

# House Bill 2347

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

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits health professional regulatory board, Department of Human Services, Oregon Health Licensing Agency or board, advisory council or program overseen by Oregon Health Licensing Agency from assessing costs or attorney fees for disciplinary proceedings.

Applies to disciplinary proceedings commenced on or after effective date of Act.

## A BILL FOR AN ACT

1  
2 Relating to disciplinary proceedings of regulated health occupations; creating new provisions; and  
3 amending ORS 675.595, 675.745, 676.992, 677.205, 677.265, 679.140, 681.350, 682.224, 683.140,  
4 684.100, 684.155, 686.150, 687.081, 688.140 and 688.660.

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

6 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 676.165 to**  
7 **676.180.**

8 **SECTION 2. (1) A health professional regulatory board may not assess a licensee any**  
9 **attorney fees, investigation costs, hearing costs or any other costs associated with an in-**  
10 **vestigation or disciplinary proceeding.**

11 **(2) For purposes of this section, "licensee" includes any individual who acquires or who**  
12 **is required by law to acquire a license, as defined in ORS 183.310, for any profession or ac-**  
13 **tivity regulated by a health professional regulatory board.**

14 **SECTION 3. Section 4 of this 2009 Act is added to and made a part of ORS 676.605 to**  
15 **676.625.**

16 **SECTION 4. (1) The Oregon Health Licensing Agency or any board, advisory council or**  
17 **program listed in ORS 676.606 may not assess a licensee any attorney fees, investigation**  
18 **costs, hearing costs or any other costs associated with an investigation or disciplinary pro-**  
19 **ceeding.**

20 **(2) For purposes of this section, "licensee" includes any individual who acquires or who**  
21 **is required by law to acquire a license, as defined in ORS 183.310, for any profession or ac-**  
22 **tivity regulated by a board, advisory council or program listed in ORS 676.606.**

23 **SECTION 5. Section 6 of this 2009 Act is added to and made a part of ORS chapter 682.**

24 **SECTION 6. The Department of Human Services may not assess an ambulance service**  
25 **or any person certified as an emergency medical technician or first responder under ORS**  
26 **682.216 any attorney fees, investigation costs, hearing costs or any other costs associated**  
27 **with an investigation or disciplinary proceeding.**

28 **SECTION 7. Section 8 of this 2009 Act is added to and made a part of ORS 688.625 to**  
29 **688.665.**

30 **SECTION 8. The Department of Human Services may not assess an ambulance service**

**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 **or any person certified as a hemodialysis technician under 688.650 any attorney fees, inves-**  
 2 **tigation costs, hearing costs or any other costs associated with an investigation or discipli-**  
 3 **nary proceeding.**

4 **SECTION 9.** ORS 675.595 is amended to read:

5 675.595. In addition to the powers otherwise granted under ORS 675.510 to 675.600, the State  
 6 Board of Clinical Social Workers shall have the following powers:

7 (1) To determine the qualifications of applicants to practice clinical social work in this state.

8 (2) To cause to have examinations prepared, conducted and graded.

9 (3) To grant certificates or licenses to qualified applicants upon their compliance with the pro-  
 10 visions of ORS 675.510 to 675.600 and the rules of the board.

11 (4) To grant or deny annual renewal of certificates or licenses and to renew certificates and li-  
 12 censes that have lapsed for nonpayment of the renewal fee, subject to the provisions of ORS 675.510  
 13 to 675.600.

14 (5) To suspend or revoke certificates or licenses, subject to ORS 675.510 to 675.600.

15 (6) To issue letters of reprimand or to impose probationary periods with the authority to restrict  
 16 the scope of practice of a licensed clinical social worker or clinical social work associate.

17 (7) To require that a licensee practice under supervision.

18 (8) To require that a licensee obtain additional training in social work.

19 (9) To require that a licensee undergo psychological, physical or psychiatric assessment, enter  
 20 into and remain in any prescribed treatment program and disclose the results of the treatment pro-  
 21 gram to the board.

22 (10) To impose civil penalties not to exceed \$1,000.

23 (11) To restore certificates or licenses that have been suspended, revoked or voided by nonpay-  
 24 ment of the renewal fee.

25 (12)(a) To collect annual fees for application, examination and certification or licensing of ap-  
 26 plicants, for renewal of certificates and licenses, and for issuance of limited certificates, such fees  
 27 to be used to defray the expenses of the board as provided in ORS 675.571; and

28 (b) To collect delinquent renewal fees as provided in ORS 675.571 (4).

29 (13) To investigate alleged violations of ORS 675.510 to 675.600.

30 (14) To issue subpoenas for the attendance of witnesses, take testimony, administer oaths or af-  
 31 firmations to witnesses, conduct hearings and require the production of relevant documents in all  
 32 proceedings pertaining to the duties and powers of the board.

33 (15) To enforce ORS 675.510 to 675.600 and exercise general supervision over the practice of  
 34 clinical social work in this state.

35 (16) To adopt a common seal.

36 (17) To formulate and enforce a code of professional conduct for the practice of clinical social  
 37 work giving particular consideration to the code of ethics.

38 (18) To formulate and enforce continuing education requirements for licensed clinical social  
 39 workers to ensure the highest quality of professional services to the public.

40 (19) To take such other disciplinary action as the board in its discretion finds proper[, *including*  
 41 *but not limited to assessment of the costs of the disciplinary process*].

42 (20) For the purpose of requesting a state or nationwide criminal records check under ORS  
 43 181.534, to require the fingerprints of a person who is:

44 (a) Applying for a license or certificate that is issued by the board;

45 (b) Applying for renewal of a license or certificate that is issued by the board; or

1 (c) Under investigation by the board.

2 **SECTION 10.** ORS 675.745 is amended to read:

3 675.745. (1) The Oregon Board of Licensed Professional Counselors and Therapists may deny,  
4 suspend, revoke or refuse to issue or to renew any license issued under ORS 675.715 to 675.835 upon  
5 proof that the applicant for licensure or the licensee:

6 (a) Has been convicted of violating ORS 675.825 or of a crime in this or any other state or ter-  
7 ritory or against the federal government that brings into question the competence of the licensee  
8 in the role of a counselor or a therapist;

9 (b) Is unable to perform the practice of professional counseling or marriage and family therapy  
10 by reason of mental illness, physical illness, drug addiction or alcohol abuse;

11 (c) Has been grossly negligent in the practice of professional counseling or marriage and family  
12 therapy;

13 (d) Has violated one or more of the rules of the board pertaining to the licensure of professional  
14 counselors or licensed marriage and family therapists;

15 (e) Has failed to file a professional disclosure statement or has filed a false, incomplete or mis-  
16 leading professional disclosure statement;

17 (f) Has practiced outside the scope of activities, including administering, constructing or inter-  
18 preting tests, for which the licensee has individual training and qualification; or

19 (g) Has been disciplined by a state mental health licensing board or program in this or any other  
20 state for violation of competency or conduct standards.

