

Enrolled
House Bill 2059

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CHAPTER

AN ACT

Relating to health professional regulatory boards; creating new provisions; and amending ORS 675.583, 678.135, 678.725, 679.310, 681.505, 682.220, 684.200, 687.051, 688.135, 688.605 and 689.455.

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

SECTION 1. (1) As used in this section:

(a) **“Board” means the:**

- (A) **State Board of Examiners for Speech-Language Pathology and Audiology;**
- (B) **State Board of Chiropractic Examiners;**
- (C) **State Board of Clinical Social Workers;**
- (D) **Oregon Board of Licensed Professional Counselors and Therapists;**
- (E) **Oregon Board of Dentistry;**
- (F) **Board of Examiners of Licensed Dietitians;**
- (G) **State Board of Massage Therapists;**
- (H) **Board of Naturopathic Examiners;**
- (I) **Oregon State Board of Nursing;**
- (J) **Board of Examiners of Nursing Home Administrators;**
- (K) **Oregon Board of Optometry;**
- (L) **State Board of Pharmacy;**
- (M) **Oregon Medical Board;**
- (N) **Occupational Therapy Licensing Board;**
- (O) **Physical Therapist Licensing Board;**
- (P) **State Board of Psychologist Examiners;**
- (Q) **Board of Radiologic Technology;**
- (R) **State Board of Direct Entry Midwifery;**
- (S) **State Board of Denture Technology;**
- (T) **Respiratory Therapist Licensing Board;**
- (U) **Department of Human Services, to the extent that the department certifies emergency medical technicians;**
- (V) **Oregon State Veterinary Medical Examining Board; or**
- (W) **State Mortuary and Cemetery Board.**

(b) **“Licensee” means a health professional licensed or certified by or registered with a board.**

(c) **“Prohibited conduct” means conduct by a licensee that:**

- (A) **Constitutes a criminal act against a patient or client; or**

(B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee’s profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee’s board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board’s rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee’s conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee’s criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section.

SECTION 2. ORS 681.505 is amended to read:

681.505. (1)(a) *[Any]* **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee of the State Board of Examiners for Speech-Language Pathology and Audiology shall[, and any other person may,] report [to the board] any suspected violation of this chapter or any prohibited conduct as defined in section 1 of this 2009 Act in the manner provided in section 1 of this 2009 Act.**

(b) Any person may report to the board any suspected violation of this chapter.

(2) A person who has made a complaint as to the conduct of an applicant, licensee or conditional licensee of the board or who has given information or testimony relative to a proposed or pending proceeding for misconduct against the applicant, licensee or conditional licensee of the board is not answerable for any such act in any proceeding except for perjury.

SECTION 3. ORS 684.200 is amended to read:

684.200. (1)(a) **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any licensee licensed by the State Board of Chiropractic**

Examiners shall[, *and any other person may,*] report [*to the board*] any suspected [*violations*] **violation** of this chapter or any prohibited conduct as defined in section 1 of this 2009 Act in the manner provided in section 1 of this 2009 Act.

(b) Any person may report to the board any suspected violation of this chapter.

(2) Information pertaining to [*the*] a report required by subsection (1) of this section shall remain confidential and [*not be*] **is not** subject to public disclosure except as considered necessary by the board in the enforcement of this chapter.

(3) Any person who reports or provides information to the board under this section in good faith [*shall not be*] **is not** subject to an action for civil damages as a result thereof.

SECTION 4. ORS 675.583 is amended to read:

675.583. (1) **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure,** a licensed clinical social worker shall report to the State Board of Clinical Social Workers any information the licensed clinical social worker has that appears to show that a licensed clinical social worker is or may be an impaired clinical social worker, or may be guilty of unprofessional conduct according to the guidelines of the code of ethics, to the extent that disclosure does not conflict with the requirements of ORS 675.580.

(2) A licensed clinical social worker shall report any prohibited conduct as defined in section 1 of this 2009 Act in the manner provided in section 1 of this 2009 Act.

[~~(2)~~] (3) Any information that the board obtains pursuant to subsection (1) of this section is confidential as provided under ORS 676.175.

[~~(3)~~] (4) Any person who reports or provides information to the board under subsection (1) of this section in good faith shall not be subject to an action for civil damages as a result thereof.

SECTION 5. Section 6 of this 2009 Act is added to and made a part of ORS 675.715 to 675.835.

