

A-Engrossed
House Bill 2059

Ordered by the House April 8
Including House Amendments dated April 8

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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.

[Requires licensee of health professional regulatory board to report prohibited conduct to board. Requires board that receives report from licensee to report to board of licensee who engaged in prohibited conduct.]

Requires health professional licensee to report prohibited or unprofessional conduct of another licensee to regulatory board responsible for licensee. Punishes failure to report by maximum of \$720 fine.

Requires board to report prohibited conduct to law enforcement agency.

Requires licensee arrested for felony or convicted of misdemeanor or felony to report conviction or arrest to licensee's board.

A BILL FOR AN ACT

1
2 Relating to health professional regulatory boards; creating new provisions; and amending ORS
3 675.583, 678.135, 678.725, 679.310, 681.505, 682.220, 684.200, 688.135, 688.605 and 689.455.

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

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

6 **(a) "Board" means the:**

7 **(A) State Board of Examiners for Speech-Language Pathology and Audiology;**

8 **(B) State Board of Chiropractic Examiners;**

9 **(C) State Board of Clinical Social Workers;**

10 **(D) Oregon Board of Licensed Professional Counselors and Therapists;**

11 **(E) Oregon Board of Dentistry;**

12 **(F) Board of Examiners of Licensed Dietitians;**

13 **(G) State Board of Massage Therapists;**

14 **(H) Board of Naturopathic Examiners;**

15 **(I) Oregon State Board of Nursing;**

16 **(J) Board of Examiners of Nursing Home Administrators;**

17 **(K) Oregon Board of Optometry;**

18 **(L) State Board of Pharmacy;**

19 **(M) Oregon Medical Board;**

20 **(N) Occupational Therapy Licensing Board;**

21 **(O) Physical Therapist Licensing Board;**

22 **(P) State Board of Psychologist Examiners;**

23 **(Q) Board of Radiologic Technology;**

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 (R) State Board of Direct Entry Midwifery;

2 (S) State Board of Denture Technology;

3 (T) Respiratory Therapist Licensing Board; or

4 (U) Department of Human Services, to the extent that the department certifies emer-
5 gency medical technicians.

6 (b) "Licensee" means a health professional licensed or certified by or registered with a
7 board.

8 (c) "Prohibited conduct" means conduct by a licensee that:

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

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

11 (d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the
12 best interests of the public, including conduct contrary to recognized standards of ethics of
13 the licensee's profession or conduct that endangers the health, safety or welfare of a patient
14 or client.

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

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

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

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

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

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

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

41 (9) The obligations imposed by this section are in addition to and not in lieu of other
42 obligations to report prohibited or unprofessional conduct provided by law.

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

45 (11) A board and the members, employees and contractors of the board are immune from

1 **civil liability for actions taken in good faith as a result of a report received under subsection**
2 **(2) or (3) of this section.**

3 **SECTION 2.** ORS 681.505 is amended to read:

4 681.505. (1)(a) **[Any] Unless state or federal laws relating to confidentiality or the pro-**
5 **tection of health information prohibit disclosure, a** licensee of the State Board of Examiners for
6 Speech-Language Pathology and Audiology shall[, *and any other person may,*] report [*to the board*]
7 any suspected violation of this chapter **or any prohibited conduct as defined in section 1 of this**
8 **2009 Act in the manner provided in section 1 of this 2009 Act.**

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

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

14 **SECTION 3.** ORS 684.200 is amended to read:

15 684.200. (1)(a) **Unless state or federal laws relating to confidentiality or the protection of**
16 **health information prohibit disclosure, any licensee licensed by the State Board of Chiropractic**
17 **Examiners shall[, and any other person may,] report [to the board] any suspected [violations] vio-**
18 **lation of this chapter or any prohibited conduct as defined in section 1 of this 2009 Act in the**
19 **manner provided in section 1 of this 2009 Act.**

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

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

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

26 **SECTION 4.** ORS 675.583 is amended to read:

27 675.583. (1) **Unless state or federal laws relating to confidentiality or the protection of**
28 **health information prohibit disclosure, a licensed clinical social worker shall report to the State**
29 **Board of Clinical Social Workers any information the licensed clinical social worker has that ap-**
30 **pears to show that a licensed clinical social worker is or may be an impaired clinical social worker,**
31 **or may be guilty of unprofessional conduct according to the guidelines of the code of ethics, to the**
32 **extent that disclosure does not conflict with the requirements of ORS 675.580.**

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

35 [(2)] (3) Any information that the board obtains pursuant to subsection (1) of this section is
36 confidential as provided under ORS 676.175.

37 [(3)] (4) Any person who reports or provides information to the board under subsection (1) of this
38 section in good faith shall not be subject to an action for civil damages as a result thereof.