21 (2)(a) The board may reprimand or impose probation on a licensee or an intern registered under  
22 ORS 675.720 upon proof of any of the grounds for discipline provided in subsection (1) of this section.

23 (b) If the board elects to place a licensee or a registered intern on probation, the board may  
24 impose:

25 (A) Restrictions on the scope of practice of the licensee or intern;

26 (B) Requirements for specific training;

27 (C) Supervision of the practice of the licensee or intern; or

28 (D) Other conditions the board finds necessary for the protection of the public.

29 (3) The board may initiate action against persons violating any provision of ORS 675.715 to  
30 675.835 or any rules adopted by the board.

31 (4) Pursuant to ORS 183.745, the board may impose a civil penalty of not more than \$1,000 for  
32 each violation of subsection (1) or (2) of this section.

33 (5) Information that the board obtains as part of an investigation into licensee or applicant  
34 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving  
35 licensee or applicant conduct is confidential as provided under ORS 676.175.

36 (6) In addition to the actions authorized by subsections (1) and (2) of this section, the board may  
37 take such disciplinary action as the board in its discretion finds proper[, *including but not limited*  
38 *to the assessment of the costs of the disciplinary process*].

39 **SECTION 11.** ORS 676.992 is amended to read:

40 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other  
41 penalty or remedy provided by law, the Oregon Health Licensing Agency may impose a civil penalty  
42 not to exceed \$5,000 for each violation of the following statutes and any rule adopted thereunder:

43 (a) ORS 688.701 to 688.734 (athletic training);

44 (b) ORS 690.500 to 690.570 (body piercing);

45 (c) ORS 690.005 to 690.235 (cosmetology);

- 1 (d) ORS 680.500 to 680.570 (denture technology);
- 2 (e) ORS 687.405 to 687.495 (direct entry midwifery);
- 3 (f) ORS 690.350 to 690.430 (electrology and permanent coloring or tattooing);
- 4 (g) ORS 694.015 to 694.185 (dealing in hearing aids);
- 5 (h) ORS 688.800 to 688.840 (respiratory therapy);
- 6 (i) ORS chapter 700 (environmental sanitation);
- 7 (j) ORS 676.617 (single facility licensure); and
- 8 (k) ORS 675.360 to 675.410 (sex offender treatment).

9 (2) The agency may take any other disciplinary action that it finds proper[, *including but not*  
10 *limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000,*] for violation of any  
11 statute or rule adopted under any statute listed in subsection (1) of this section.

12 (3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a  
13 violation of ORS 694.042.

14 (4) In imposing a civil penalty pursuant to this section, the agency shall consider the following  
15 factors:

- 16 (a) The immediacy and extent to which the violation threatens the public health or safety;
- 17 (b) Any prior violations of statutes, rules or orders;
- 18 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-  
19 lation; and
- 20 (d) Any other aggravating or mitigating factors.

21 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

22 (6) The moneys received by the agency from civil penalties under this section shall be paid into  
23 the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Ac-  
24 count established under ORS 676.625. Such moneys are continuously appropriated to the agency for  
25 the administration and enforcement of the laws the agency is charged with administering and en-  
26 forcing that govern the person against whom the penalty was imposed.

27 **SECTION 12.** ORS 677.205 is amended to read:

28 677.205. (1) The Oregon Medical Board may discipline as provided in this section any person  
29 licensed, registered or certified under this chapter who has:

30 (a) Admitted the facts of a complaint filed in accordance with ORS 677.200 (1) alleging facts  
31 which establish that such person is in violation of one or more of the grounds for suspension or  
32 revocation of a license as set forth in ORS 677.190;

33 (b) Been found to be in violation of one or more of the grounds for disciplinary action of a  
34 licensee as set forth in this chapter;

35 (c) Had an automatic license suspension as provided in ORS 677.225; or

36 (d) Failed to make a report as required under ORS 677.415.

37 (2) In disciplining a licensee as authorized by subsection (1) of this section, the board may use  
38 any or all of the following methods:

39 (a) Suspend judgment.

40 (b) Place the licensee on probation.

41 (c) Suspend the license.

42 (d) Revoke the license.

43 (e) Place limitations on the license.

44 (f) Take such other disciplinary action as the board in its discretion finds proper, including  
45 [*assessment of the costs of the disciplinary proceedings as a civil penalty or*] assessment of a civil

1 penalty not to exceed \$10,000[, or both].

2 (3) In addition to the action authorized by subsection (2) of this section, the board may tempo-  
 3 rarily suspend a license without a hearing, simultaneously with the commencement of proceedings  
 4 under ORS 677.200 if the board finds that evidence in its possession indicates that a continuation  
 5 in practice of the licensee constitutes an immediate danger to the public.

6 (4) If the board places any licensee on probation as set forth in subsection (2)(b) of this section,  
 7 the board may determine, and may at any time modify, the conditions of the probation and may in-  
 8 clude among them any reasonable condition for the purpose of protection of the public or for the  
 9 purpose of the rehabilitation of the probationer, or both. Upon expiration of the term of probation,  
 10 further proceedings shall be abated if the licensee has complied with the terms of the probation.

11 (5) If a license issued under this chapter is suspended, the holder of the license may not practice  
 12 during the term of suspension. Upon the expiration of the term of suspension, the license shall be  
 13 reinstated by the board if the conditions for which the license was suspended no longer exist.

14 (6) The board shall enter each case of disciplinary action on its records.

15 (7) Civil penalties under this section shall be imposed as provided in ORS 183.745.

16 **SECTION 13.** ORS 677.265 is amended to read:

17 677.265. In addition to any other powers granted by this chapter, the Oregon Medical Board  
 18 may:

19 (1) Adopt necessary and proper rules for administration of this chapter including but not limited  
 20 to:

21 (a) Establishing fees and charges to carry out its legal responsibilities, subject to prior approval  
 22 by the Oregon Department of Administrative Services and a report to the Emergency Board prior  
 23 to adopting the fees and charges. The fees and charges shall be within the budget authorized by the  
 24 Legislative Assembly as that budget may be modified by the Emergency Board. The fees and charges  
 25 established under this section may not exceed the cost of administering the program or the purpose  
 26 for which the fee or charge is established, as authorized by the Legislative Assembly for the Oregon  
 27 Medical Board's budget, or as modified by the Emergency Board or future sessions of the Legislative  
 28 Assembly.

29 (b) Establishing standards and tests to determine the moral, intellectual, educational, scientific,  
 30 technical and professional qualifications required of applicants for licenses under this chapter.

31 (c) Enforcing the provisions of this chapter and exercising general supervision over the practice  
 32 of medicine and podiatry within this state. In determining whether to discipline a licensee for a  
 33 standard of care violation, the Oregon Medical Board shall determine whether the licensee used that  
 34 degree of care, skill and diligence that is used by ordinarily careful physicians or podiatric physi-  
 35 cians and surgeons in the same or similar circumstances in the community of the physician or  
 36 podiatric physician and surgeon or a similar community.

