

A-Engrossed
House Bill 2056

Ordered by the House May 5
Including House Amendments dated May 5

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Health Care)

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.

Increases number of public members on health regulatory boards. **Modifies and creates other provisions related to board membership.**
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health regulatory board membership; creating new provisions; amending ORS 675.775,
3 678.140, 679.230, 683.250, 687.470, 688.160, 688.545 and 688.820; and declaring an emergency.

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

5 **SECTION 1.** ORS 675.775 is amended to read:

6 675.775. (1) The Oregon Board of Licensed Professional Counselors and Therapists is established.

7 (2) The board [*shall consist*] **consists** of [*seven*] **eight** members who shall be appointed by the
8 Governor.

9 (3) In selecting the members of the board, the Governor shall strive to balance the represen-
10 tation according to geographic areas of this state, gender, age and ethnic group.

11 (4) The board shall consist of:

12 (a) Three members who are persons licensed as professional counselors under ORS 675.715;

13 (b) Two members who are persons licensed as marriage and family therapists under ORS 675.715;

14 (c) One member from the faculty of a school within this state that has programs to train persons
15 to become professional counselors or marriage and family therapists; and

16 (d) [*One member*] **Two members** from the public who [*has*] **have** demonstrated an interest in the
17 fields of professional counseling and marriage and family therapy.

18 (5) Statewide counselor and marriage and family therapist organizations may recommend names
19 of qualified persons to the Governor at the time for filling vacancies on the board.

20 (6) The term of office of each member is three years, but a member serves at the pleasure of the
21 Governor. By October 1 of each year, the Governor shall appoint persons to fill positions on the
22 board that are due to become vacant on October 1 of that year. A member is eligible for one con-
23 secutive reappointment. If there is a vacancy for any cause, the Governor shall make an appoint-
24 ment to become immediately effective for the unexpired term.

25 **SECTION 2.** ORS 678.140 is amended to read:

26 678.140. (1) There is created an Oregon State Board of Nursing composed of nine members[, *five*
27 *of whom shall be registered nurses, two of whom shall be licensed practical nurses and*]. **The board**

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 **consists of:**

2 (a) **Five members who are registered nurses;**

3 (b) **One member who is a licensed practical nurse;**

4 (c) **One member who is a certified nursing assistant; and**

5 (d) Two [*of whom shall be*] members of the public who are otherwise not eligible for appointment
6 to the board.

7 (2) In making appointments of registered nurses, the Governor shall consider geographic balance
8 in making the appointments and shall ensure that the following areas of practice are represented
9 on the board:

10 (a) One nursing educator;

11 (b) One nursing administrator;

12 (c) Two nonsupervisory nurses involved in direct patient care; and

13 (d) One nurse practitioner.

14 (3) The members of the board shall be appointed by the Governor for terms of three years, be-
15 ginning on January 1. No member shall be eligible to appointment for more than two consecutive
16 terms. An unexpired term of a board member shall be filled in the same manner as an original ap-
17 pointment is made. The appointment shall be for the remainder of the unexpired term. All appoint-
18 ments of members of the board by the Governor are subject to confirmation by the Senate pursuant
19 to section 4, Article III of the Oregon Constitution.

20 (4) Two months before the expiration of the term of office of a nurse member of the board, or
21 when a vacancy occurs in the office of a nurse member, the Oregon Nurses Association or any other
22 organization representing registered nurses, if the vacancy is in a registered nurse position, [*or*] the
23 Oregon Licensed Practical Nurses Association or any other organization representing licensed
24 practical nurses, if the vacancy is in a licensed practical nurse position, **or an organization rep-**
25 **resenting certified nursing assistants, if the vacancy is in a certified nursing assistant posi-**
26 **tion**, may submit a list of three names of persons qualified for the appointment. The appointment
27 of nurse members, [*or*] practical nurse members **or certified nursing assistant members** may be
28 made from the respective lists.

29 (5) At the time of appointment, each member of the board must be a citizen of the United States
30 and a resident of Oregon. Each nurse member must be currently licensed and not under disciplinary
31 status with the board in the category for which appointed with at least five years' experience
32 therein, three of which were immediately prior to appointment. The public members and any person
33 in the immediate family of the public members [*shall*] **may** not be employed as a health professional
34 or in any health-related industry.

