

# Senate Bill 138

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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 **as introduced**.

Increases civil penalty for violation of nursing statutes. Requires health care facilities to report official actions taken against nursing licensees within 10 days of action. Permits Oregon State Board of Nursing to impose civil penalties against person required to report claims against nursing licensees.

Applies to official actions taken by health care facilities and claim reports required to be made on or after effective date of Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to Oregon State Board of Nursing; creating new provisions; amending ORS 678.117; and  
3 declaring an emergency.

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

5 **SECTION 1.** ORS 678.117 is amended to read:

6 678.117. (1) The Oregon State Board of Nursing shall adopt by rule a schedule establishing the  
7 amount of civil penalty that may be imposed for any violation of ORS 678.010 to 678.445 or any rule  
8 of the board. No civil penalty shall exceed [*\$5,000.*] **\$10,000.**

9 (2) In imposing a penalty pursuant to this section, the board shall consider the following factors:

10 (a) The past history of the person incurring the penalty in observing the provisions of ORS  
11 678.010 to 678.445 and the rules adopted pursuant thereto.

12 (b) The economic and financial conditions of the person incurring the penalty.

13 (3) Any penalty imposed under this section may be remitted or mitigated upon such terms and  
14 conditions as the board considers proper and consistent with the public health and safety.

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

16 (5) All penalties recovered under this section shall be credited to the special account described  
17 in ORS 678.170.

18 **SECTION 2.** **The Oregon State Board of Nursing may impose a civil penalty under ORS**  
19 **678.117 against a person for failing to timely report a claim or action taken in disposition of**  
20 **a claim, if the person is required to make the report under ORS 742.400.**

21 **SECTION 3.** (1) **As used in this section:**

22 (a) **“Health care facility” means a hospital, a long term care facility, an ambulatory**  
23 **surgical center, a freestanding birthing center or an outpatient renal dialysis facility re-**  
24 **quired to be licensed by ORS 441.015.**

25 (b) **“Official action” means a restriction, limitation, loss or denial of privileges of a per-**  
26 **son licensed by the Oregon State Board of Nursing to practice nursing or any formal action**  
27 **taken against the person by a health care facility based on a finding of incompetence, un-**

**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 professional conduct or licensee impairment.

2 (2)(a) In addition to the reporting requirement in ORS 678.135, a health care facility shall  
3 report to the Oregon State Board of Nursing any official action the health care facility has  
4 taken against a person licensed by the board within 10 business days of the date of the offi-  
5 cial action. A health care facility's failure to report an official action as required under this  
6 subsection constitutes a violation of this subsection.

7 (b) The board may require the following information in a report made in accordance with  
8 this subsection:

9 (A) The name, title, address and telephone number of the health care facility making the  
10 report;

11 (B) The date of an official action taken against the licensee; and

12 (C) A description of the official action, including the specific restriction, limitation, loss  
13 or denial of the licensee's privileges at the health care facility and the effective date of the  
14 restriction, limitation, loss or denial.

15 (c) The health care facility is subject to a penalty of not more than \$10,000 for each vio-  
16 lation of this subsection. The board may impose the penalty in accordance with ORS 183.745.  
17 In addition to the penalty, the board may assess reasonable costs the board incurs in en-  
18 forcing the requirements of this subsection against the health care facility if the enforce-  
19 ment results in a civil penalty. The penalty provided by this subsection is the sole remedy  
20 for violation of this section.

21 (d) The Attorney General may bring an action in the name of the State of Oregon in a  
22 court of appropriate jurisdiction to recover a civil penalty and costs assessed under this  
23 subsection.

24 (e) A civil penalty assessed or recovered in accordance with this subsection shall be paid  
25 to the State Treasury and the State Treasurer shall credit the amount of the payment to the  
26 Rural Health Services Fund established under ORS 442.570.

27 **SECTION 4.** (1) The amendments to ORS 678.117 by section 1 of this 2009 Act apply to  
28 disciplinary actions commenced by the Oregon State Board of Nursing on or after the effec-  
29 tive date of this 2009 Act.

30 (2) Section 2 of this 2009 Act applies to reports required to be made under ORS 742.400  
31 on or after the effective date of this 2009 Act.

32 (3) Section 3 of this 2009 Act applies to official actions taken by health care facilities on  
33 or after the effective date of this 2009 Act.

34 **SECTION 5.** This 2009 Act being necessary for the immediate preservation of the public  
35 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
36 on its passage.

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