37 (2) Issue, deny, suspend and revoke licenses and limited licenses, assess [*costs of proceedings*  
 38 *and*] fines and place licensees on probation as provided in this chapter.

39 (3) Use the gratuitous services and facilities of private organizations to receive the assistance  
 40 and recommendations of the organizations in administering this chapter.

41 (4) Make its personnel and facilities available to other regulatory agencies of this state, or other  
 42 bodies interested in the development and improvement of the practice of medicine or podiatry in this  
 43 state, upon terms and conditions for reimbursement as are agreed to by the Oregon Medical Board  
 44 and the other agency or body.

45 (5) Appoint examiners, who need not be members of the Oregon Medical Board, and employ or

1 contract with the American Public Health Association or the National Board of Medical Examiners  
 2 or other organizations, agencies and persons to prepare examination questions and score examina-  
 3 tion papers.

4 (6) Determine the schools, colleges, universities, institutions and training acceptable in con-  
 5 nection with licensing under this chapter. All residency, internship and other training programs  
 6 carried on in this state by any hospital, institution or medical facility shall be subject to approval  
 7 by the Oregon Medical Board. The board shall accept the approval by the American Osteopathic  
 8 Association or the American Medical Association in lieu of approval by the board.

9 (7) Prescribe the time, place, method, manner, scope and subjects of examinations under this  
 10 chapter.

11 (8) Prescribe all forms that it considers appropriate for the purposes of this chapter, and require  
 12 the submission of photographs and relevant personal history data by applicants for licensure under  
 13 this chapter.

14 (9) For the purpose of requesting a state or nationwide criminal records check under ORS  
 15 181.534, require the fingerprints of a person who is:

- 16 (a) Applying for a license that is issued by the board;
- 17 (b) Applying for renewal of a license that is issued by the board; or
- 18 (c) Under investigation by the board.

19 (10) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas  
 20 in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are rea-  
 21 sonably necessary to carry out its duties under this chapter.

22 **SECTION 14.** ORS 679.140 is amended to read:

23 679.140. (1) The Oregon Board of Dentistry may discipline as provided in this section any person  
 24 licensed to practice dentistry in this state for any of the following causes:

25 (a) Conviction of any violation of the law for which the court could impose a punishment if the  
 26 board makes the finding required by ORS 670.280. The record of conviction or a certified copy  
 27 thereof, certified by the clerk of the court or by the judge in whose court the conviction is entered,  
 28 is conclusive evidence of the conviction.

29 (b) Renting or lending a license or diploma of the dentist to be used as the license or diploma  
 30 of another person.

31 (c) Unprofessional conduct.

32 (d) Any violation of this chapter or ORS 680.010 to 680.205, of rules adopted pursuant to this  
 33 chapter or ORS 680.010 to 680.205 or of an order issued by the board.

34 (e) Engaging in or permitting the performance of unacceptable patient care by the dentist or by  
 35 any person working under the supervision of the dentist due to a deliberate or negligent act or  
 36 failure to act by the dentist, regardless of whether actual injury to the patient is established.

37 (f) Incapacity to practice safely.

38 (2) "Unprofessional conduct" as used in this chapter includes but is not limited to the following:

39 (a) Obtaining any fee by fraud or misrepresentation.

40 (b) Willfully betraying confidences involved in the patient-dentist relationship.

41 (c) Employing, aiding, abetting or permitting any unlicensed personnel to practice dentistry or  
 42 dental hygiene.

43 (d) Making use of any advertising statements of a character tending to deceive or mislead the  
 44 public or that are untruthful.

45 (e) Addiction, dependency upon or self-abuse of alcohol or other drugs.

1 (f) Obtaining or attempting to obtain a controlled substance in any manner proscribed by the  
2 rules of the board.

3 (g) Prescribing or dispensing drugs outside the scope of the practice of dentistry or in a manner  
4 that impairs the health and safety of an individual.

5 (h) Disciplinary action by a state licensing or regulatory agency of this or another state re-  
6 garding a license to practice dentistry, dental hygiene or any other health care profession when, in  
7 the judgment of the board, the act or conduct resulting in the disciplinary action bears a demon-  
8 strable relationship to the ability of the licensee or applicant to practice dentistry or dental hygiene  
9 in accordance with the provisions of this chapter. A certified copy of the record of the disciplinary  
10 action is conclusive evidence of the disciplinary action.

11 (3) The proceedings under this section may be taken by the board from the matters within its  
12 knowledge or may be taken upon the information of another, but if the informant is a member of the  
13 board, the other members of the board shall constitute the board for the purpose of finding judgment  
14 of the accused.

15 (4) In determining what constitutes unacceptable patient care, the board may take into account  
16 all relevant factors and practices, including but not limited to the practices generally and currently  
17 followed and accepted by persons licensed to practice dentistry in this state, the current teachings  
18 at accredited dental schools, relevant technical reports published in recognized dental journals and  
19 the desirability of reasonable experimentation in the furtherance of the dental arts.

20 (5) In disciplining a person as authorized by subsection (1) of this section, the board may use  
21 any or all of the following methods:

22 (a) Suspend judgment.

23 (b) Place a licensee on probation.

24 (c) Suspend a license to practice dentistry in this state.

25 (d) Revoke a license to practice dentistry in this state.

26 (e) Place limitations on a license to practice dentistry in this state.

27 (f) Refuse to renew a license to practice dentistry in this state.

28 (g) Accept the resignation of a licensee to practice dentistry in this state.

29 (h) Assess a civil penalty.

30 (i) Reprimand a licensee.

31 (j) Impose any other disciplinary action the board in its discretion finds proper[, *including as-*  
32 *essment of the costs of the disciplinary proceedings as a civil penalty*].

33 (6) If the board places any person upon probation as set forth in subsection (5)(b) of this section,  
34 the board may determine and may at any time modify the conditions of the probation and may in-  
35 clude among them any reasonable condition for the purpose of protection of the public and for the  
36 purpose of the rehabilitation of the probationer or both. Upon expiration of the term of probation,  
37 further proceedings shall be abated by the board if the person holding the license furnishes the  
38 board with evidence that the person is competent to practice dentistry and has complied with the  
39 terms of probation. If the evidence fails to establish competence to the satisfaction of the board or  
40 if the evidence shows failure to comply with the terms of the probation, the board may revoke or  
41 suspend the license.

42 (7) If a license to practice dentistry in this state is suspended, the person holding the license  
43 may not practice during the term of suspension. Upon the expiration of the term of suspension, the  
44 license shall be reinstated by the board if the board finds, based upon evidence furnished by the  
45 person, that the person is competent to practice dentistry and has not practiced dentistry in this

1 state during the term of suspension. If the evidence fails to establish to the satisfaction of the board  
2 that the person is competent or if any evidence shows the person has practiced dentistry in this  
3 state during the term of suspension, the board may revoke the license after notice and hearing.

4 (8) Upon receipt of a complaint under this chapter or ORS 680.010 to 680.205, the board shall  
5 conduct an investigation as described under ORS 676.165.