35 (6) The Governor may remove a member of the board for cause.

36 **SECTION 3.** ORS 679.230 is amended to read:

37 679.230. (1) The Oregon Board of Dentistry [*shall consist*] **consists** of [*nine*] **10** members. [*A*
38 *member shall be appointed to the board by the Governor upon the expiration of the term of office of*
39 *each of the preceding board members. Appointments to the board by the Governor are subject to con-*
40 *firmation by the Senate in the manner provided in ORS 171.562 and 171.565. Each member shall hold*
41 *the office for four years and until the member's successor is appointed and qualified. Terms of office*
42 *begin on the first Monday of April after the time of appointment. No person is eligible to membership*
43 *on the board who is not a citizen of the United States or a resident of the State of Oregon.] **Of the***

44 **members of the board:**

45 (a) Six members shall be Oregon active licensed dentists, of which at least one shall be a dentist

1 practicing in a dental specialty recognized by the American Dental Association[, *one member shall*
2 *be a public member and*];

3 **(b) Two members must be public members; and**

4 (c) Two members shall be Oregon active licensed dental hygienists.

5 (2) Appointments of dentists made by the Governor to the Oregon Board of Dentistry may be
6 selected by the Governor from a list of five names for each appointment suggested by the Oregon
7 Dental Association. Appointments of dental hygienists made by the Governor to the Oregon Board
8 of Dentistry may be selected by the Governor from a list of five names suggested by the Oregon
9 Dental Hygienists' Association. Appointments of dental specialists by the Governor to the Oregon
10 Board of Dentistry may be selected by the Governor from one name suggested by each of the or-
11 ganizations representing a dental specialty.

12 **(3) The Governor shall appoint a member to the board upon the expiration of the term**
13 **of office of each of the preceding board members. Appointments to the board by the Gover-**
14 **nor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and**
15 **171.565.**

16 **(4) Each member shall hold the office for four years and until the member's successor**
17 **is appointed and qualified. Terms of office begin on the first Monday of April after the time**
18 **of appointment.**

19 **(5) Members of the board must be citizens of the United States and residents of Oregon.**

20 (6) Members are entitled to compensation and expenses as provided in ORS 292.495.

21 **SECTION 4.** ORS 683.250 is amended to read:

22 683.250. (1) The Oregon Board of Optometry shall operate as a semi-independent state agency
23 subject to ORS 182.456 to 182.472, for the purpose of carrying out this chapter.

24 (2) The board [*shall consist*] **consists** of [*five*] **six** members appointed by the Governor. Each
25 member of the board shall qualify by taking and subscribing the oath of office required by the
26 Constitution, which shall be filed in the office of the Secretary of State.

27 **(3) Of the members of the board:**

28 (a) Four of the members [*of this board shall*] **must** be Doctors of Optometry licensed and in
29 practice in Oregon; **and** [*and the fifth member shall be a public member representing health consum-*
30 *ers.*]

31 **(b) Two members must be public members representing health consumers.**

32 (4) Each of the members shall hold office for a term of three years or until a successor is ap-
33 pointed and qualified and shall be so classified that at least one optometrist member of the board
34 retires each year.

35 (5) A majority of the members constitute a quorum for the transaction of business.

36 **SECTION 5.** ORS 687.470 is amended to read:

37 687.470. There is established within the Oregon Health Licensing Agency the State Board of
38 Direct Entry Midwifery consisting of [*seven*] **nine** members appointed by the Governor. Each mem-
39 ber of the board shall serve a term of three years and until a successor is appointed and qualified.
40 If there is a vacancy for any cause, the Governor shall make an appointment to become immediately
41 effective for the unexpired term. All appointments of members of the board are subject to confir-
42 mation by the Senate in the manner provided in ORS 171.562 and 171.565. The membership of the
43 board shall include:

44 (1) Four licensed direct entry midwives.

45 (2) Two certified nurse midwives.

1 (3) One physician licensed under ORS chapter 677 involved at the time of appointment in
2 obstetrical care or education.