SECTION 6. **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure,** a licensee who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct shall report the prohibited conduct as defined in section 1 of this 2009 Act in the manner provided in section 1 of this 2009 Act.

SECTION 7. ORS 679.310 is amended to read:

679.310. (1)(a) **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure,** any dentist or dental hygienist, or any person licensed by the Oregon Board of Dentistry, [*the Oregon Dental Association or any other organization representing dentists or dental hygienists*] shall[, *and any other person may,*] report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 [*or any rule adopted pursuant to either*] or any rule adopted by the board.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a dentist or dental hygienist, or any person licensed by the board, shall report any prohibited conduct as defined in section 1 of this 2009 Act in the manner provided in section 1 of this 2009 Act.

(c) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, the Oregon Dental Association or any other organization representing dentists or dental hygienists shall report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board.

(d) Any person may report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board, association or other organization representing dentists or dental hygienists.

(2) This section is not intended to require any person working on or with the Oregon Dental Association's Dentist Well Being Committee or Peer Review Committee or the Quality Assurance or Peer Review Committee of the Oregon Dental Hygienists' Association to report to the board any confidential information received within the scope of duties with that committee.

[2)] (3) No person who has made a complaint as to the conduct of a licensee of the board or who has given information or testimony relative to a proposed or pending proceeding for misconduct against the licensee of the board, shall be answerable for any such act in any proceeding except for perjury.

SECTION 8. Section 9 of this 2009 Act is added to and made a part of ORS 691.405 to 691.585.

SECTION 9. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensed dietitian who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 10. Section 11 of this 2009 Act is added to and made a part of ORS 687.011 to 687.250.

SECTION 11. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a massage therapist who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 12. Section 13 of this 2009 Act is added to and made a part of ORS chapter 685.

SECTION 13. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a naturopathic physician who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 14. ORS 678.135 is amended to read:

678.135. (1) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed as required by ORS 441.015, or any person licensed by the Oregon State Board of Nursing, [*the Oregon Nurses Association or any other organization representing registered or licensed practical nurses*] shall[, and any other person may,] report to the board any suspected violation of ORS 678.010 to 678.410 [*or any rule adopted pursuant thereto*] or any rule adopted by the board.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, the Oregon Nurses Association or any other organization representing registered or licensed practical nurses shall report to the board any suspected violation of ORS 678.010 to 678.410 or any rule adopted by the board.

(3) Any person may report to the board any suspected violation of ORS 678.010 to 678.410 or any rule adopted by the board, association or other organization representing registered or licensed practical nurses.

(4) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a person licensed by the board who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 15. ORS 678.725 is amended to read:

678.725. (1)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed under ORS 441.015, any licensee licensed by the Board of Examiners of Nursing Home Administrators of the State of Oregon, any physician licensed by the Oregon Medical Board, any licensed professional nurse and any licensed pharmacist shall[, and any other person may,] report to the board suspected violations of ORS 678.710 to 678.840 and insanitary or other unsatisfactory conditions in a nursing home.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee licensed by the Board of Examiners of Nursing

Home Administrators of the State of Oregon who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

(c) Any person may report to the board suspected violations of ORS 678.710 to 678.840 or insanitary conditions in a nursing home.

(2) Information acquired by the board pursuant to subsection (1) of this section is confidential and shall not be subject to public disclosure.

(3) Any person who reports or provides information to the board under subsection (1) of this section and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

SECTION 16. Section 17 of this 2009 Act is added to and made a part of ORS 683.010 to 683.335.

SECTION 17. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, an optometrist who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 18. ORS 689.455 is amended to read:

689.455. (1) **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure,** a pharmacist or pharmacy technician shall report [*to the State Board of Pharmacy*]:

(a) Any suspected violations of this chapter or of ORS 475.005 to 475.285 and 475.840 to 475.980 to the State Board of Pharmacy; and

(b) Any prohibited conduct as defined in section 1 of this 2009 Act in the manner provided in section 1 of this 2009 Act.

(2) Any pharmacist or pharmacy technician who reports to the board as required by subsection (1) of this section in good faith shall not be subject to an action for civil damages as a result thereof.

(3) Any information that the board obtains pursuant to ORS 689.405 or 689.445 or this section is confidential as provided under ORS 676.175.

SECTION 19. Section 20 of this 2009 Act is added to and made a part of ORS chapter 677.