6 (9) Information that the board obtains as part of an investigation into licensee or applicant  
7 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving  
8 licensee or applicant conduct is confidential as provided under ORS 676.175. Notwithstanding ORS  
9 676.165 to 676.180, the board may disclose confidential information regarding a licensee or an ap-  
10 plicant to persons who may evaluate or treat the licensee or applicant for drug abuse, alcohol abuse  
11 or any other health related conditions.

12 (10) The board may impose against any person who violates the provisions of this chapter or  
13 ORS 680.010 to 680.205 or rules of the board a civil penalty of up to \$5,000 for each violation. Any  
14 civil penalty imposed under this section shall be imposed in the manner provided in ORS 183.745.

15 (11) Notwithstanding the expiration, suspension, revocation or surrender of the license, or the  
16 resignation or retirement of the licensee, the board may:

17 (a) Proceed with any investigation of, or any action or disciplinary proceedings against, the  
18 dentist or dental hygienist; or

19 (b) Revise or render void an order suspending or revoking the license.

20 (12)(a) The board may continue with any proceeding or investigation for a period not to exceed  
21 four years from the date of the expiration, suspension, revocation or surrender of the license, or the  
22 resignation or retirement of the licensee; or

23 (b) If the board receives a complaint or initiates an investigation within that four-year period,  
24 the board's jurisdiction continues until the matter is concluded by a final order of the board fol-  
25 lowing any appeal.

26 (13) Withdrawing the application for license does not close any investigation, action or pro-  
27 ceeding against an applicant.

28 **SECTION 15.** ORS 681.350 is amended to read:

29 681.350. (1) The State Board of Examiners for Speech-Language Pathology and Audiology may  
30 refuse to issue or renew any license or conditional license, may suspend or revoke any license or  
31 conditional license, may reprimand any licensee or conditional licensee or may place any licensee  
32 or conditional licensee on probation if the applicant, licensee or conditional licensee has:

33 (a) Obtained or attempted to obtain a license or conditional license by means of fraud, misrep-  
34 resentation, or concealment of material facts.

35 (b) Violated any ethical standards of practice established under ORS 681.420.

36 (c) Violated any lawful order or rule of the board.

37 (d) Violated any provisions of this chapter.

38 (e) Been disciplined by a professional licensing board in another state or in this state.

39 (2) An applicant, a licensee or a conditional licensee is entitled to an opportunity for a hearing  
40 that complies with all applicable requirements of ORS chapter 183 before the board takes final  
41 action under subsection (1) of this section.

42 (3) A person whose license has been revoked or whose application for a license has been denied  
43 may apply for reinstatement or licensure only under conditions, if any, set forth in the board's final  
44 order of revocation or denial of license.

45 (4) In disciplining a licensee or a conditional licensee, the board may impose any disciplinary



1 action the board finds proper[, *including assessment of costs of the disciplinary proceedings as a civil*  
 2 *penalty*].

3 **SECTION 16.** ORS 682.224 is amended to read:

4 682.224. (1) The Department of Human Services may discipline, as provided in this section, an  
 5 ambulance service or any person certified as an emergency medical technician or first responder in  
 6 this state who has:

7 (a) Admitted the facts of a complaint which alleges facts which establish that such person is  
 8 guilty of violation of one or more of the grounds for suspension or revocation of a certificate as set  
 9 forth in ORS 682.220 or that an ambulance service has violated the provisions of this chapter or the  
 10 rules adopted thereunder.

11 (b) Been found guilty in accordance with ORS chapter 183 of violation of one or more of the  
 12 grounds for suspension or revocation of certification as set forth in ORS 682.220 or that an ambu-  
 13 lance service has violated the provisions of this chapter or the rules adopted thereunder.

14 (2) The purpose of disciplining an EMT under this section is to ensure that the EMT will pro-  
 15 vide services that are consistent with the obligations of this chapter. Prior to taking final discipli-  
 16 nary action, the department shall determine if the EMT has been disciplined for the questioned  
 17 conduct by the EMT's employer or supervising physician. The department shall consider any such  
 18 discipline or any other corrective action in deciding whether additional discipline or corrective  
 19 action by the department is appropriate.

20 (3) In disciplining an EMT or ambulance service as authorized by subsection (1) of this section,  
 21 the department may use any or all of the following methods:

22 (a) Suspend judgment.

23 (b) Issue a letter of reprimand.

24 (c) Issue a letter of instruction.

25 (d) Place the EMT or ambulance service on probation.

26 (e) Suspend the EMT certificate or ambulance service license.

27 (f) Revoke the EMT certificate or ambulance service license.

28 (g) Place limitations on the certificate of the EMT to practice emergency or nonemergency care  
 29 in this state or place limitations on the license of the ambulance service.

30 (h) Take such other disciplinary action as the department in its discretion finds proper, includ-  
 31 ing [*assessment of the costs of the disciplinary proceedings as a civil penalty or*] assessment of a civil  
 32 penalty not to exceed \$5,000[, *or both*].

33 (4) In addition to the action authorized by subsection (3) of this section, the department may  
 34 temporarily suspend a certificate or license without a hearing, simultaneously with the commence-  
 35 ment of proceedings under ORS chapter 183 if the department finds that evidence in its possession  
 36 indicates that a continuation in practice of the EMT or operation of the ambulance service consti-  
 37 tutes an immediate danger to the public.

38 (5) If the department places any EMT or ambulance service on probation as set forth in sub-  
 39 section (3)(d) of this section, the department may determine, and may at any time modify, the con-  
 40 ditions of the probation and may include among them any reasonable condition for the purpose of  
 41 protection of the public and for the purpose of the rehabilitation of the EMT or ambulance service,  
 42 or both. Upon expiration of the term of probation, further proceedings shall be abated if the EMT  
 43 or ambulance service has complied with the terms of the probation.

44 (6) If an EMT certified in this state is suspended, the holder of the certificate may not practice  
 45 during the term of suspension.

1 (7) If an ambulance service licensed in this state is suspended, the ambulance service may not  
2 operate in this state during the term of the suspension, provided that the department shall condition  
3 such suspension upon such arrangements as may be necessary to assure the continued availability  
4 of ambulance service in the area served by that ambulance service. Upon expiration of the term of  
5 suspension, the certificate or license shall be reinstated by the department if the conditions for  
6 which the certificate or license was suspended no longer exist.

7 (8) Whenever an EMT certificate or ambulance service license is denied or revoked for any  
8 cause, the department may, in its discretion, after the lapse of two years from the date of such re-  
9 vocation, upon written application by the person formerly certified or licensed and after a hearing,  
10 issue or restore the EMT certificate or ambulance service license.

11 (9) Civil penalties under this section shall be imposed as provided in ORS 183.745.

12 **SECTION 17.** ORS 683.140 is amended to read:

13 683.140. (1) The Oregon Board of Optometry may discipline as provided in this section any  
14 optometrist or person, where appropriate, for the following causes:

15 (a) Conviction of a felony or misdemeanor where such an offense bears a demonstrable re-  
16 lationship to the duties of an optometrist. The record of conviction, or a certified copy thereof cer-  
17 tified by the clerk of the court or by the judge in whose court the conviction is had, shall be  
18 conclusive evidence of such conviction.