39 **SECTION 5. Section 6 of this 2009 Act is added to and made a part of ORS 675.715 to**
40 **675.835.**

41 **SECTION 6. Unless state or federal laws relating to confidentiality or the protection of**
42 **health information prohibit disclosure, a licensee who has reasonable cause to believe that**
43 **a licensee of another board has engaged in prohibited conduct shall report the prohibited**
44 **conduct as defined in section 1 of this 2009 Act in the manner provided in section 1 of this**
45 **2009 Act.**

1 **SECTION 7.** ORS 679.310 is amended to read:

2 679.310. (1)(a) **Unless state or federal laws relating to confidentiality or the protection of**
3 **health information prohibit disclosure**, any dentist or dental hygienist, **or** any person licensed
4 by the Oregon Board of Dentistry, [*the Oregon Dental Association or any other organization repre-*
5 *senting dentists or dental hygienists*] shall[, *and any other person may,*] report to the board any sus-
6 pected violation of this chapter or ORS 680.010 to 680.205 [*or any rule adopted pursuant to either*]
7 **or any rule adopted by the board.**

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

12 **(c) Unless state or federal laws relating to confidentiality or the protection of health in-**
13 **formation prohibit disclosure**, the Oregon Dental Association or any other organization rep-
14 **resenting dentists or dental hygienists shall report to the board any suspected violation of**
15 **this chapter or ORS 680.010 to 680.205 or any rule adopted by the board.**

16 **(d) Any person may report to the board any suspected violation of this chapter or ORS**
17 **680.010 to 680.205 or any rule adopted by the board, association or other organization repre-**
18 **senting dentists or dental hygienists.**

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

23 [(2)] **(3)** No person who has made a complaint as to the conduct of a licensee of the board or
24 who has given information or testimony relative to a proposed or pending proceeding for misconduct
25 against the licensee of the board, shall be answerable for any such act in any proceeding except for
26 perjury.

27 **SECTION 8.** Section 9 of this 2009 Act is added to and made a part of ORS 691.405 to
28 **691.585.**

29 **SECTION 9.** Unless state or federal laws relating to confidentiality or the protection of
30 **health information prohibit disclosure**, a licensed dietitian who has reasonable cause to be-
31 **lieve that a licensee of another board has engaged in prohibited conduct as defined in section**
32 **1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of**
33 **this 2009 Act.**

34 **SECTION 10.** Section 11 of this 2009 Act is added to and made a part of ORS 687.011 to
35 **687.250.**

36 **SECTION 11.** Unless state or federal laws relating to confidentiality or the protection of
37 **health information prohibit disclosure**, a massage therapist who has reasonable cause to be-
38 **lieve that a licensee of another board has engaged in prohibited conduct as defined in section**
39 **1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of**
40 **this 2009 Act.**

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

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

1 **tion 1 of this 2009 Act.**

2 **SECTION 14.** ORS 678.135 is amended to read:

3 678.135. (1) **Unless state or federal laws relating to confidentiality or the protection of**
4 **health information prohibit disclosure,** any health care facility licensed as required by ORS
5 441.015, **or** any person licensed by the Oregon State Board of Nursing, [*the Oregon Nurses Associ-*
6 *ation or any other organization representing registered or licensed practical nurses*] shall[, *and any*
7 *other person may,*] report to the board any suspected violation of ORS 678.010 to 678.410 [*or any rule*
8 *adopted pursuant thereto*] **or any rule adopted by the board.**

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

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

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

21 **SECTION 15.** ORS 678.725 is amended to read:

22 678.725. (1)(a) **Unless state or federal laws relating to confidentiality or the protection of**
23 **health information prohibit disclosure,** any health care facility licensed under ORS 441.015, any
24 licensee licensed by the Board of Examiners of Nursing Home Administrators of the State of Oregon,
25 any physician licensed by the Oregon Medical Board, any licensed professional nurse and any li-
26 censed pharmacist shall[, *and any other person may,*] report to the board suspected violations of ORS
27 678.710 to 678.840 and insanitary or other unsatisfactory conditions in a nursing home.

28 (b) **Unless state or federal laws relating to confidentiality or the protection of health in-**
29 **formation prohibit disclosure, a licensee licensed by the Board of Examiners of Nursing**
30 **Home Administrators of the State of Oregon who has reasonable cause to believe that a**
31 **licensee of another board has engaged in prohibited conduct as defined in section 1 of this**
32 **2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009**
33 **Act.**

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

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

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

41 **SECTION 16.** **Section 17 of this 2009 Act is added to and made a part of ORS 683.010 to**
42 **683.335.**

43 **SECTION 17.** **Unless state or federal laws relating to confidentiality or the protection of**
44 **health information prohibit disclosure, an optometrist who has reasonable cause to believe**
45 **that a licensee of another board has engaged in prohibited conduct as defined in section 1**

1 of this 2009 Act shall report the prohibited conduct in the manner provided in section 1 of
2 this 2009 Act.

