Act:

7 (1) "Certified associate sex offender therapist" means a person who is certified under
8 section 4 or 5 of this 2007 Act to provide services for the evaluation, treatment and rehabil-
9 itation of sex offenders while under the direct supervision of a certified clinical sex offender
10 therapist.

11 (2) "Certified clinical sex offender therapist" means a person who is certified under sec-
12 tion 4 or 5 of this 2007 Act to provide services for the evaluation, treatment and rehabili-
13 tation of sex offenders and who may supervise certified associate sex offender therapists.

14 (3) "Certified sex offender therapist" means a certified clinical sex offender therapist or
15 a certified associate sex offender therapist.

16 (4) "Certified sexual arousal and interest examiner" means a certified sex offender ther-
17 apist certified under section 4 or 5 of this 2007 Act to provide sexual arousal and interest
18 assessment for the evaluation and rehabilitation of sex offenders.

19 (5) "Direct supervision" means a minimum of two hours of supervision by a certified
20 clinical sex offender therapist for each 45 hours of direct clinical contact with a sex offender.

21 (6) "Sex offender" means a person convicted or adjudicated of a sex crime, as defined in
22 ORS 181.594, and mandated by a court, a releasing authority, including the Oregon Youth
23 Authority, or the Department of Human Services to successfully complete a sex offender
24 treatment program.

25 (7) "Sex offender treatment" means the process of evaluation, assessment and reforma-
26 tion of sex offenders.

27 **SECTION 3.** (1) Unless a person has applied for and received certification under section
28 4 or 5 of this 2007 Act, a person may not claim certification as or represent that person to
29 be a:

- 30 (a) Certified clinical sex offender therapist;
- 31 (b) Certified associate sex offender therapist; or
- 32 (c) Certified sexual arousal and interest examiner.

33 (2) Sections 1 to 12 of this 2007 Act apply only to certified sex offender therapists and
34 certified sexual arousal and interest examiners who examine and treat sex offenders.

35 **SECTION 4.** (1) To obtain certification as a clinical sex offender therapist, associate sex
36 offender therapist or sexual arousal and interest examiner, an applicant shall complete an
37 application developed and prescribed by the Sex Offender Treatment Board and file a pro-
38 fessional disclosure statement with the Oregon Health Licensing Agency. The documents
39 must be accompanied by a fee established by the agency.

40 (2) Subject to ORS 676.612, the agency may issue three types of certification to qualified
41 applicants under this section:

- 42 (a) Clinical sex offender therapist;
- 43 (b) Associate sex offender therapist; and
- 44 (c) Sexual arousal and interest examiner.

45 (3) To qualify as a certified clinical sex offender therapist, the applicant must:

- 1 (a) Be in compliance with applicable provisions and rules adopted by the agency;
- 2 (b) Have at least a master's degree in the behavioral sciences;
- 3 (c) Have an active Oregon mental health professional license or equivalent license as
- 4 determined by the agency;
- 5 (d) Within not less than three years nor more than six years prior to application, have
- 6 had a minimum of 2,000 hours of direct clinical contact with sex offenders, including:
- 7 (A) 1,000 hours of direct treatment services; and
- 8 (B) 500 hours of evaluations; and
- 9 (e) Have a minimum of 60 hours of formal training applicable to sex offender treatment
- 10 and evaluation, achieved within the three years prior to application.
- 11 (4) To qualify as a certified associate sex offender therapist, the applicant must:
- 12 (a) Be in compliance with applicable provisions and rules adopted by the agency;
- 13 (b) Have at least a bachelor's degree in the behavioral sciences;
- 14 (c) Have had a minimum of 1,000 hours of direct clinical contact with sex offenders;
- 15 (d) Have a minimum of 30 hours of formal training applicable to sex offender treatment
- 16 and evaluation, achieved within the three years prior to application; and
- 17 (e) Be under the direct supervision of a certified clinical sex offender therapist.
- 18 (5) To qualify as a certified sexual arousal and interest examiner, the applicant must:
- 19 (a) Be in compliance with applicable provisions and rules adopted by the agency;
- 20 (b) Be certified as either a clinical sex offender therapist or associate sex offender ther-
- 21 apist under this section; and
- 22 (c) Complete all training in the administration and interpretation of sexual arousal and
- 23 interest instruments and measurements, as determined by the agency.
- 24 (6) The agency may renew the certification of a clinical sex offender therapist or an as-
- 25 sociate sex offender therapist annually. The application for renewal shall be considered by
- 26 the agency to be an application to continue as a certified clinical sex offender therapist or
- 27 a certified associate sex offender therapist. To renew a certification, the applicant must:
- 28 (a) Be in compliance with the provisions of sections 1 to 12 of this 2007 Act and rules
- 29 adopted by the agency;
- 30 (b) Have a minimum of 100 hours of clinical experience during the preceding year, 50 of
- 31 which shall be direct clinical contact with sex offenders;
- 32 (c) Have completed a minimum of 15 hours continuing education in the field of sex
- 33 offender treatment during the preceding year; and
- 34 (d) Satisfy any additional requirements adopted by the board.
- 35 (7) The agency may renew the certification of a sexual arousal and interest examiner on
- 36 a date provided by the agency by rule. The application for renewal shall be considered by the
- 37 agency to be an application to continue as a certified sexual arousal and interest examiner.
- 38 To renew a certification, the applicant must:
- 39 (a) Be in compliance with the provisions of sections 1 to 12 of this 2007 Act and rules
- 40 adopted by the agency;
- 41 (b) Be in compliance with subsection (5) of this section; and
- 42 (c) Document the applicant's continued administration of the instruments described in
- 43 subsection (5)(c) of this section, according to requirements determined by the board by rule.
- 44 **SECTION 5.** Upon receipt of an application and the appropriate fees under section 4 of
- 45 this 2007 Act, the Oregon Health Licensing Agency shall certify a clinical sex offender ther-

1 apist, associate sex offender therapist or sexual arousal and interest examiner if the appli-
2 cant provides evidence to the satisfaction of the agency that the applicant is recognized as
3 a clinical sex offender therapist, associate sex offender therapist or sexual arousal and in-
4 terest examiner in another state in which the requirements for such recognition are, in the
5 judgment of the agency, in consultation with the Sex Offender Treatment Board, at least
6 equivalent to the requirements of sections 1 to 12 of this 2007 Act and rules of the agency.

7 **SECTION 6.** (1) In the manner prescribed in ORS chapter 183 for contested cases, and
8 at the direction of the Sex Offender Treatment Board, the Oregon Health Licensing Agency
9 may impose a form of discipline listed in ORS 676.612 against any certified sex offender
10 therapist or certified sexual arousal and interest examiner for any of the grounds listed in
11 ORS 676.612 and for any violation of the provisions of sections 1 to 12 of this 2007 Act, or the
12 rules adopted thereunder.

13 (2) The agency may impose disciplinary sanctions against a certified sex offender thera-
14 pist or certified sexual arousal and interest examiner for any of the following reasons:

15 (a) The person was convicted of violating section 9 of this 2007 Act, or of a felony or
16 misdemeanor that brings into question the person's competence or integrity as a certified
17 sex offender therapist or certified sexual arousal and interest examiner.

18 (b) The person's mental health professional license has been revoked, suspended or re-
19 stricted by the issuing authority.

20 (c) The person has violated section 11 of this 2007 Act, or any rules adopted by the agency
21 pertaining to certification.

22 (d) The person has failed to file or has filed a false, misleading or incomplete professional
23 disclosure statement with the agency.

24 (e) The person has practiced beyond the scope of the person's agency-issued certification.

25 **SECTION 7.** (1) The Sex Offender Treatment Board is established within the Oregon
26 Health Licensing Agency. The board shall consist of seven members appointed by the Gov-
27 ernor. All members of the board shall be residents of this state.

28 (2) Of the members appointed to the board:

29 (a) Two shall be recommended by the Oregon Association for the Treatment of Sexual
30 Abusers;

31 (b) Two shall be recommended by the Oregon Adolescent Sex Offender Treatment Net-
32 work;

33 (c) Two shall be recommended jointly by the Oregon Association of Community Cor-
34 rections Directors and the Oregon Juvenile Department Directors Association, with at least
35 one candidate being a certified sexual arousal and interest examiner; and

36 (d) One shall be recommended by a victims' advocacy organization.