3 (4) **Two members of the public.**

4 **SECTION 6.** ORS 688.160 is amended to read:

5 688.160. (1) The Physical Therapist Licensing Board shall operate as a semi-independent state
6 agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010
7 to 688.201 and 688.990 (1). The Physical Therapist Licensing Board [*shall consist*] **consists** of
8 [*seven*] **eight** members appointed by the Governor who may be appointed from a list of not fewer
9 than nine names, submitted by the Oregon Physical Therapy Association. **All members have equal**
10 **voting privileges. Of the members of the board:**

11 (a) Five members [*shall*] **must** be physical therapists who are Oregon residents, possess unre-
12 stricted licenses to practice physical therapy in this state, have been practicing in this state for at
13 least two years immediately preceding their appointments and have been practicing in the field of
14 physical therapy for at least five years.

15 (b) One member shall be a licensed physical therapist assistant.

16 (c) [*One member shall be a public member who has*] **Two members must be members of the**
17 **public who have** an interest in consumer rights. [*All members shall have equal voting privileges.*]

18 (2) Upon the expiration of the term of a member of the board, the Governor shall appoint a
19 successor who may be appointed from a list of three names submitted to the Governor by the Oregon
20 Physical Therapy Association to serve a term of four years. A member may not serve for more than
21 two consecutive four-year terms.

22 (3) In the event of a vacancy in the office of a member of the board other than by reason of the
23 expiration of a term, the Governor, not later than 90 days after the occurrence of the vacancy, shall
24 appoint a person to fill the vacancy for the unexpired term. The person may be appointed from a list
25 of three names submitted as provided in subsection (2) of this section. If requested by the board, the
26 Governor may remove any member of the board for misconduct, incompetence or neglect of duty.

27 (4) Each member of the board is entitled to compensation and expenses as provided in ORS
28 292.495.

29 (5) A board member who acts within the scope of board duties, without malice and in reasonable
30 belief that the member's action is warranted by law, is immune from civil liability.

31 (6) The board [*shall have*] **has the** power to:

32 (a) Establish matters of policy affecting administration of ORS 688.010 to 688.201;

33 (b) Provide for examinations for physical therapists and physical therapist assistants and adopt
34 passing scores for the examinations;

35 (c) Adopt rules necessary to carry out and enforce the provisions of ORS 688.010 to 688.201;

36 (d) Establish standards and tests to determine the qualifications of applicants for licenses to
37 practice physical therapy in this state;

38 (e) Issue licenses to persons who meet the requirements of ORS 688.010 to 688.201;

39 (f) Adopt rules relating to the supervision and the duties of physical therapist aides who assist
40 in performing routine work under supervision;

41 (g) Adopt rules establishing minimum continuing education requirements for all licensees;

42 (h) Exercise general supervision over the practice of physical therapy within this state;

43 (i) Establish and collect fees for the application or examination for, or the renewal, rein-
44 statement or duplication of, a license under ORS 688.040, 688.080 or 688.100 or for the issuance of
45 a temporary permit under ORS 688.110; and

1 (j) Establish and collect fees to carry out and enforce the provisions of ORS 688.010 to 688.201.

2 (7) The board shall meet as determined by the board and at any other time at the call of the
3 board chairperson, who shall be elected by the members of the board.

4 (8) The board may appoint and fix the compensation of an executive director and other staff as
5 necessary to carry out the operations of the board.

6 (9) The board shall:

7 (a) Maintain a current list of all persons regulated under ORS 688.010 to 688.201, including the
8 persons' names, current business and residential addresses, telephone numbers, electronic mail ad-
9 dresses and license numbers.

10 (b) Provide information to the public regarding the procedure for filing a complaint against a
11 physical therapist or physical therapist assistant.

12 (c) Publish at least annually, and in a format or place determined by the board, final disciplinary
13 actions taken against physical therapists and physical therapist assistants and other information,
14 including rules, in order to guide physical therapists and physical therapist assistants regulated
15 pursuant to ORS 688.010 to 688.201.

