

A-Engrossed
Senate Bill 174

Ordered by the House May 29
Including House Amendments dated May 29

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for State Board of Psychologist Examiners)

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.

Increases maximum civil penalty State Board of Psychologist Examiners may impose for disciplinary violations. **Allows board to further increase maximum penalty if certain conditions exist.** Applies to disciplinary actions commenced on or after January 1, 2010.

Authorizes person with doctoral degree in psychology who is employed by certain public entities to practice psychology without license for specified period. Imposes conditions on person's practice of psychology. Makes authority operative January 1, 2012.

A BILL FOR AN ACT

1
2 Relating to State Board of Psychologist Examiners; creating new provisions; and amending ORS
3 675.070 and 675.090.

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

5 **SECTION 1.** ORS 675.070 is amended to read:

6 675.070. (1) Where any of the grounds enumerated in subsection (2) of this section exist, the
7 State Board of Psychologist Examiners may impose any of the following sanctions:

8 (a) Deny a license to any applicant;

9 (b) Refuse to renew the license of any psychologist or psychologist associate;

10 (c) Suspend the license of any psychologist or psychologist associate for a period of not less than
11 one year;

12 (d) Issue a letter of reprimand;

13 (e) Impose probation with authority to restrict the scope of practice of a psychologist or psy-
14 chologist associate or require practice under supervision;

15 (f) Revoke the license of any psychologist or psychologist associate; or

16 (g) Impose a civil penalty [*not to exceed \$1,000*] **as set forth in subsection (3) of this**
17 **section.**

18 (2) Grounds exist for imposition of any of the sanctions enumerated in subsection (1) of this
19 section against any psychologist or psychologist associate or applicant, or, where applicable, any
20 unlicensed person found in violation of ORS 675.010 to 675.150, when, in the judgment of the board,
21 the person:

22 (a) Abuses intoxicants or controlled substances to such an extent as to incapacitate the person
23 from the performance of professional duties;

24 (b) Has been convicted of violation of any law relating to controlled substances;

(c) Has been convicted of any felony or of any misdemeanor involving moral turpitude;

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 (d) Is guilty of immoral or unprofessional conduct or of gross negligence in the practice of psy-
2 chology which includes but is not limited to:

3 (A) Any conduct or practice contrary to recognized standard of ethics of the psychological
4 profession or any conduct or practice which constitutes a danger to the health or safety of a patient
5 or the public, or any conduct, practice or condition which impairs a psychologist or psychologist
6 associate's ability to practice psychology safely and skillfully.

7 (B) Willful ordering or performing of unnecessary tests or studies, administration of unnecessary
8 treatment, failure to obtain consultations or perform referrals when failing to do so is not consistent
9 with the standard of care, or otherwise ordering or performing any psychological service or treat-
10 ment which is contrary to recognized standards of practice of the psychological profession;

11 (e) Is mentally or emotionally unfit to practice psychology;

12 (f) Has practiced or attempted to practice medicine without being licensed to do so;

13 (g) Has obtained or attempted to obtain a license under ORS 675.010 to 675.150 by fraud or
14 material misrepresentation;

15 (h) Has impersonated a licensed psychologist or psychologist associate or has allowed another
16 person to use the license of the psychologist;

17 (i) Has violated any provision of ORS 675.010 to 675.150 or any provision of the code of profes-
18 sional conduct formulated under ORS 675.110 (12); or

19 (j) Has obtained a fee or payment from a patient or third party payer through fraud or inten-
20 tional misrepresentation.

21 **(3) The board may impose a civil penalty under subsection (1) of this section:**

22 **(a) In an amount not to exceed \$5,000; or**

23 **(b) In an amount not to exceed \$10,000, if any of the following conditions exist:**

24 **(A) The conduct giving rise to the penalty had a serious detrimental effect on the health**
25 **or safety of another person;**

26 **(B) The person subject to the penalty has a history of discipline for the same or similar**
27 **conduct;**

28 **(C) The conduct giving rise to the penalty involves a willful or reckless disregard of the**
29 **law;**

30 **(D) The conduct giving rise to the penalty was perpetrated against a minor, an elderly**
31 **person or a person with a disability; or**

32 **(E) The person subject to the penalty violated ORS 675.020 by practicing psychology or**
33 **representing that the person is a psychologist without having a license.**

34 [(3)] (4) In case of any conviction required under subsection (2) of this section as grounds for
35 denial, refusal, suspension, revocation, reprimand, probation or imposition of a civil penalty, a cer-
36 tified copy of the record of the conviction shall be conclusive evidence.

37 [(4)] (5) The board may license an applicant or renew or restore any license suspended or re-
38 voked under subsection (2)(e) of this section whenever the board determines that the applicant or
39 former licensed psychologist or former psychologist associate is no longer mentally or emotionally
40 unfit to practice psychology.