37 (3) The term of office of each member is three years, but a member serves at the pleas-
38 ure of the Governor. Vacancies shall be filled by the Governor by appointment for the un-
39 expired term. A member shall hold the member's office until the appointment and
40 qualification of a successor. A member is eligible for reappointment.

41 (4) The agency shall provide the board with such administrative services and employees
42 as the board requires to carry out its duties for the administration of sections 1 to 12 of this
43 2007 Act.

44 (5) Members of the board are eligible for compensation and expenses as provided in ORS
45 292.495 from funds available under section 10 of this 2007 Act.

1 (6) The board shall select one of its members to serve as chair and another to serve as
2 vice chair, for those terms and with such duties and powers necessary for the performance
3 of the functions of those offices as the board determines.

4 (7) A majority of the board constitutes a quorum for the transaction of business.

5 (8) The board shall meet at times and places specified by the call of the chair or of a
6 majority of the members of the board. The board shall meet at least once each calendar
7 year.

8 (9) A board member appointed under this section who is also a clinical sex offender
9 therapist, associate sex offender therapist or sexual arousal and interest examiner must
10 satisfy all requirements for certification provided in section 4 of this 2007 Act and shall ob-
11 tain certification within 12 months of the member's appointment.

12 **SECTION 8. The Sex Offender Treatment Board shall:**

13 (1) Determine the qualifications and fitness of applicants for certification as clinical sex
14 offender therapists, associate sex offender therapists and sexual arousal and interest exam-
15 iners under sections 1 to 5 of this 2007 Act.

16 (2) Develop evidence-based standards and guidelines specific to the treatment and evalu-
17 ation of distinct sex offender populations, including adults, juveniles, persons with develop-
18 mental disabilities and others.

19 (3) Establish standards of practice and professional responsibility for persons certified
20 by the Oregon Health Licensing Agency.

21 (4) Adopt standards for training and continuing education required under sections 1 to 5
22 of this 2007 Act.

23 (5) Advise the agency on all matters related to administering sections 1 to 12 of this 2007
24 Act and recommend rules, standards and guidelines necessary for the administration of
25 sections 1 to 5 of this 2007 Act.

26 (6) Appoint committees to study and make recommendations to the agency on matters
27 deemed necessary to carry out the requirements of sections 1 to 12 of this 2007 Act.

28 **SECTION 9. A certified sex offender therapist or certified sexual arousal and interest**
29 **examiner, or any employee of these individuals, may not disclose any communication made**
30 **by a client during the course of noninvestigatory professional treatment or rehabilitation,**
31 **except:**

32 (1) When the client or a person authorized to act on behalf of the client gives consent
33 to the disclosure;

34 (2) When the client initiates legal action or makes a complaint against a sex offender
35 therapist or certified sexual arousal and interest examiner to the Sex Offender Treatment
36 Board;

37 (3) When the communication reveals the intent to commit a crime harmful to the client
38 or others;

39 (4) When the communication reveals that a minor may have been a victim of a crime or
40 physical, sexual or emotional abuse or neglect; or

41 (5) To juvenile and adult parole and probation officers supervising the client under a
42 mandated sex offender treatment condition imposed by a court or releasing authority.

43 **SECTION 10. (1) The Oregon Health Licensing Agency, in consultation with the Sex**
44 **Offender Treatment Board, shall establish by rule and shall collect fees and charges to carry**
45 **out its responsibilities under sections 1 to 12 of this 2007 Act.**

1 (2) All moneys received by the agency under subsection (1) of this section shall be paid
2 into the General Fund of the State Treasury and credited to the Oregon Health Licensing
3 Agency Account and are appropriated continuously to, and shall be used by, the agency only
4 for the administration and enforcement of sections 1 to 12 of this 2007 Act.

5 (3) The fees and charges established by the agency under this section are subject to the
6 prior approval of the Oregon Department of Administrative Services. The fees and charges
7 may not exceed the cost of administering sections 1 to 12 of this 2007 Act pertaining to the
8 purpose for which the fee or charge is established, as authorized by the Legislative Assembly
9 within the budget of the agency, as that budget may be modified by the Emergency Board.

