

HOUSE AMENDMENTS TO HOUSE BILL 2059

By COMMITTEE ON HEALTH CARE

April 8

1 On page 1 of the printed bill, line 3, after “675.583,” delete the rest of the line and line 4 and
2 insert “678.135, 678.725, 679.310, 681.505, 682.220, 684.200, 688.135, 688.605 and 689.455.”.

3 In line 26, delete “or”.

4 In line 27, delete the period and insert “; or

5 “(U) Department of Human Services, to the extent that the department certifies emergency
6 medical technicians.”.

7 Delete line 30.

8 On page 2, delete lines 1 through 9 and insert:

9 “(c) ‘Prohibited conduct’ means conduct by a licensee that:

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

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

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

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

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

30 “(5) A licensee who fails to report prohibited or unprofessional conduct as required by sub-
31 section (2) of this section or the licensee’s conviction or arrest as required by subsection (3) of this
32 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 sec-
34 tion commits a Class A violation.

35 “(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this

1 section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

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

5 “(9) The obligations imposed by this section are in addition to and not in lieu of other obli-
6 gations to report prohibited or unprofessional conduct provided by law.

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

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

12 In line 11, before “A” insert “Unless state or federal laws relating to confidentiality or the
13 protection of health information prohibit disclosure,”.

14 In line 12, delete “to the board”.

15 In line 13, after “conduct” insert “as defined in section 1 of this 2009 Act”.

16 Delete lines 19 through 34.

17 In line 35, delete “4” and insert “3”.

18 In line 36, after “(1)(a)” insert “Unless state or federal laws relating to confidentiality or the
19 protection of health information prohibit disclosure,”.

20 In line 37, delete “to the board”.

21 In line 38, after “conduct” insert “as defined in section 1 of this 2009 Act”.

22 Delete line 45.

23 On page 3, delete lines 1 through 15.

24 In line 16, delete “6” and insert “4”.

25 In line 17, after “(1)” insert “Unless state or federal laws relating to confidentiality or the pro-
26 tection of health information prohibit disclosure,”.

27 In lines 18 through 22, delete the boldfaced material.

28 After line 22, insert:

29 “(2) A licensed clinical social worker shall report any prohibited conduct as defined in section
30 1 of this 2009 Act in the manner provided in section 1 of this 2009 Act.”.

31 In line 23, delete “(2)” and insert “(3)”.

32 In line 25, delete “(3)” and insert “(4)”.

33 Delete lines 27 through 45.

34 On page 4, line 1, delete “8” and insert “5” and delete “9” and insert “6”.

35 In line 3, delete “9” and insert “6” and before the first “A” insert “Unless state or federal laws
36 relating to confidentiality or the protection of health information prohibit disclosure,”.

37 In line 4, delete “to the Oregon”.

38 In line 5, delete “Board of Licensed Professional Counselors and Therapists” and insert “as de-
39 fined in section 1 of this 2009 Act”.

40 Delete lines 7 through 45.

41 On page 5, delete lines 1 through 32.

42 In line 33, delete “11” and insert “7”.

43 In line 34, after “(1)(a)” insert “Unless state or federal laws relating to confidentiality or the
44 protection of health information prohibit disclosure,”.

45 In line 37, delete the boldfaced material.

1 In line 38, delete “in the manner provided in section 1 of this 2009 Act”.

2 After line 38, insert:

3 “(b) Unless state or federal laws relating to confidentiality or the protection of health informa-

4 tion prohibit disclosure, a dentist or dental hygienist, or any person licensed by the board, shall

5 report any prohibited conduct as defined in section 1 of this 2009 Act in the manner provided in

6 section 1 of this 2009 Act.”.

7 In line 39, delete “(b)” and insert “(c) Unless state or federal laws relating to confidentiality or

8 the protection of health information prohibit disclosure,”.

9 In line 41, after “board” insert a period and delete the rest of the line and delete line 42.

10 In line 43, delete “(c)” and insert “(d)”.

11 On page 6, delete lines 9 through 45.

12 On page 7, delete lines 1 through 38.

13 In line 39, delete “13” and insert “8” and delete “14” and insert “9”.

14 In line 41, delete “14” and insert “9” and before the first “A” insert “Unless state or federal

15 laws relating to confidentiality or the protection of health information prohibit disclosure,”.

16 In line 42, after the first “conduct” insert “as defined in section 1 of this 2009 Act” and delete

17 “to the”.

18 In line 43, delete “Board of Examiners of Licensed Dietitians”.

19 Delete line 45.

20 On page 8, delete lines 1 through 32.

21 In line 33, delete “16” and insert “10” and delete “17” and insert “11”.

22 In line 35, delete “17” and insert “11” and before the first “A” insert “Unless state or federal

23 laws relating to confidentiality or the protection of health information prohibit disclosure,”.

24 In line 36, after the first “conduct” insert “as defined in section 1 of this 2009 Act” and delete

25 “to”.