16 **SECTION 7.** ORS 688.545 is amended to read:

17 688.545. (1)(a) There is created in the Department of Human Services a Board of Radiologic
18 Technology consisting of nine members who shall be appointed by the Governor. Each member of
19 the board shall be a citizen of the United States and a resident of the State of Oregon. Each ap-
20 pointed member is entitled to vote.

21 (b) Of the members of the board:

22 (A) One *[shall]* **must** be a radiologist;

23 *[(B) At least one shall be a lay person;]*

24 **(B) Two must be lay persons;**

25 (C) *[At least one shall]* **One must** be a limited permit holder; and

26 (D) *[At least five shall]* **Five must** be licensed practicing radiologic technologists, one of whom
27 *[shall]* **must** be a radiation therapist.

28 (2) The section manager of the Radiation Protection Services Section of the Department of Hu-
29 man Services, or a person appointed by the section manager, *[shall be]* **is** an advisory member of the
30 board for the purpose of providing counsel and *[shall not be]* **is not** entitled to vote.

31 (3) The term of office of the members of the board *[shall be]* **is** three years and a member may
32 be reappointed to serve not more than two full terms.

33 (4) Members of the board *[shall be]* **are** entitled to compensation and expenses as provided in
34 ORS 292.495.

35 (5) The board shall annually elect a board chairperson and a vice chairperson from the members
36 of the board.

37 (6) For the purpose of transacting its business, the board shall meet at least once every three
38 months at times and places designated by resolution. Special meetings may also be held at such
39 times as the board may elect or at the call of the chairperson. Notification of the time, place and
40 purpose of any special meeting *[shall]* **must** be sent to all members of the board at least 15 days
41 before the date of the meeting. All meetings are subject to ORS 192.610 to 192.690.

42 (7) Five members of the board *[shall]* constitute a quorum for the transaction of business at any
43 meeting. Five affirmative votes *[shall be]* **are** required to take action.

44 **SECTION 8.** ORS 688.820 is amended to read:

45 688.820. (1) There is established within the Oregon Health Licensing Agency the Respiratory

1 Therapist Licensing Board, consisting of five members appointed by the Governor. **The board con-**
2 **sists of:**

3 **(a) Three respiratory therapists; and**

4 **(b) Two members of the general public.**

5 (2) The term of office of each member of the board is four years. A member is eligible for re-
6 appointment, but no member shall serve more than two full terms. If there is a vacancy for any
7 cause, the Governor shall make an appointment to become immediately effective for the unexpired
8 term.

9 (3) The members of the board must be [*citizens*] **residents** of this state [*who*]. **Members of the**
10 **board who are respiratory therapists must** have engaged in the practice of respiratory care for
11 a period of five or more years immediately preceding appointment to the board. In making appoint-
12 **ments of respiratory therapists** to the board, the Governor shall take into consideration any
13 nominations received from the Oregon Society for Respiratory Care, or its successor.

14 (4) A member of the board may be removed by the Governor for neglect of duty, incompetency
15 or unethical or dishonorable conduct.

16 (5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

17 **SECTION 9.** (1) **A member serving on the Oregon Board of Nursing created in ORS**
18 **678.140 on the effective date of this 2009 Act continues to serve until the term of office for**
19 **which the member was appointed terminates by expiration of time, resignation from the**
20 **board by the member or removal of the member from office.**

21 (2) **When a member's term of service on the board terminates, a member who is other-**
22 **wise eligible for reappointment to the board may be reappointed, unless the appointment**
23 **exceeds the total appointments authorized for members within the member's classification.**

24 **SECTION 10.** Section 9 of this 2009 Act is repealed on June 30, 2014.

25 **SECTION 11.** The amendments to ORS 675.775, 678.140, 679.230, 683.250, 687.470, 688.160,
26 688.545 and 688.820 by sections 1 to 8 of this 2009 Act apply to appointments to health pro-
27 fessional regulatory boards, as defined in ORS 676.160, and to boards, advisory councils and
28 programs listed in ORS 676.606 made on or after the effective date of this 2009 Act.

29 **SECTION 12.** This 2009 Act being necessary for the immediate preservation of the public
30 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
31 on its passage.

32