10 (4) In addition to the fees and charges established under subsection (1) of this section,
11 the agency may assess fees and charges for providing copies of official documents or records
12 and for recovering administrative costs associated with compiling, photocopying or preparing
13 and delivering documents or records.

14 **SECTION 11.** (1) A person may not:

15 (a) Attempt to obtain a certificate or renewal of a certificate under sections 1 to 5 of this
16 2007 Act by bribery or fraudulent representation;

17 (b) Purport to the public to be engaged in the practice of sex offender treatment under
18 the title “clinical sex offender therapist” or “associate sex offender therapist” unless the
19 person possesses a valid certification under sections 1 to 5 of this 2007 Act; or

20 (c) Purport to the public to be engaged in the practice of sex offender arousal and in-
21 terest assessment under the title “sexual arousal and interest examiner” unless the person
22 possesses a valid certification under sections 1 to 5 of this 2007 Act.

23 (2) Nothing in sections 1 to 12 of this 2007 Act is intended to limit or prevent the practice
24 of an individual’s profession or to restrict a person from providing counseling or therapy if
25 the person or individual does not represent to the public by title that the person or individual
26 is a certified sex offender therapist or certified sexual arousal and interest examiner.

27 (3) Each violation of this section is a separate violation.

28 **SECTION 12.** (1) The Oregon Health Licensing Agency shall:

29 (a) Issue certifications to persons determined by the agency to be qualified.

30 (b) Make all disbursements necessary to carry out the provisions of sections 1 to 12 of
31 this 2007 Act.

32 (c) Maintain a registry of all current certified sex offender therapists and certified sexual
33 arousal and interest examiners. The registry shall be made available to the public online.

34 (d) Keep a record of its proceedings related to the issuance, refusal, suspension and re-
35 vocation of certifications issued under sections 1 to 5 of this 2007 Act.

36 (e) Approve or sanction programs for impaired professionals to assist any certified sex
37 offender therapist or certified sexual arousal and interest examiner to regain or retain cer-
38 tification and shall impose the requirement of participation in the program as a condition to
39 reissuance or retention of certification.

40 (2) The agency may:

41 (a) Deny, suspend, revoke or refuse to issue or renew any certification issued under
42 sections 1 to 5 of this 2007 Act.

43 (b) Provide for waivers of examinations, grandfathering requirements and temporary
44 certifications as considered appropriate.

45 **SECTION 12a.** Notwithstanding the term of office specified in section 7 of this 2007 Act,

1 **of the members first appointed to the board:**

2 (1) **Two shall serve for terms ending on January 1, 2009;**

3 (2) **Two shall serve for terms ending on January 1, 2010; and**

4 (3) **Three shall serve for terms ending on January 1, 2011.**

5 **SECTION 13.** ORS 676.606 is amended to read:

6 676.606. Pursuant to ORS 676.607, the Oregon Health Licensing Agency shall provide adminis-
7 trative and regulatory oversight and centralized service for the following boards, advisory councils
8 and program:

9 (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

10 (2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;

11 (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.570;

12 (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

13 (5) Respiratory Therapist Licensing Board, as provided in ORS 688.800 to 688.840;

14 (6) Environmental Health Registration Board, as provided in ORS chapter 700;

15 (7) Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, as
16 provided in ORS 690.350 to 690.430;

17 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.185; *[and]*

18 (9) Body piercing licensing program, as provided in ORS 690.500 to 690.570[.]; **and**

19 (10) **Sex Offender Treatment Board, as provided in sections 1 to 12 of this 2007 Act.**

20 **SECTION 14.** ORS 676.610 is amended to read:

21 676.610. (1)(a) The Oregon Health Licensing Agency is under the supervision and control of a
22 director, who is responsible for the performance of the duties, functions and powers and for the or-
23 ganization of the agency.

24 (b) The Director of the Oregon Department of Administrative Services shall establish the qual-
25 ifications for and appoint the Director of the Oregon Health Licensing Agency, who holds office at
26 the pleasure of the Director of the Oregon Department of Administrative Services.

27 (c) The Director of the Oregon Health Licensing Agency shall receive a salary as provided by
28 law or, if not so provided, as prescribed by the Director of the Oregon Department of Administrative
29 Services.

30 (d) The Director of the Oregon Health Licensing Agency shall be in the unclassified service.