19 (b) Securing a license by practicing fraud or deceit upon the board.

20 (c) Unprofessional conduct, or for gross ignorance or inefficiency in the profession.

21 (d) Obtaining any fee by fraud or misrepresentation.

22 (e) Employing directly or indirectly any suspended or unlicensed optometrist to perform any  
23 work covered by ORS 683.010 to 683.335.

24 (f) Advertising optometric services or treatment or advice in which untruthful, improbable, mis-  
25 leading or deceitful statements are made.

26 (g) Habitual or excessive use of intoxicants, drugs or controlled substances.

27 (h) Permitting another person to use the optometrist's license.

28 (i) Using advertisements that do not indicate that a licensed optometrist is practicing at the  
29 advertised location or locations or advertising optometric services without having a licensed  
30 optometrist at the location or locations.

31 (j) Advertising professional methods or professional superiority.

32 (k) Failing to comply with the requirements for continuing education.

33 (L) Violating the federal Controlled Substances Act.

34 (m) Prescribing controlled substances without a legitimate optometric purpose, or without fol-  
35 lowing accepted procedures for examination of patients or for record keeping.

36 (n) Failing to report to the board any adverse action taken against the optometrist or person  
37 by another licensing jurisdiction, health regulatory board, peer review body, health care institution,  
38 professional optometric society or association, governmental agency, law enforcement agency or  
39 court for acts similar to conduct that would constitute grounds for disciplinary action as described  
40 in this section.

41 (o) Having been disciplined by any health regulatory board of another state based on acts sim-  
42 ilar to acts described in this section. A certified copy of the record of disciplinary action of the  
43 health regulatory board taking the disciplinary action is considered conclusive evidence of the  
44 action.

45 (p) Any violation of the provisions of ORS 683.010 to 683.335.

1 (2) When disciplining an optometrist or other person as authorized by subsection (1) of this  
 2 section, the Oregon Board of Optometry may do any or all of the following:

- 3 (a) Deny an initial license;
- 4 (b) Revoke, suspend or refuse to renew a license;
- 5 (c) Place the optometrist on probation;
- 6 (d) Impose limitations on the optometrist; or
- 7 (e) Take other disciplinary action as the board in its discretion finds proper, including [*the as-*  
 8 *essment of the costs of the disciplinary proceedings as a civil penalty or*] assessment of a civil penalty  
 9 not to exceed \$10,000 for each violation[, *or both*].

10 **SECTION 18.** ORS 684.100 is amended to read:

11 684.100. (1) The State Board of Chiropractic Examiners may refuse to grant a license to any  
 12 applicant or may discipline a person upon any of the following grounds:

- 13 (a) Fraud or misrepresentation.
- 14 (b) The practice of chiropractic under a false or assumed name.
- 15 (c) The impersonation of another practitioner of like or different name.
- 16 (d) A conviction of a felony or misdemeanor involving moral turpitude. A copy of the record of  
 17 conviction, certified to by the clerk of the court entering the conviction, is conclusive evidence of  
 18 the conviction.
- 19 (e) Commitment to a mental institution. A copy of the record of commitment, certified to by the  
 20 clerk of the court entering the commitment, is conclusive evidence of the commitment.
- 21 (f) Habitual intemperance in the use of intoxicants or controlled substances to such an extent  
 22 as to incapacitate the person from the performance of professional duties.
- 23 (g) Unprofessional or dishonorable conduct, including but not limited to:
  - 24 (A) Any conduct or practice contrary to recognized standard of ethics of the chiropractic pro-  
 25 fession or any conduct or practice that does or might constitute a danger to the health or safety  
 26 of a patient or the public or any conduct, practice or condition that does or might impair a physi-  
 27 cian's ability safely and skillfully to practice chiropractic.
  - 28 (B) Willful ordering or performance of unnecessary laboratory tests or studies; administration  
 29 of unnecessary treatment; failure to obtain consultations or perform referrals when failing to do so  
 30 is not consistent with the standard of care; or otherwise ordering or performing any chiropractic  
 31 service, X-ray or treatment that is contrary to recognized standards of practice of the chiropractic  
 32 profession.
  - 33 (C) Gross malpractice or repeated malpractice.
- 34 (h) Failing to notify the board of a change in location of practice as provided in ORS 684.054.
- 35 (i) Representing to a patient that a manifestly incurable condition of sickness, disease or injury  
 36 can be permanently cured.
- 37 (j) The use of any advertising making untruthful, improper, misleading or deceptive statements.
- 38 (k) The advertising of techniques or modalities to infer or imply superiority of treatment or di-  
 39 agnosis by the use thereof that cannot be conclusively proven to the satisfaction of the board.
- 40 (L) Knowingly permitting or allowing any person to use the license of the person in the practice  
 41 of any system or mode of treating the sick.
- 42 (m) Advertising either in the name of the person or under the name of another person, clinic  
 43 or concern, actual or pretended, in any newspaper, pamphlet, circular or other written or printed  
 44 paper or document, professing superiority to or a greater skill than that possessed by other  
 45 chiropractic physicians that cannot be conclusively proven to the satisfaction of the board.