SECTION 20. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a physician or a podiatric physician and surgeon who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 21. ORS 688.605 is amended to read:

688.605. (1)(a) **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure,** any radiologic technologist, or any person licensed by the Board of Radiologic Technology, shall [*or any other organization representing radiologic technologists shall, and any other person may,*] report to the board any suspected violation of ORS 688.405 to 688.605 [*or any rule adopted pursuant to ORS 688.555*] or any rule adopted by the board.

(b) **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure,** a radiologic technologist or any person licensed by the board who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

(c) **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure,** any organization representing radiologic technologists shall report to the board any suspected violation of ORS 688.405 to 688.605 or any rule adopted by the board pursuant to ORS 688.405 to 688.605.

(d) Any person may report to the board any suspected violation of ORS 688.405 to 688.605 or any rules adopted by the board pursuant to ORS 688.555.

(2) Any information that the board obtains as the basis of a complaint or in the investigation thereof is confidential as provided under ORS 676.175.

(3) Any person who reports or provides information to the board and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

(4) A claim of a violation of ORS 688.405 to 688.605 shall be reported to the board and shall be substantiated by satisfactory evidence. If the board finds that a violation has occurred, the board shall, subject to the conditions of ORS 676.175, report the violation to the Attorney General for prosecution.

SECTION 22. Section 23 of this 2009 Act is added to and made a part of ORS 675.210 to 675.340.

SECTION 23. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, an occupational therapist who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 24. ORS 688.135 is amended to read:

688.135. (1) A physical therapist licensed under ORS 688.010 to 688.201 shall:

(a) Be responsible for managing all aspects of the physical therapy care of each patient.

(b) Ensure the qualifications of all physical therapist assistants and physical therapist aides working under the direction and supervision of the physical therapist.

(c) Provide for each patient the therapeutic intervention that requires the expertise of a physical therapist and determine and supervise the use of physical therapist assistants or physical therapist aides to provide care that is safe, effective and efficient.

(2) Responsibility for patient care management shall include accurate documentation and billing of the physical therapy services provided. Information relating to the physical therapist-patient relationship is confidential and a physical therapist shall comply with the laws and rules governing the use and disclosure of a patient's protected health information as provided in ORS 192.518 to 192.529.

(3) Each physical therapist shall display a copy of the physical therapist's license or current renewal verification in a location accessible to public view at the physical therapist's place of practice or employment.

(4) A physical therapist may purchase, store and administer topical and aerosol medications as part of the practice of physical therapy as defined in ORS 688.010. A physical therapist shall comply with any rules adopted by the State Board of Pharmacy specifying protocols for storage of medications.

(5) A physical therapist shall adhere to the standards of ethics recognized by the physical therapy profession as further established by a nationally recognized professional organization of physical therapists and as further adopted by the board.

(6) A physical therapist shall disclose to a patient any direct financial interest in products that the physical therapist endorses and recommends to the patient at the time of such endorsement or recommendation. The disclosure shall be documented in the patient's record.

[(7) A physical therapist shall refer a patient to an appropriate health care practitioner if the physical therapist has reasonable cause to believe symptoms or conditions are present that require services beyond the scope of practice of a physical therapist or when physical therapy is contraindicated.]

[(8)] (7) A physical therapist may provide compensable services to an injured worker only as authorized by ORS 656.250.

[(9)] (8) Nothing in ORS 688.010 to 688.201 shall prohibit a physical therapist licensed under ORS 688.010 to 688.201 from accepting a referral from a veterinarian licensed under ORS chapter 686. The referral must be in writing and specify the treatment or therapy to be provided, pursuant

to ORS 686.040 (4). A physical therapist practicing under this subsection shall be held to the standard of care for veterinarians set forth in ORS chapter 686.

(9) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a physical therapist who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 25. Section 26 of this 2009 Act is added to and made a part of ORS 675.010 to 675.150.

SECTION 26. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensed psychologist who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 27. Section 28 of this 2009 Act is added to and made a part of ORS 687.405 to 687.495.

SECTION 28. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensed direct entry midwife who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 29. Section 30 of this 2009 Act is added to and made a part of ORS 688.800 to 688.840.

SECTION 30. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a respiratory care practitioner who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 31. ORS 682.220 is amended to read:

682.220. (1) The Department of Human Services may deny, suspend or revoke licenses for ambulances and ambulance services in accordance with the provisions of ORS chapter 183 for a failure to comply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules adopted thereunder.