31 (2) The Director of the Oregon Health Licensing Agency shall be responsible for the perform-
32 ance of duties and functions of the boards, councils and programs administered by the agency. The
33 Director of the Oregon Health Licensing Agency shall provide the boards, councils and programs
34 with such services and employees as the agency requires to carry out its duties. Subject to any ap-
35 plicable provisions of the State Personnel Relations Law, the Director of the Oregon Health Li-
36 censing Agency shall appoint all subordinate officers and employees of the agency, prescribe their
37 duties and fix their compensation.

38 (3) Except as provided in section 18, chapter 885, Oregon Laws 1999, the Director of the Oregon
39 Health Licensing Agency shall be responsible for carrying out the duties, functions and powers un-
40 der ORS 680.500 to 680.570, 680.990 (2), 687.405 to 687.495, 688.800 to 688.840, 688.995, 690.005 to
41 690.235, 690.350 to 690.430, 690.500 to 690.570, 690.992 and 694.015 to 694.185 and ORS chapter 700
42 **and sections 1 to 12 of this 2007 Act.**

43 (4) **The enumeration of duties, functions and powers in subsection (3) of this section is**
44 **not intended to be exclusive nor to limit the duties, functions and powers imposed on or**
45 **vested in the Oregon Health Licensing Agency by other statutes.**

1 **SECTION 15.** ORS 676.612 is amended to read:

2 676.612. (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified
3 in ORS 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111 **and section**
4 **6 of this 2007 Act**, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend
5 or revoke or may place on probation or otherwise discipline a holder of a certificate, permit, license
6 or registration to practice issued by the agency for any of the following reasons:

7 (a) Fraud, misrepresentation, concealment of material facts or deception in applying for or ob-
8 taining an authorization to practice in this state, or in any written or oral communication to the
9 agency concerning the issuance or retention of the authorization.

10 (b) Using, causing or promoting the use of any advertising matter, promotional literature, testi-
11 monial, guarantee, warranty, label, insignia or any other representation, however disseminated or
12 published, that is false, misleading or deceptive.

13 (c) Making a representation that the certificate, permit, license or registration holder knew or
14 should have known is false or misleading regarding skill or the efficacy or value of treatment or
15 remedy administered by the holder.

16 (d) Practicing under a false, misleading or deceptive name, or impersonating another certificate,
17 permit, license or registration holder.

18 (e) Permitting a person other than the certificate, permit, license or registration holder to use
19 the certificate, permit, license or registration.

20 (f) Practicing with a physical or mental condition that presents an unreasonable risk of harm
21 to the practitioner or to the person or property of others in the course of performing the practi-
22 tioner's duties.

23 (g) Practicing while under the influence of alcohol, controlled substances or other skill-impairing
24 substances, or engaging in the illegal use of controlled substances or other skill-impairing sub-
25 stances so as to create a risk of harm to the person or property of others in the course of per-
26 forming the practitioner's duties.

27 (h) Failing to properly and reasonably accept responsibility for the actions of employees.

28 (i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered per-
29 son to practice a regulated occupation or profession subject to the authority of the boards, councils
30 and programs listed in ORS 676.606.

31 (j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from
32 or failure to conform to standards of practice in performing services or practicing in a regulated
33 occupation or profession subject to the authority of the boards, councils and programs listed under
34 ORS 676.606.

35 (k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of con-
36 viction, certified by the clerk of the court entering the conviction, is conclusive evidence of the
37 conviction. A plea of no contest or an admission of guilt shall be considered a conviction for pur-
38 poses of this paragraph.

39 (L) Failing to report any adverse action, as required by statute or rule, taken against the cer-
40 tificate, permit, license, or registration holder by another regulatory jurisdiction or any peer review
41 body, health care institution, professional association, governmental agency, law enforcement agency
42 or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary
43 action as described in this section.

44 (m) Violation of a statute regulating an occupation or profession subject to the authority of the
45 boards, councils and programs listed in ORS 676.606.

1 (n) Violation of any rule regulating an occupation or profession subject to the authority of the
2 boards, councils and programs listed in ORS 676.606.

3 (o) Failing to cooperate with the agency in any investigation, inspection or request for infor-
4 mation.