26 In line 37, delete “the State Board of Massage Therapists”.

27 Delete lines 38 through 45.

28 On page 9, delete lines 1 through 12 and insert:

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

30 **685.”.**

31 In line 13, delete “20” and insert “13” and before the first “A” insert “Unless state or federal

32 laws relating to confidentiality or the protection of health information prohibit disclosure,”.

33 In line 14, after “conduct” insert “as defined in section 1 of this 2009 Act”.

34 In line 15, delete “to the Board of Naturopathic Examiners”.

35 Delete lines 17 through 19.

36 In line 20, delete “22” and insert “14”.

37 In line 21, after “(1)” insert “Unless state or federal laws relating to confidentiality or the pro-

38 tection of health information prohibit disclosure,”.

39 In line 24, delete the boldfaced material.

40 In line 25, delete “prohibited conduct in the manner provided in section 1 of this 2009 Act”.

41 In line 27, after “(2)” insert “Unless state or federal laws relating to confidentiality or the pro-

42 tection of health information prohibit disclosure,”.

43 In line 29, after “board” insert a period and delete the rest of the line and delete line 30.

44 After line 33, insert:

45 “(4) Unless state or federal laws relating to confidentiality or the protection of health informa-

1 tion prohibit disclosure, a person licensed by the board who has reasonable cause to believe that a
2 licensee of another board has engaged in prohibited conduct as defined in section 1 of this 2009 Act
3 shall report the prohibited conduct in the manner provided in section 1 of this 2009 Act.”.

4 Delete lines 34 through 45 and delete page 10.

5 On page 11, delete lines 1 through 23.

6 In line 24, delete “24” and insert “15”.

7 In line 25, after “(1)(a)” insert “Unless state or federal laws relating to confidentiality or the
8 protection of health information prohibit disclosure,”.

9 In line 28, delete the comma.

10 In line 29, restore the bracketed material and after “home” delete the rest of the line and line
11 30 and insert “.

12 “(b) Unless state or federal laws relating to confidentiality or the protection of health informa-
13 tion prohibit disclosure, a licensee licensed by the Board of Examiners of Nursing Home Adminis-
14 trators of the State of Oregon who has reasonable cause to believe that a licensee of another board
15 has engaged in prohibited conduct as defined in section 1 of this 2009 Act shall report the prohibited
16 conduct in the manner provided in section 1 of this 2009 Act.”.

17 In line 31, delete “(b)” and insert “(c)”.

18 Delete lines 38 through 45.

19 On page 12, delete lines 1 through 30.

20 In line 31, delete “26” and insert “16” and delete “27” and insert “17”.

21 In line 33, delete “27” and insert “17” and before “An” insert “Unless state or federal laws re-
22 lating to confidentiality or the protection of health information prohibit disclosure,”.

23 In line 34, after “conduct” delete the rest of the line and insert “as defined in section 1 of this
24 2009 Act shall report the prohibited conduct”.

25 In line 35, delete “of Optometry”.

26 Delete lines 36 through 45.

27 On page 13, delete lines 1 through 29.

28 In line 30, delete “29” and insert “18”.

29 In line 31, before “A” insert “Unless state or federal laws relating to confidentiality or the
30 protection of health information prohibit disclosure,” and delete “to the State Board of Pharmacy”.

31 In line 33, after “475.980” insert “to the State Board of Pharmacy”.

32 In line 34, after “conduct” insert “as defined in section 1 of this 2009 Act”.

33 Delete lines 39 through 45 and delete pages 14 and 15.

34 On page 16, delete lines 1 through 18.

35 In line 19, delete “31” and insert “19” and delete “32” and insert “20”.

36 In line 20, delete “32” and insert “20” and before the first “A” insert “Unless state or federal
37 laws relating to confidentiality or the protection of health information prohibit disclosure,”.

38 In line 21, after “conduct” insert “as defined in section 1 of this 2009 Act”.

39 In line 22, delete “to the Oregon Medical Board”.

40 Delete lines 24 through 45.

41 On page 17, delete lines 1 through 32.

42 In line 33, delete “34” and insert “21”.

43 In line 34, after “(1)(a)” insert “Unless state or federal laws relating to confidentiality or the
44 protection of health information prohibit disclosure,”.

45 In line 37, delete the boldfaced material.

1 In line 38, delete “of this 2009 Act”.

2 After line 38, insert:

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

8 In line 39, delete “(b)” and insert “(c) Unless state or federal laws relating to confidentiality or
9 the protection of health information prohibit disclosure,”.

10 In line 42, delete “(c)” and insert “(d)”.

11 On page 18, delete lines 7 through 13 and insert:

12 **“SECTION 22. Section 23 of this 2009 Act is added to and made a part of ORS 675.210 to**
13 **675.340.”.**

14 In line 14, delete “38” and insert “23” and before “An” insert “Unless state or federal laws re-
15 lating to confidentiality or the protection of health information prohibit disclosure,”.