(2) The certification of an emergency medical technician may be denied, suspended or revoked in accordance with the provisions of ORS chapter 183 for any of the following reasons:

(a) A failure to have completed successfully a department approved course.

(b) In the case of provisional certifications, failure to have completed successfully a department approved course.

(c) Failure to meet or continue to meet the physical and mental qualifications required to be certified under ORS 682.208.

(d) The use of fraud or deception in receiving a certificate.

(e) Practicing skills beyond the scope of practice established by the Oregon Medical Board under ORS 682.245.

(f) Rendering emergency or nonemergency care under an assumed name.

(g) The impersonation of another EMT.

(h) Unprofessional conduct.

(i) Obtaining a fee by fraud or misrepresentation.

(j) Habitual or excessive use of intoxicants or drugs.

(k) The presence of a mental disorder that demonstrably affects an EMT's performance, as certified by two psychiatrists retained by the department.

(L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions about the ability of the EMT to perform the duties of an EMT in accordance with the standards

established by this chapter. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(m) Suspension or revocation of an emergency medical technician certificate issued by another state:

(A) For a reason that would permit the department to suspend or revoke a certificate issued under this chapter; and

(B) Evidenced by a certified copy of the order of suspension or revocation.

(n) Gross negligence or repeated negligence in rendering emergency medical assistance.

(o) Rendering emergency or nonemergency care without being certified except as provided in ORS 30.800.

(p) Rendering emergency or nonemergency care as an EMT without written authorization and standing orders from a supervising physician who has been approved by the board in accordance with ORS 682.245.

(q) Refusing an invitation for an interview with the department as specified in this section.

(3) The department may investigate any evidence that appears to show that an EMT certified by the department is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an EMT. The department may investigate the off-duty conduct of an EMT to the extent that such conduct may reasonably raise questions about the ability of the EMT to perform the duties of an EMT in accordance with the standards established by this chapter. Upon receipt of a complaint about an EMT or applicant, the department shall conduct an investigation as described under ORS 676.165. An investigation shall be conducted in accordance with ORS 676.175.

(4)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed under ORS 441.015 to 441.087 and 441.820, any medical or osteopathic physician licensed under ORS chapter 677, any owner of an ambulance licensed under this chapter or any EMT certified under this chapter shall report to the department any information the person may have that appears to show that an EMT is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an EMT.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, an EMT certified under this chapter who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

(5) If, in the opinion of the department, it appears that the information provided to it under provisions of this section is or may be true, the department may request an interview with the EMT. At the time the department requests an interview, the EMT shall be provided with a general statement of the issue or issues of concern to the department. The request shall include a statement of the procedural safeguards available to the EMT, including the right to end the interview on request, the right to have counsel present and the following statement: "Any action proposed by the Department of Human Services shall provide for a contested case hearing."

(6) Information regarding an ambulance service provided to the department pursuant to this section is confidential and shall not be subject to public disclosure, nor shall it be admissible as evidence in any judicial proceeding. Information that the department obtains as part of an investigation into emergency medical technician or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving emergency medical technician or applicant conduct is confidential as provided under ORS 676.175. Information regarding an ambulance service does not become confidential due to its use in a disciplinary proceeding against an emergency medical technician.

(7) Any person who reports or provides information to the department under this section and who provides information in good faith shall not be subject to an action for civil damage as a result thereof.

- (8) In conducting an investigation under subsection (3) of this section, the department may:
- (a) Take evidence;
 - (b) Take depositions of witnesses, including the person under investigation, in the manner provided by law in civil cases;
 - (c) Compel the appearance of witnesses, including the person under investigation, in the manner provided by law in civil cases;
 - (d) Require answers to interrogatories; and
 - (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.
- (9) The department may issue subpoenas to compel compliance with the provisions of subsection (8) of this section. If any person fails to comply with a subpoena issued under this subsection, or refuses to testify on matters on which the person may lawfully be interrogated, a court may compel obedience as provided in ORS 183.440.

SECTION 32. Section 33 of this 2009 Act is added to and made a part of ORS chapter 686.

SECTION 33. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a person licensed or certified under this chapter who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 34. Section 35 of this 2009 Act is added to and made a part of ORS chapter 692.

SECTION 35. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a person licensed or registered under this chapter who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.