3 **SECTION 18.** ORS 689.455 is amended to read:

4 689.455. (1) **Unless state or federal laws relating to confidentiality or the protection of**
5 **health information prohibit disclosure,** a pharmacist or pharmacy technician shall report *[to the*
6 *State Board of Pharmacy]:*

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

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

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

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

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

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

21 **SECTION 21.** ORS 688.605 is amended to read:

22 688.605. (1)(a) **Unless state or federal laws relating to confidentiality or the protection of**
23 **health information prohibit disclosure,** any radiologic technologist, **or** any person licensed by the
24 Board of Radiologic Technology, **shall** *[or any other organization representing radiologic technologists*
25 *shall, and any other person may,]* report to the board any suspected violation of ORS 688.405 to
26 688.605 *[or any rule adopted pursuant to ORS 688.555]* **or any rule adopted by the board.**

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

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

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

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

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

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

1 **SECTION 22.** Section 23 of this 2009 Act is added to and made a part of ORS 675.210 to
2 **675.340.**

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

8 **SECTION 24.** ORS 688.135 is amended to read:

9 688.135. (1) A physical therapist licensed under ORS 688.010 to 688.201 shall:

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

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

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

16 (2) Responsibility for patient care management shall include accurate documentation and billing
17 of the physical therapy services provided. Information relating to the physical therapist-patient re-
18 lationship is confidential and a physical therapist shall comply with the laws and rules governing
19 the use and disclosure of a patient's protected health information as provided in ORS 192.518 to
20 192.529.

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

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

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

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

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

38 [(8)] (7) A physical therapist may provide compensable services to an injured worker only as
39 authorized by ORS 656.250.

40 [(9)] (8) Nothing in ORS 688.010 to 688.201 shall prohibit a physical therapist licensed under
41 ORS 688.010 to 688.201 from accepting a referral from a veterinarian licensed under ORS chapter
42 686. The referral must be in writing and specify the treatment or therapy to be provided, pursuant
43 to ORS 686.040 (4). A physical therapist practicing under this subsection shall be held to the
44 standard of care for veterinarians set forth in ORS chapter 686.

45 **(9) Unless state or federal laws relating to confidentiality or the protection of health in-**

1 formation prohibit disclosure, a physical therapist who has reasonable cause to believe that
2 a licensee of another board has engaged in prohibited conduct as defined in section 1 of this
3 2009 Act shall report the prohibited conduct in the manner provided in section 1 of this 2009
4 Act.

5 **SECTION 25.** Section 26 of this 2009 Act is added to and made a part of ORS 675.010 to
6 675.150.

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

12 **SECTION 27.** Section 28 of this 2009 Act is added to and made a part of ORS 687.405 to
13 687.495.

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

19 **SECTION 29.** Section 30 of this 2009 Act is added to and made a part of ORS 688.800 to
20 688.840.

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

26 **SECTION 31.** ORS 682.220 is amended to read:

27 682.220. (1) The Department of Human Services may deny, suspend or revoke licenses for am-
28 bulances and ambulance services in accordance with the provisions of ORS chapter 183 for a failure
29 to comply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules
30 adopted thereunder.

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

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

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

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

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

39 (e) Practicing skills beyond the scope of practice established by the Oregon Medical Board un-
40 der ORS 682.245.

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

42 (g) The impersonation of another EMT.

43 (h) Unprofessional conduct.

44 (i) Obtaining a fee by fraud or misrepresentation.

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

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

3 (L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions
4 about the ability of the EMT to perform the duties of an EMT in accordance with the standards
5 established by this chapter. A copy of the record of conviction, certified to by the clerk of the court
6 entering the conviction, shall be conclusive evidence of the conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (8) In conducting an investigation under subsection (3) of this section, the department may:

13 (a) Take evidence;

14 (b) Take depositions of witnesses, including the person under investigation, in the manner pro-
15 vided by law in civil cases;

16 (c) Compel the appearance of witnesses, including the person under investigation, in the manner
17 provided by law in civil cases;

18 (d) Require answers to interrogatories; and

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

21 (9) The department may issue subpoenas to compel compliance with the provisions of subsection
22 (8) of this section. If any person fails to comply with a subpoena issued under this subsection, or
23 refuses to testify on matters on which the person may lawfully be interrogated, a court may compel
24 obedience as provided in ORS 183.440.

25 **SECTION 32. Sections 1, 6, 9, 11, 13, 17, 20, 23, 26, 28 and 30 of this 2009 Act and the**
26 **amendments to ORS 675.583, 678.135, 678.725, 679.310, 681.505, 682.220, 684.200, 688.135, 688.605**
27 **and 689.455 by sections 2, 3, 4, 7, 14, 15, 18, 21, 24 and 31 of this 2009 Act apply to prohibited**
28 **conduct as defined in section 1 of this 2009 Act that occurs on or after the effective date of**
29 **this 2009 Act.**

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