41 [(5)] (6) License suspension or revocation in another state is grounds for license denial or dis-
42 ciplinary action by the board.

43 **SECTION 2.** ORS 675.090 is amended to read:

44 675.090. (1) ORS 675.010 to 675.150 do not apply to:

45 (a) A person who teaches psychology, conducts psychological research or provides consulting

1 services to an organization or institution provided that the teaching, research or consulting services
2 do not involve the delivery or supervision of direct psychological services to individuals who are
3 themselves, rather than a third party, the beneficiaries of the services, regardless of the source or
4 extent of payment for the services rendered. *[Nothing in ORS 675.010 to 675.150 shall prevent the*
5 *provision of expert testimony by psychologists who are otherwise exempted by this subsection. A person*
6 *performing the functions authorized by this paragraph may use the title “psychologist” only if the*
7 *person holds a doctoral degree in psychology from an approved doctoral program in psychology.]*

8 **(b) The provision of expert testimony by a person described in paragraph (a) of this**
9 **subsection.**

10 [(b)] (c) A person who is either:

11 (A) A matriculated graduate student pursuing a graduate degree in professional psychology at
12 an approved doctoral program in psychology;

13 (B) A student pursuing postdoctoral training or experience in professional psychology, including
14 a person seeking to fulfill the licensure requirements established in ORS 675.010 to 675.150; or

15 (C) A person pursuing certification or licensure or a graduate degree in any of the certified or
16 licensed professions otherwise exempted from ORS 675.010 to 675.150.

17 [(c)] (d) A person who is licensed or certified by the State of Oregon to provide mental health
18 services, provided that the services are rendered within the person’s lawful scope of practice and
19 that the person does not use the title “psychologist” in connection with the activities authorized in
20 this paragraph.

21 [(d)] (e) A person who is licensed, certified or otherwise authorized by the State of Oregon to
22 render professional services, provided that the services are rendered within the person’s lawful
23 scope of practice and that the person does not use the title “psychologist” in connection with the
24 activities authorized under this paragraph.

25 [(e)] (f) A person who is employed by a local, state or federal government agency, or employed
26 by a community mental health program or drug and alcohol treatment program licensed or certified
27 by the State of Oregon to the extent that the person’s activities and services are rendered within
28 the person’s scope of employment and are performed within the confines of the employing agency
29 and provided that the person does not use the title “psychologist” in connection with the activities
30 authorized under this paragraph.

31 [(f)] (g) A person who is a recognized member of the clergy, provided that the person is acting
32 in the person’s ministerial capacity and does not use the title “psychologist.”

33 [(g)] (h) A person who has credentials as a school psychologist if the person is an employee of
34 an educational institution and restricts the person’s practice to activities within a school setting.
35 A person acting under this paragraph may use the title “school psychologist.”

36 **(2)(a) Notwithstanding subsection (1)(f) of this section, a person with a doctoral degree**
37 **in psychology who is employed by and practicing psychology at a local, state or federal gov-**
38 **ernment agency or a community mental health program or drug and alcohol treatment pro-**
39 **gram licensed or certified by the State of Oregon may practice psychology without a license**
40 **under ORS 675.010 to 675.150 for no more than 24 months after the person begins practicing**
41 **psychology at the agency or program.**

42 **(b) Before the person obtains a license under ORS 675.010 to 675.150:**

43 **(A) The person may practice psychology only within the scope of the person’s employ-**
44 **ment and within the confines of the employing agency or program; and**

45 **(B) The person may not use the title “psychologist.”**

1 **(3) A person performing the functions described in subsection (1)(a) and (b) of this sec-**
2 **tion may use the title “psychologist” only if the person holds a doctoral degree in psychology**
3 **from an approved doctoral program in psychology.**

4 [(2)] **(4)** A person described in subsection [(1)(b)] **(1)(c)** of this section may use the title “psy-
5 chological trainee,” “psychological intern,” “psychologist resident” or “psychologist associate resi-
6 dent” if the person is pursuing the education or training described in subsection [(1)(b)] **(1)(c)** of this
7 section under the supervision and responsibility of a licensed psychologist in accordance with the
8 rules adopted by the State Board of Psychologist Examiners.

9 [(3)] **(5)** Nothing in this section [*shall exempt*] **exempts** from ORS 675.010 to 675.150 a person
10 whose license to practice psychology is revoked or suspended because the person engaged in sexual
11 activity with a client.

12 **SECTION 3. The amendments to ORS 675.070 by section 1 of this 2009 Act apply to dis-**
13 **ciplinary actions proposed by the State Board of Psychologist Examiners on or after January**
14 **1, 2010.**

15 **SECTION 4. The amendments to ORS 675.090 by section 2 of this 2009 Act become oper-**
16 **ative on January 1, 2012.**

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