- 1 (n) Aiding or abetting the practice of any of the healing arts by an unlicensed person.
- 2 (o) The use of the name of the person under the designation, "Doctor," "Dr.," "D.C.,"
- 3 "Chiropractor," "Chiropractic D.C.," "Chiropractic Physician," or "Ph.C.," or any similar desig-
- 4 nation with reference to the commercial exploitation of any goods, wares or merchandise.
- 5 (p) The advertising or holding oneself out to treat diseases or other abnormal conditions of the
- 6 human body by any secret formula, method, treatment or procedure.
- 7 (q) Violation of any provision of this chapter or any rule adopted thereunder.
- 8 (r) Gross incompetency or gross negligence.
- 9 (s) The suspension or revocation by another state of a license to practice chiropractic, based
- 10 upon acts by the licensee similar to acts described in this section. A certified copy of the record
- 11 of suspension or revocation of the state making the suspension or revocation is conclusive evidence
- 12 thereof.
- 13 (t) Failing to give prior notice to patients of the permanent or temporary closure of the physi-
- 14 cian's practice or failing to give reasonable access to the records and files of the physician's pa-
- 15 tients at any time.
- 16 (u) The suspension or revocation by another licensing board in the state of a license to practice
- 17 as another type of health care provider.
- 18 (v) An act or conduct that results in a judgment of wrongdoing by a court of competent juris-
- 19 diction in any state or a finding of wrongdoing in an administrative proceeding in any state. The
- 20 act or conduct must be rationally connected to the ability to practice chiropractic or chiropractic
- 21 assisting.
- 22 (2) The board may, at any time two years or more after the refusal, revocation or cancellation
- 23 of registration under this section, by a majority vote, issue a license restoring to or conferring on
- 24 the person all the rights and privileges of the practice of chiropractic as defined and regulated by
- 25 this chapter. Any person to whom those rights have been restored shall pay to the board the annual
- 26 registration fee for the license category plus one-half thereof.
- 27 (3) If the board determines that a chiropractic physician's continuation in practice would con-
- 28 stitute a serious danger to the public, the board may suspend the license of the chiropractic physi-
- 29 cian without a hearing. Simultaneously with the order of suspension, the board must institute
- 30 proceedings for a hearing provided under this section and the suspension may continue unless
- 31 injunctive relief is obtained from a court of competent jurisdiction showing just cause or undue
- 32 burden under the circumstances existing.
- 33 (4) If a physician refuses a written request for an informal interview with the board, the board
- 34 shall have grounds to suspend or revoke the license of a physician pursuant to this section.
- 35 (5) Prior to or following an informal interview as described in this section, the board may re-
- 36 quest any Oregon licensed chiropractic physician in good standing to assist the board in preparing
- 37 for or conducting any professional competency examination as the board may deem appropriate.
- 38 (6) Notwithstanding any other provisions of ORS 684.010, 684.040, 684.050, 684.090, 684.100,
- 39 684.112, 684.130, 684.150 and 684.155, the board may at any time direct and order a professional
- 40 competency examination limited to the area of practice out of which a specific complaint has arisen
- 41 and make an investigation, including the taking of depositions or otherwise in order to fully inform
- 42 itself with respect to the performance or conduct of a physician licensed under ORS 684.010, 684.040,
- 43 684.050, 684.090, 684.100, 684.112, 684.130, 684.150 and 684.155.
- 44 (7) If the board has reasonable cause to believe that any:
- 45 (a) Chiropractic physician is or may be unable to practice with reasonable skill and safety to

1 patients, the board may:

2 (A) Cause a competency examination of the physician for purposes of determining the physi-  
3 cian’s fitness to practice chiropractic with reasonable skill and safety to patients; or

4 (B) Require the fingerprints and relevant personal history data of the physician for the purpose  
5 of requesting a state or nationwide criminal records check under ORS 181.534.

6 (b) Person certified to provide physiotherapy, electrotherapy or hydrotherapy pursuant to ORS  
7 684.155 (1)(c) is or may be unable to provide the therapies with reasonable skill and safety to pa-  
8 tients, the board may:

9 (A) Cause a competency examination of the person for purposes of determining the person’s fit-  
10 ness to provide the therapies with reasonable skill and safety to patients; or

11 (B) Require the fingerprints and relevant personal history data of the person for the purpose of  
12 requesting a state or nationwide criminal records check under ORS 181.534.

13 (8) Refusal by any person to take or appear for a competency examination scheduled by the  
14 board or to submit fingerprints and relevant personal history data as required by the board under  
15 subsection (7) of this section shall constitute grounds for disciplinary action.

16 (9) In disciplining a person as authorized by subsection (1) of this section, the board may use  
17 any or all of the following methods:

18 (a) Suspend judgment.

19 (b) Place the person on probation.

20 (c) Suspend the license of the person to practice chiropractic in this state.

21 (d) Revoke the license of the person to practice chiropractic in this state.

22 (e) Place limitations on the license of the person to practice chiropractic in this state.

23 (f) Impose a civil penalty not to exceed \$10,000.

24 (g) Take other disciplinary action as the board in its discretion finds proper[, *including assess-*  
25 *ment of the costs of the disciplinary proceedings*].

26 (10)(a) Any information that the board obtains pursuant to ORS 684.100, 684.112 and 684.155 (9)  
27 is confidential as provided under ORS 676.175.

28 (b) Any person who reports or provides information to the board under ORS 684.090, 684.100,  
29 684.112, 684.150 and 684.155 and who provides information in good faith shall not be subject to an  
30 action for civil damages as a result thereof.

31 **SECTION 19.** ORS 684.155 is amended to read:

32 684.155. In addition to any other powers granted by this chapter, the State Board of Chiropractic  
33 Examiners may:

34 (1) Adopt necessary and proper rules:

35 (a) Establishing standards and tests to determine the moral, intellectual, educational, scientific,  
36 technical and professional qualifications of applicants for licenses to practice in this state.

37 (b) To enforce the provisions of this chapter and to exercise general supervision over the prac-  
38 tice of chiropractic within this state.

39 (c)(A) To establish standards and procedures to certify ancillary personnel as qualified to pro-  
40 vide physiotherapy, electrotherapy or hydrotherapy under the direction of a chiropractic physician,  
41 and to establish continuing education requirements as a condition of maintaining such certification.

42 (B) As used in this paragraph, “ancillary personnel” means a chiropractic physician’s staff per-  
43 sonnel who are directed or designated, by spoken or written words or other means, to follow and  
44 carry out the chiropractic physician’s orders or directions.

45 (2) Issue, deny, suspend and revoke licenses and limited licenses[, *assess costs of proceedings*] and

1 place persons on probation as provided in this chapter.

2 (3) Without the necessity of prior administrative proceedings or hearing and entry of an order  
 3 or at any time during such proceedings if they have been commenced, institute proceedings to enjoin  
 4 the practice of any person operating in violation of this chapter.

5 (4) Make its personnel and facilities available to other regulatory agencies of this state, or other  
 6 bodies interested in the development and improvement of the practice of chiropractic in this state,  
 7 upon such terms and conditions for reimbursement as are agreed to by the board and the other  
 8 agency or body.

9 (5) Determine the chiropractic schools, colleges and institutions and the training acceptable in  
 10 connection with licensing under this chapter and approve residency, internship and other training  
 11 programs carried on by chiropractic schools, colleges or institutions or chiropractic facilities.

12 (6) Prescribe the time, place, method, manner, scope and subjects of examinations under this  
 13 chapter.

14 (7) Prescribe all forms that it considers appropriate for the purposes of this chapter, and require  
 15 the submission of photographs and relevant personal history data by applicants for licenses to  
 16 practice chiropractic in this state.

17 (8) For the purpose of requesting a state or nationwide criminal records check under ORS  
 18 181.534 require each applicant for a license or certification, or renewal of a license or certification,  
 19 to be fingerprinted.

20 (9) Subject to ORS 684.150, administer oaths, issue notices and subpoenas in the name of the  
 21 board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such  
 22 other acts as are reasonably necessary to carry out its duties under this chapter.

23 (10) Establish specialty certificate requirements within the practice of chiropractic, adopt rules  
 24 applicable to specialty certification and require specialty certification for chiropractic physicians  
 25 engaging in practices identified by the board as requiring specialty certification.