5 (2) The agency may refuse to issue or renew, may suspend or revoke or may place on probation
6 or otherwise sanction a holder of a certificate, permit, license or registration to practice issued by
7 the agency for failure to pay an outstanding civil penalty or fee that is due or for failure to meet
8 the terms of any order issued by the agency that has become final.

9 (3) For the purpose of requesting a state or nationwide criminal records check under ORS
10 181.534, the agency may require the fingerprints of a person who is:

11 (a) Applying for a certificate, permit, license or registration that is issued by the agency;

12 (b) Applying for renewal of a certificate, permit, license or registration that is issued by the
13 agency; or

14 (c) Under investigation by the agency.

15 (4) If the agency places a holder of a certificate, permit, license or registration on probation
16 under subsection (1) of this section, the agency, in consultation with the appropriate board, council
17 or program, may determine and at any time modify the conditions of the probation.

18 (5) If a certificate, permit, license or registration is suspended, the holder may not practice
19 during the term of suspension. Upon the expiration of the term of suspension, the certificate, permit,
20 license or registration may be reinstated by the agency if the conditions of suspension no longer
21 exist and the holder has satisfied all requirements in the relevant statutes or administrative rules
22 for issuance, renewal or reinstatement.

23 **SECTION 16.** ORS 676.613 is amended to read:

24 676.613. (1) In addition to all other remedies, when it appears to the Oregon Health Licensing
25 Agency that a person is engaged in, has engaged in or is about to engage in any act, practice or
26 transaction that violates any provision of ORS 676.617, 680.500 to 680.570, 687.405 to 687.495, 688.701
27 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570 or 694.015 to
28 694.185 or ORS chapter 700 **or sections 1 to 12 of this 2007 Act**, the agency may, through the
29 Attorney General or the district attorney of the county in which the act, practice or transaction
30 occurs or will occur, apply to the court for an injunction restraining the person from the act,
31 practice or transaction.

32 (2) A court may issue an injunction under this section without proof of actual damages. An in-
33 junction issued under this section does not relieve a person from any other prosecution or enforce-
34 ment action taken for violation of statutes listed in subsection (1) of this section.

35 **SECTION 17.** ORS 676.992 is amended to read:

36 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other
37 penalty or remedy provided by law, the Oregon Health Licensing Agency may impose a civil penalty
38 not to exceed \$5,000 for each violation of the following statutes and any rule adopted thereunder:

39 (a) ORS 688.701 to 688.734 (athletic training);

40 (b) ORS 690.500 to 690.570 (body piercing);

41 (c) ORS 690.005 to 690.235 (cosmetology);

42 (d) ORS 680.500 to 680.570 (denture technology);

43 (e) ORS 687.405 to 687.495 (direct entry midwifery);

44 (f) ORS 690.350 to 690.430 (electrology and permanent coloring or tattooing);

45 (g) ORS 694.015 to 694.185 (dealing in hearing aids);

- 1 (h) ORS 688.800 to 688.840 (respiratory therapy);
- 2 (i) ORS chapter 700 (environmental sanitation); [*and*]
- 3 (j) ORS 676.617 (single facility licensure)[.]; **and**

4 **(k) Sections 1 to 12 of this 2007 Act (sex offender treatment).**

5 (2) The agency may take any other disciplinary action that it finds proper, including but not
6 limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any
7 statute or rule adopted under any statute listed in subsection (1) of this section.

8 (3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a
9 violation of ORS 694.042.

10 (4) In imposing a civil penalty pursuant to this section, the agency shall consider the following
11 factors:

- 12 (a) The immediacy and extent to which the violation threatens the public health or safety;
- 13 (b) Any prior violations of statutes, rules or orders;
- 14 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-
15 lation; and
- 16 (d) Any other aggravating or mitigating factors.

17 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

18 (6) The moneys received by the agency from civil penalties under this section shall be paid into
19 the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Ac-
20 count established under ORS 676.625. Such moneys are continuously appropriated to the agency for
21 the administration and enforcement of the laws the agency is charged with administering and en-
22 forcing that govern the person against whom the penalty was imposed.

23 **SECTION 18. This 2007 Act being necessary for the immediate preservation of the public**
24 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
25 **on its passage.**

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