

House Bill 3492

Sponsored by Representative GILLIAM; Representatives BERGER, BOONE, BRUUN, BUCKLEY, CANNON, DALLUM, DINGFELDER, ESQUIVEL, GALIZIO, GARRARD, GELSER, HANNA, HOLVEY, HUNT, KRIEGER, LIM, MAURER, MERKLEY, OLSON, RICHARDSON, P SMITH, THATCHER, TOMEI, WHISNANT, WITT, Senators ATKINSON, BEYER, FERRIOLI, G GEORGE, L GEORGE, GORDLY, KRUSE, METSGER, STARR, WALKER

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 **as introduced**.

Requires Board of Medical Examiners to reveal certain information about complaints against licensees of board when requested to do so by any person. Requires findings of investigation of complaint to be reported to board within 90 days of receipt of complaint by board. Allows one 30-day extension of time to report to board.

A BILL FOR AN ACT

1
2 Relating to complaints against licensees of Board of Medical Examiners; amending ORS 677.320.

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

4 **SECTION 1.** ORS 677.320 is amended to read:

5 677.320. (1) Upon the complaint of any citizen of this state, or upon its own initiative, the Board
6 of Medical Examiners for the State of Oregon may investigate any alleged violation of this chapter.
7 If, after the investigation, the board has reason to believe that any person is subject to prosecution
8 criminally for the violation of this chapter, it shall lay the facts before the proper district attorney.

9 (2) In the conduct of investigations, the board or its designated representative may:

10 (a) Take evidence;

11 (b) Take the depositions of witnesses, including the person charged;

12 (c) Compel the appearance of witnesses, including the person charged;

13 (d) Require answers to interrogatories; and

14 (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the
15 matter under investigation.

16 (3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas
17 over the signature of the executive director and the seal of the board in the name of the State of
18 Oregon.

19 (4) In any proceeding under this section where the subpoena is addressed to a licensee of this
20 board, it shall not be a defense that the material that is subject to the subpoena is protected under
21 a patient and physician privilege.

22 (5) If a licensee who is the subject of an investigation or complaint is to appear before members
23 of the board investigating the complaint, the board shall provide the licensee with a current sum-
24 mary of the complaint or the matter being investigated not less than five days prior to the date that
25 the licensee is to appear. At the time the summary of the complaint or the matter being investi-
26 gated is provided, the board shall provide to the licensee a current summary of documents or alleged
27 facts that the board has acquired as a result of the investigation. The name of the complainant or
28 other information that reasonably may be used to identify the complainant may be withheld from the

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 licensee.

2 (6) A licensee who is the subject of an investigation and any person authorized to act on behalf
3 of the licensee shall not knowingly contact the complainant until the licensee has requested a con-
4 tested case hearing and the board has authorized the taking of the complainant's deposition pursu-
5 ant to ORS 183.425.

6 (7) Except in an investigation or proceeding conducted by the board or another public entity,
7 or in an action, suit or proceeding where a public entity is a party, a licensee shall not be ques-
8 tioned or examined regarding any communication with the board made in an appearance before the
9 board as part of an investigation. This section shall not prohibit examination or questioning of a
10 licensee regarding records dealing with a patient's care and treatment or affect the admissibility of
11 those records. As used in this section, "public entity" has the meaning given that term in ORS
12 676.177.

13 **(8) Notwithstanding ORS 676.175, when requested by any person, the board shall report**
14 **the existence and status of all complaints the board has received concerning a licensee of the**
15 **board. The board may reveal only the:**

16 (a) **Existence of the complaint;**

17 (b) **Date the complaint was received by the board;**

18 (c) **Nature of the complaint; and**

19 (d) **Status, or resolution if one has been reached, of the complaint.**

20 **(9) Notwithstanding ORS 676.165 (4), the person investigating a complaint shall report to**
21 **the board as required by ORS 676.165 not later than 90 days after the board receives the**
22 **complaint. The board may extend the time for making the report by up to 30 days for just**
23 **cause. The board may not grant more than one extension of time.**

24