SECTION 36. ORS 687.051 is amended to read:

687.051. (1) To be eligible for issuance of an initial license in this state as a massage therapist [after January 1, 1999], the applicant shall:

(a) Furnish the State Board of Massage Therapists with [any] personal references required by rule of the board.

(b) Have attained the age of 18 years.

(c) Furnish the board with educational certificates or transcripts required by law or rule of the board including but not limited to proof of certification in cardiopulmonary resuscitation and the subjects listed in paragraph (d) of this subsection.

(d) Have completed a minimum of 500 contact hours of certified classes in the following subjects: Anatomy and physiology, kinesiology, pathology, hydrotherapy, theory and hands-on practice of massage and bodywork techniques and professional practices, including client communication and boundaries, professional and business ethics and sanitation. The board by rule may set the minimum number of required hours for each subject.

(e) Pass an examination prepared and conducted by the board or its authorized representative establishing competency and ability to engage in the practice of massage. The examination [shall] **must** be administered in the English language **or another language approved by the board** and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage and bodywork. The board [may] **shall** accept passage of [a] **the National Certification Board for Therapeutic Massage and Bodywork examination or another** board-approved national standardized examination as meeting the written examination requirement contained in this paragraph.

(f) Submit the application with payment for licensing within one year after notification of having passed the qualifying examination.

(2) An applicant must be a person of good moral character. For purposes of this section, the lack of good moral character may be established by reference to acts or conduct reflecting moral turpitude or to acts or conduct that would cause a reasonable person to have substantial doubts

about the applicant's ability to practice massage in accordance with ORS 687.011 to 687.250, 687.895 and 687.991 and rules of the board.

(3) The board may require that an applicant furnish evidence satisfactory to the board that the applicant can safely and competently practice the profession of massage. The board may consider evidence including, but not limited to, indications of impairment by alcohol or controlled substances or behavior, practices or conduct that would be considered unprofessional or dishonorable conduct if engaged in by a person licensed under ORS 687.011 to 687.250, 687.895 and 687.991.

(4) To be eligible for biennial renewal, a renewal applicant shall submit evidence to the board, as determined by the board by rule, that the applicant has completed a minimum of 12 hours of board-approved continuing education.

(5) To be eligible for inactive status, a licensed massage therapist must not be practicing massage in this state.

SECTION 37. Sections 1, 6, 9, 11, 13, 17, 20, 23, 26, 28, 30, 33 and 35 of this 2009 Act and the amendments to ORS 675.583, 678.135, 678.725, 679.310, 681.505, 682.220, 684.200, 687.051, 688.135, 688.605 and 689.455 by sections 2, 3, 4, 7, 14, 15, 18, 21, 24, 31 and 36 of this 2009 Act apply to prohibited conduct as defined in section 1 of this 2009 Act that occurs on or after the effective date of this 2009 Act.

SECTION 38. If Senate Bill 177 becomes law, section 4 of this 2009 Act (amending ORS 675.583) is repealed and ORS 675.583, as amended by section 18, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), is amended to read:

675.583. (1) **Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure,** a regulated social worker shall report to the State Board of Licensed Social Workers any information the regulated social worker has that appears to show that a regulated social worker is or may be an impaired social worker, or may have engaged in unprofessional conduct according to the guidelines of the code of ethics, to the extent that disclosure does not conflict with the requirements of ORS 675.580.

(2) A regulated social worker shall report any prohibited conduct as defined in section 1 of this 2009 Act in the manner provided in section 1 of this 2009 Act.

[2] (3) Notwithstanding ORS 676.175, any information that the board obtains pursuant to subsection (1) of this section is confidential and may not be disclosed except as provided by the board by rule.

[3] (4) A person who reports or provides information to the board under subsection (1) of this section in good faith is not subject to an action for civil damages as a result thereof.

SECTION 39. If Senate Bill 177 becomes law, section 37 of this 2009 Act is amended to read:

Sec. 37. Sections 1, 6, 9, 11, 13, 17, 20, 23, 26, 28, 30, 33 and 35 of this 2009 Act and the amendments to ORS 675.583, 678.135, 678.725, 679.310, 681.505, 682.220, 684.200, 687.051, 688.135, 688.605 and 689.455 by sections 2, 3, [4] 7, 14, 15, 18, 21, 24, 31, [and] 36 **and 38** of this 2009 Act apply to prohibited conduct as defined in section 1 of this 2009 Act that occurs on or after the effective date of this 2009 Act.

Passed by House April 14, 2009

Repassed by House June 15, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 11, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State