

**A-Engrossed**  
**Senate Bill 145**

Ordered by the Senate March 9  
Including Senate Amendments dated March 9

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Board of Medical Examiners)

**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.

Changes name of Diversion Program Supervisory Council to Health Professionals Program Supervisory Council. Increases membership of council from five to seven members. Requires one member of council to be public member representing health care consumers. Expands program to include licensees with mental disorders. Requires personnel of program to report violation or suspected violation of Board of Medical Examiners rules concerning sexual [*misconduct*] **violation** and impropriety by licensee to board.

**A BILL FOR AN ACT**

1  
2 Relating to diversion program for licensees of the Board of Medical Examiners; amending ORS  
3 677.615, 677.625, 677.635, 677.645, 677.655, 677.665 and 677.677.

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

5 **SECTION 1.** ORS 677.615 is amended to read:

6 677.615. (1) There is established a [*Diversion*] **Health Professionals** Program Supervisory  
7 Council consisting of [*five*] **seven** members, **one of whom is a public member**, appointed by the  
8 Board of Medical Examiners for the purpose of developing and implementing a diversion program  
9 for **licensees who are regulated under this chapter and who are** chemically dependent [*licensees*  
10 *regulated under this chapter*] **or have a mental disorder**. [*No*] Current **members of the board**  
11 [*member*] or staff [*shall*] **may not** serve on the council.

12 (2) The term of office of each member **of the council** is two years, but a member serves at the  
13 pleasure of the board. Before the expiration of the term of a member, the board shall appoint a  
14 successor whose term begins July 1 next following. A member is eligible for reappointment. If there  
15 is a vacancy for any cause, the board shall make an appointment to become immediately effective  
16 for the unexpired term.

17 (3) The members of the council must be [*citizens*] **residents** of this state who are familiar with  
18 the recognition, intervention, assessment and treatment of **persons who are** chemically dependent  
19 [*persons*] **or who have a mental disorder**. **The public member of the council shall represent**  
20 **health care consumers**.

21 (4) A member of the council is entitled to compensation and expenses as provided in ORS  
22 292.495, except that the compensation for the time spent in performance of official duties shall be  
23 the same as the compensation received by members of the Board of Medical Examiners.

24 (5) The council shall select one of its members as chairperson and another as vice chairperson,  
25 for such terms and with duties and powers necessary for the performance of the functions of such

**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 offices as the council determines.

2 (6) A majority of the members of the council constitutes a quorum for the transaction of busi-  
3 ness.

4 **SECTION 2.** ORS 677.625 is amended to read:

5 677.625. (1) Subject to the approval of the Board of Medical Examiners, the [*Diversion*] **Health**  
6 **Professionals** Program Supervisory Council shall appoint a medical director to serve at the pleas-  
7 ure of the council. The medical director shall be an employee of the board.

8 (2) The medical director shall administer, under the control and supervision of the council, the  
9 diversion program for **licensees who are** chemically dependent [*licensees*] **or who have a mental**  
10 **disorder.**

11 (3) The board shall appoint such employees as may be necessary to carry out the duties of the  
12 council, as assigned by the medical director.

13 **SECTION 3.** ORS 677.635 is amended to read:

14 677.635. The Board of Medical Examiners may enter into contracts to provide services for  
15 **licensees who are** chemically dependent [*licensees*] **or who have a mental disorder** and may, in  
16 accordance with ORS chapter 183, adopt rules necessary for the administration of a diversion pro-  
17 gram for **licensees who are** chemically dependent [*licensees*] **or who have a mental disorder.**

18 **SECTION 4.** ORS 677.645 is amended to read:

19 677.645. (1) In addition to or in lieu of any disciplinary action under ORS 677.205, the Board of  
20 Medical Examiners may refer a licensee who is chemically dependent **or who has a mental disor-**  
21 **der** to a diversion program administered by the [*Diversion*] **Health Professionals** Program Super-  
22 visory Council.

23 (2) The council **and the medical director** shall report to the board and provide all pertinent  
24 information concerning any licensee who:

25 (a) Fails to complete the diversion program; [*or*]

26 (b) Fails to participate in the diversion program in good faith;

27 (c) **The council or the medical director has reason to believe may have engaged in or is**  
28 **currently engaging in sexual violation that is in violation of rules adopted by the board; or**

29 (d) **The council or the medical director has reason to believe may have engaged in or is**  
30 **currently engaging in sexual impropriety as defined by the rules adopted by the board and**  
31 **who, in the judgment of the council or medical director, represents a potential danger to**  
32 **patients.**

33 **SECTION 5.** ORS 677.655 is amended to read:

34 677.655. (1) All records of the [*Diversion*] **Health Professionals** Program Supervisory Council  
35 are confidential and shall not be subject to public disclosure, nor shall the records be admissible  
36 as evidence in any judicial, administrative, arbitration or mediation proceeding except proceedings  
37 between the licensee or applicant and the Board of Medical Examiners.

38 (2) The members, employees, contractors and past or present clients of the council shall not be  
39 subject to the disclosure requirements in ORS 677.415, nor shall they disclose information or be  
40 examined regarding any participant in the program **except as required by ORS 677.645.**

41 (3) Any licensee who in good faith voluntarily participates in an approved diversion program  
42 and successfully completes the program shall not be subject to disciplinary investigation or sanc-  
43 tions unless the licensee is suspected of a violation [*of this chapter*] **described in ORS 677.190, [other**  
44 **than]** **except for** ORS 677.190 (1)(a), by the manner of obtaining or self-administration of intoxicants,  
45 drugs or controlled substances or a violation [*of*] **described in** ORS 677.190 (7), (13), (20) or (24).

1        **SECTION 6.** ORS 677.665 is amended to read:

2        677.665. The Board of Medical Examiners, the [*Diversion*] **Health Professionals** Program Su-  
3        pervisory Council, and their members, employees and contractors shall be immune from any civil  
4        liability arising from good faith actions taken pursuant to ORS 677.615 to 677.677.

5        **SECTION 7.** ORS 677.677 is amended to read:

6        677.677. In addition to any other powers granted by ORS 677.615 to 677.677, the Board of Med-  
7        ical Examiners may adopt necessary and proper rules for administration of ORS 677.615 to 677.677  
8        including, but not limited to, establishing fees and charges to carry out its legal responsibilities,  
9        subject to prior approval by the Oregon Department of Administrative Services and a report to the  
10       Emergency Board prior to adopting the fees and charges. The fees and charges established under  
11       this section shall not exceed the cost of administering the program of the [*Diversion*] **Health Pro-**  
12       **fessionals** Program Supervisory Council, as authorized by the Legislative Assembly within the  
13       board's budget, or as the budget may be modified by the Emergency Board, and shall be maintained  
14       in an account separate from other funds of the board.

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