16 In line 15, after “conduct” delete the rest of the line.

17 In line 16, delete “Therapy Licensing Board” and insert “as defined in section 1 of this 2009
18 Act shall report the prohibited conduct”.

19 Delete lines 17 through 19.

20 In line 20, delete “40” and insert “24”.

21 On page 19, line 12, before the first “A” insert “Unless state or federal laws relating to
22 confidentiality or the protection of health information prohibit disclosure,”.

23 In line 13, after “conduct” delete the rest of the line and insert “as defined in section 1 of this
24 2009 Act shall report the prohibited conduct”.

25 Delete lines 15 through 45.

26 On page 20, delete lines 1 through 28 and insert:

27 **“SECTION 25. Section 26 of this 2009 Act is added to and made a part of ORS 675.010 to**
28 **675.150.”.**

29 In line 29, delete “43” and insert “26” and before the first “A” insert “Unless state or federal
30 laws relating to confidentiality or the protection of health information prohibit disclosure,”.

31 In line 30, after “conduct” delete the rest of the line.

32 In line 31, delete “chologist Examiners” and insert “as defined in section 1 of this 2009 Act shall
33 report the prohibited conduct”.

34 Delete lines 32 through 36 and insert:

35 **“SECTION 27. Section 28 of this 2009 Act is added to and made a part of ORS 687.405 to**
36 **687.495.”.**

37 In line 37, delete “46” and insert “28” and before “A” insert “Unless state or federal laws re-
38 lating to confidentiality or the protection of health information prohibit disclosure,”.

39 In line 38, after “conduct” delete the rest of the line.

40 In line 39, delete “of Direct Entry Midwifery” and insert “as defined in section 1 of this 2009
41 Act shall report the prohibited conduct”.

42 Delete lines 40 through 44 and insert:

43 **“SECTION 29. Section 30 of this 2009 Act is added to and made a part of ORS 688.800 to**
44 **688.840.”.**

45 In line 45, delete “49” and insert “30” and before the first “A” insert “Unless state or federal

1 laws relating to confidentiality or the protection of health information prohibit disclosure.”

2 On page 21, line 1, after “conduct” delete the rest of the line.

3 In line 2, delete “Therapist Licensing Board” and insert “as defined in section 1 of this 2009
4 Act shall report the prohibited conduct”.

5 Delete lines 3 through 11 and insert:

6 “**SECTION 31.** ORS 682.220 is amended to read:

7 “682.220. (1) The Department of Human Services may deny, suspend or revoke licenses for am-
8 bulances and ambulance services in accordance with the provisions of ORS chapter 183 for a failure
9 to comply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules
10 adopted thereunder.

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

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

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

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

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

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

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

22 “(g) The impersonation of another EMT.

23 “(h) Unprofessional conduct.

24 “(i) Obtaining a fee by fraud or misrepresentation.

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

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

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

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

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

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

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

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

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

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

44 “(3) The department may investigate any evidence that appears to show that an EMT certified
45 by the department is or may be medically incompetent, guilty of unprofessional or dishonorable

1 conduct or mentally or physically unable to safely function as an EMT. The department may inves-
2 tigate the off-duty conduct of an EMT to the extent that such conduct may reasonably raise
3 questions about the ability of the EMT to perform the duties of an EMT in accordance with the
4 standards established by this chapter. Upon receipt of a complaint about an EMT or applicant, the
5 department shall conduct an investigation as described under ORS 676.165. An investigation shall
6 be conducted in accordance with ORS 676.175.

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

14 **“(b) Unless state or federal laws relating to confidentiality or the protection of health**
15 **information prohibit disclosure, an EMT certified under this chapter 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 “(5) If, in the opinion of the department, it appears that the information provided to it under
20 provisions of this section is or may be true, the department may request an interview with the EMT.
21 At the time the department requests an interview, the EMT shall be provided with a general state-
22 ment of the issue or issues of concern to the department. The request shall include a statement of
23 the procedural safeguards available to the EMT, including the right to end the interview on request,
24 the right to have counsel present and the following statement: ‘Any action proposed by the Depart-
25 ment of Human Services shall provide for a contested case hearing.’

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

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

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

38 “(a) Take evidence;

39 “(b) Take depositions of witnesses, including the person under investigation, in the manner
40 provided by law in civil cases;

41 “(c) Compel the appearance of witnesses, including the person under investigation, in the man-
42 ner provided by law in civil cases;

43 “(d) Require answers to interrogatories; and

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

1 “(9) The department may issue subpoenas to compel compliance with the provisions of sub-
2 section (8) of this section. If any person fails to comply with a subpoena issued under this sub-
3 section, or refuses to testify on matters on which the person may lawfully be interrogated, a court
4 may compel obedience as provided in ORS 183.440.

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

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