26 **SECTION 20.** ORS 686.150 is amended to read:

27 686.150. If, pursuant to ORS 686.120 and 686.135, the Oregon State Veterinary Medical Examin-  
 28 ing Board determines that disciplinary action is necessary, the board may take any or all of the  
 29 following actions:

- 30 (1) Revoke, suspend or refuse to renew the license;
- 31 (2) Place the person on probation;
- 32 (3) Suspend execution of an order of the board;
- 33 (4) Place limitations on an individual's license or permit to practice veterinary medicine in  
 34 Oregon;
- 35 (5) Issue a reprimand [*or assess to the individual the costs of the disciplinary proceedings*];
- 36 (6) Require board-approved community services; or
- 37 (7) Impose a civil penalty not to exceed \$1,000 for each violation.

38 **SECTION 21.** ORS 687.081 is amended to read:

39 687.081. (1) The State Board of Massage Therapists may discipline a licensee, deny, suspend,  
 40 revoke or refuse to renew a license, issue a reprimand, censure a licensee or place a licensee on  
 41 probation if the licensee:

- 42 (a) Has violated any provision of ORS 687.011 to 687.250, 687.895 and 687.991 or any rule of the  
 43 board adopted under ORS 687.121.
- 44 (b) Has made any false representation or statement to the board in order to induce or prevent  
 45 action by the board.

1 (c) Has a physical or mental condition that makes the licensee unable to conduct safely the  
2 practice of massage.

3 (d) Is habitually intemperate in the use of alcoholic beverages or is addicted to the use of  
4 habit-forming drugs or controlled substances.

5 (e) Has misrepresented to any patron any services rendered.

6 (f) Has been convicted of a crime that bears a demonstrable relationship to the practice of  
7 massage.

8 (g) Fails to meet with any requirement under ORS 687.051.

9 (h) Violates any provision of ORS 167.002 to 167.027.

10 (i) Engages in unprofessional or dishonorable conduct.

11 (j) Has been the subject of disciplinary action as a massage therapist by any other state or  
12 territory of the United States or by a foreign country and the board determines that the cause of  
13 the disciplinary action would be a violation under ORS 687.011 to 687.250, 687.895 and 687.991 or  
14 rules of the board if it occurred in this state.

15 (2) If the board places a licensee on probation pursuant to subsection (1) of this section, the  
16 board may impose and at any time modify the following conditions of probation:

17 (a) Limitation on the allowed scope of practice.

18 (b) If the board finds that the licensee is physically or mentally impaired, a requirement for  
19 successful completion of appropriate treatment as determined by the board.

20 (c) Individual or peer supervision.

21 (d) Such other conditions as the board may deem necessary for the protection of the public and  
22 the rehabilitation of the licensee.

23 (3) If the board determines that a licensee's continued practice constitutes a serious danger to  
24 the public, the board may impose an emergency suspension of the license without a hearing. Si-  
25 multaneous with the order of suspension, the board shall institute proceedings for a hearing as  
26 provided under ORS 687.011 to 687.250, 687.895 and 687.991. The suspension shall continue unless  
27 and until the licensee obtains injunctive relief from a court of competent jurisdiction or the board  
28 determines that the suspension is no longer necessary for the protection of the public.

29 (4) In addition to the discipline described in subsection (1) of this section, the board may impose  
30 a civil penalty as provided under ORS 687.250. Civil penalties under this subsection shall be imposed  
31 pursuant to ORS 183.745.

32 (5) Prior to imposing any of the sanctions authorized under this section, the board shall con-  
33 sider, but is not limited to, the following factors:

34 (a) The person's past history in observing the provisions of ORS 687.011 to 687.250, 687.895 and  
35 687.991 and the rules adopted pursuant thereto;

36 (b) The effect of the violation on public safety and welfare;

37 (c) The degree to which the action subject to sanction violates professional ethics and standards  
38 of practice;

39 (d) The economic and financial condition of the person subject to sanction; and

40 (e) Any mitigating factors that the board may choose to consider.

41 *[(6) In addition to the sanctions authorized by this section, the board may assess against a licensee*  
42 *the costs associated with the disciplinary action taken against the licensee.]*

43 *[(7)]* (6) The board shall adopt a code of ethical standards for practitioners of massage and shall  
44 take appropriate measures to ensure that all applicants and practitioners of massage are aware of  
45 those standards.

1 [(8)] (7) Upon receipt of a complaint under ORS 687.011 to 687.250, 687.895 and 687.991, the  
2 board shall conduct an investigation as described under ORS 676.165.

3 [(9)] (8) Information that the board obtains as part of an investigation into licensee or applicant  
4 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving  
5 licensee or applicant conduct is confidential as provided under ORS 676.175.

6 **SECTION 22.** ORS 688.140 is amended to read:

7 688.140. (1) The Physical Therapist Licensing Board, after notice and hearing as provided in  
8 ORS 688.145, may impose any or all of the following sanctions or take any of the following actions  
9 upon any of the grounds specified in subsection (2) of this section:

10 (a) Refuse to license any applicant.

11 (b) Refuse to renew the license of any physical therapist or physical therapist assistant.

12 (c) Suspend or revoke the license of any physical therapist or physical therapist assistant.

13 (d) Suspend or revoke a temporary permit issued under ORS 688.110.

14 (e) Impose a civil penalty not to exceed \$5,000.

15 (f) Impose probation with authority to limit or restrict a license.

16 (g) Impose conditions, restrictions or limitations on practice.

17 (h) Issue letters of reprimand.

18 (i) Impose any other appropriate sanction[, *including assessment of the reasonable costs of a*  
19 *proceeding under ORS 688.145 as a civil penalty. Costs include, but are not limited to, the costs of*  
20 *investigation, attorney fees, hearing officer costs and the costs of discovery].*

21 (2) Grounds exist for the imposition of sanctions as specified in subsection (1) of this section  
22 when a person:

23 (a) Violates any provision of ORS 688.010 to 688.201, board rules or a written order from the  
24 board.

25 (b) Practices or offers to practice beyond the scope of practice of physical therapy.

26 (c) Obtains or attempts to obtain or renew a license or temporary permit by fraud or misrepresen-  
27 tation.

28 (d) Provides substandard care as a physical therapist through a deliberate or negligent act or  
29 failure to act, regardless of whether injury to the patient occurs.

30 (e) Provides substandard care as a physical therapist assistant by exceeding the authority to  
31 perform components of physical therapy interventions selected by the supervising physical therapist  
32 or through a deliberate or negligent act or failure to act, regardless of whether injury to the patient  
33 occurs.

34 (f) Fails as a physical therapist to supervise physical therapist assistants in accordance with  
35 board rules.

36 (g) Fails as a physical therapist or physical therapist assistant to supervise physical therapist  
37 aides in accordance with board rules.

38 (h) Subject to the provisions of ORS 670.280, has been convicted of a crime in Oregon or any  
39 other state, territory or country. For purposes of this paragraph, conviction includes a verdict of  
40 guilty, a plea of guilty or a plea of no contest.

41 (i) Uses controlled substances or intoxicating liquors to an extent or in a manner that is illegal,  
42 dangerous or injurious to the licensee or others or that impairs the person's ability to safely prac-  
43 tice physical therapy.

44 (j) Has had an application for licensure refused because of conduct or circumstances that would  
45 be grounds for sanctions by the board, or a license revoked or suspended, or other disciplinary



1 action taken by the proper authorities of another state, territory or country.

2 (k) Engages in sexual misconduct. For purposes of this paragraph, sexual misconduct includes  
3 but is not limited to:

4 (A) Engaging in sexual conduct or soliciting a sexual relationship with a current patient,  
5 whether consensual or nonconsensual.

6 (B) Intentionally exposing or viewing a completely or partially disrobed patient in the course  
7 of treatment if the exposure or viewing is not related to patient diagnosis or treatment under cur-  
8 rent practice standards.

9 (L) Directly or indirectly requests, receives, pays or participates in dividing, transferring or as-  
10 signing an unearned fee or profits by a means of a credit or other valuable consideration such as  
11 an unearned commission, discount or gratuity in connection with the furnishing of physical therapy  
12 services. This paragraph does not prohibit the members of any regularly and properly organized  
13 business entity recognized by law and comprised of physical therapists from dividing fees received  
14 for professional services among themselves as they determine.

15 (m) Fails to adhere to the standards of ethics of the physical therapy profession established by  
16 board rule.

17 (n) Obtains or attempts to obtain a fee for physical therapy services by fraud or misrepresen-  
18 tation.

19 (o) Makes misleading, deceptive or fraudulent representations in the course of providing phys-  
20 ical therapy services.

21 (p) Fails to report to the board, when the person has direct knowledge of an unprofessional,  
22 incompetent or illegal act that reasonably appears to be in violation of ORS 688.010 to 688.201 or  
23 any rules of the board.

24 (q) Interferes with an investigation or disciplinary proceeding of the board.

25 (r) Aids or abets a person who is not licensed in this state to practice physical therapy.

26 (s) Fails to maintain adequate patient records.

27 (t) Fails to maintain patient confidentiality.

28 (u) Provides treatment intervention that is not warranted by the patient's condition or continues  
29 treatment beyond the point of reasonable benefit to the patient.

30 (v) Provides physical therapy services or participates in physical therapy services solely for  
31 reasons of personal or institutional financial gain.

32 (w) Aids or causes another person, directly or indirectly, to violate ORS 688.010 to 688.201 or  
33 rules of the board, fraudulently uses or permits the use of a license number in any way, or acts with  
34 the intent to violate ORS 688.010 to 688.201 or rules of the board.

35 (3) To enforce the provisions of this section, the board is authorized to initiate an investigation  
36 and take the following actions:

37 (a) Receive complaints filed against persons and conduct timely investigations.

38 (b) Initiate its own investigation if the board has reason to believe that there may have been a  
39 violation of ORS 688.010 to 688.201.

40 (c) Issue a subpoena to compel the attendance of any witness or the production of any doc-  
41 umentation relating to a matter under investigation. In addition to the board, the executive director  
42 or the executive director's designee may issue a subpoena. When the board, in the course of an in-  
43 vestigation, requires the production of patient records for inspection and copying by subpoena, or  
44 otherwise, the records shall be produced without regard to whether patient consent has been ob-  
45 tained and without regard to any claim of confidentiality or privilege.

1 (d) Take the deposition of a witness, including a physical therapist or physical therapist assist-  
 2 ant being investigated, in the manner provided by law in civil cases.

3 (e) Take emergency action to suspend a person's license or restrict the person's practice or  
 4 employment pending proceedings by the board.

5 (f) Report to the appropriate district attorney all cases that, in the judgment of the board,  
 6 warrant prosecution.

7 (g) Require a person to undergo a mental, physical, chemical dependency or competency evalu-  
 8 ation at the person's expense when the board has objectively reasonable grounds to believe that the  
 9 person is or may be unable to practice physical therapy with reasonable skill and safety, with the  
 10 results being reported to the board. The report shall not be disclosed to the public but may be re-  
 11 ceived into evidence in a proceeding between the board and the person when the mental, physical,  
 12 chemical dependency or competency of the person is at issue, notwithstanding any claim of privilege  
 13 by the person.

14 (4) If the board finds that the information received in a complaint or an investigation does not  
 15 merit disciplinary action against a person, nondisciplinary actions may ensue. The board may then  
 16 take the following actions:

17 (a) Dismiss the complaint.

18 (b) Issue a confidential advisory letter to the person that is nondisciplinary and that notifies the  
 19 physical therapist or physical therapist assistant that certain conduct or practices must be modified  
 20 or eliminated.

21 (5) The board may apply for injunctive relief in any court of competent jurisdiction to enjoin  
 22 any person from committing any act in violation of ORS 688.010 to 688.201. Injunction proceedings  
 23 are in addition to, and not in lieu of, penalties or other sanctions prescribed in ORS 688.010 to  
 24 688.201.

25 **SECTION 23.** ORS 688.660 is amended to read:

26 688.660. (1) The Department of Human Services may discipline a person certified as a  
 27 hemodialysis technician who has:

28 (a) Admitted the facts of a complaint alleging the person is guilty of violation of one or more  
 29 of the grounds for suspension or revocation of a certificate as set forth in ORS 688.655.

30 (b) Been found guilty in accordance with ORS chapter 183 of violation of one or more of the  
 31 grounds for suspension or revocation of certification as set forth in ORS 688.655.

32 (2) In disciplining a technician, the department may use any or all of the following methods:

33 (a) Suspend judgment.

34 (b) Place the technician on probation.

35 (c) Suspend the technician's certificate.

36 (d) Revoke the technician's certificate.

37 (e) Place limitations on the ability of the technician to practice hemodialysis in this state.

38 (f) Take such other disciplinary action as the department in its discretion finds proper, including  
 39 *[assessment of the costs of the disciplinary proceedings, not to exceed \$1,000, as a civil penalty or]* as-  
 40 *essment of a civil penalty not to exceed \$1,000.*

41 (3) In addition to the action authorized by subsection (2) of this section, the department may  
 42 temporarily suspend a certificate or license without a hearing, simultaneously with the commence-  
 43 ment of proceedings under ORS chapter 183, if the department finds that evidence in its possession  
 44 indicates that a continuation in practice of the technician constitutes an immediate danger to the  
 45 public.

1 (4) If the department places a technician on probation, the department may determine, and may  
2 at any time modify, the conditions of the probation and may include among them any reasonable  
3 condition for the purpose of protection of the public and for the purpose of the rehabilitation of the  
4 technician. Upon expiration of the term of probation, further proceedings shall be abated if the  
5 technician has complied with the terms of the probation.

6 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

7 **SECTION 24. Sections 2, 4, 6 and 8 of this 2009 Act and the amendments to ORS 675.595,**  
8 **675.745, 676.992, 677.205, 677.265, 679.140, 681.350, 682.224, 683.140, 684.100, 684.155, 686.150,**  
9 **687.081, 688.140 and 688.660 by sections 9 to 23 of this 2009 Act apply to disciplinary pro-**  
10 **ceedings commenced on or after the effective date of this 2009 Act.**

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