

Senate Bill 211

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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**.

Establishes requirements for certification of batterer intervention program and registration of batterer intervention program in development.

Establishes Advisory Committee for Batterer Intervention within Oregon Health Licensing Agency to develop standards related to certification and registration.

Allows agency to collect fees and charges to carry out responsibilities of agency related to batterer intervention programs, and continuously appropriates fees and charges to agency.

A BILL FOR AN ACT

1
2 Relating to batterer intervention programs; creating new provisions; amending ORS 676.606, 676.610,
3 676.612, 676.613 and 676.992; and appropriating money.

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

SECTION 1. As used in sections 1 to 9 of this 2009 Act:

6 (1) **"Batterer intervention program" means a program offered by a public or private en-**
7 **tity to provide intervention and education services to a person for the purpose of helping the**
8 **person to stop committing battering or other domestic violence, as that term is defined ORS**
9 **135.230.**

10 (2) **"Batterer intervention program in development" means a batterer intervention pro-**
11 **gram that is registered as provided by section 3 of this 2009 Act and that is in the process**
12 **of meeting the certification requirements of section 2 of this 2009 Act.**

13 (3) **"Battering" means physical violence, sexual violence, threats, isolation, emotional and**
14 **psychological intimidation, verbal abuse, stalking, economic abuse or other controlling be-**
15 **haviors involving a family or household member, as that term is defined in ORS 135.230.**
16 **"Battering" may be further defined by rule of the Advisory Committee for Batterer Inter-**
17 **vention in consultation with the Department of Justice.**

18 (4) **"Certified batterer intervention program" means a batterer intervention program**
19 **that is certified as provided by section 2 of this 2009 Act.**

20 **SECTION 2. (1) Subject to ORS 676.612, the Oregon Health Licensing Agency shall certify**
21 **a batterer intervention program if the applicant for the certification of the program provides**
22 **to the agency:**

23 (a) **A completed application for certification;**

24 (b) **The fee prescribed by the agency by rule;**

25 (c) **Evidence that the persons who will provide the services of the program have:**

26 (A) **Met the education, training and practical experience requirements established by rule**
27 **of the Advisory Committee for Batterer Intervention; and**

28 (B) **Sufficient knowledge of the requirements of sections 1 to 9 of this 2009 Act, the rules**

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 adopted under sections 1 to 9 of this 2009 Act and any other relevant practice standards; and

2 (d) Evidence that the program meets other standards established by rule of the com-
3 mittee.

4 (2) For the purpose of this section, the agency shall:

5 (a) Develop, in consultation with the committee, an application for certification.

6 (b) Administer an examination that is developed by the committee for the purpose of
7 testing applicants' knowledge of the requirements of sections 1 to 9 of this 2009 Act, the
8 rules adopted under sections 1 to 9 of this 2009 Act and any other relevant practice stan-
9 dards.

10 (3) A certificate provided under this section expires two years from the date of issuance,
11 unless otherwise provided by the agency by rule. A certificate may be renewed upon sub-
12 mission of an application for renewal, and a fee for renewal, to the agency if the person can
13 show that the person is in compliance with the provisions of sections 1 to 9 of this 2009 Act
14 and the rules adopted under sections 1 to 9 of this 2009 Act.

15 (4) A certificate may be provided under this section to a batterer intervention program
16 that is certified in another state if the requirements for certification by that state are sub-
17 stantially similar to the requirements for certification that are required by this state, as
18 determined by the agency based on standards adopted by the committee.

19 (5) The agency may adopt by rule requirements for the issuance of a temporary certif-
20 icate.

21 **SECTION 3.** (1) A person may apply to register as a batterer invention program in de-
22 velopment by providing to the Oregon Health Licensing Agency:

23 (a) A completed application for registration;

24 (b) The fee prescribed by the agency by rule;

25 (c) Evidence that the persons who will provide the services of the program have met any
26 education, training or practical experience requirements established by rule of the Advisory
27 Committee for Batterer Intervention;

28 (d) Plans for the program to meet the requirements for certification as provided by sec-
29 tion 2 of this 2009 Act;

30 (e) The name of a person who provides the services of a certified batterer intervention
31 program and who will ensure that the batterer intervention program in development meets
32 prescribed practice standards established by rule of the committee; and

33 (f) Evidence that the program meets other standards established by rule of the commit-
34 tee.

35 (2)(a) A plan submitted as provided by subsection (1) of this section must describe how
36 the batterer intervention program in development will meet the requirements of a certified
37 batterer intervention program within two years of being registered.

38 (b) The committee shall review and accept or deny a plan submitted under subsection (1)
39 of this section.

40 (c) Subject to ORS 676.612, the agency shall register the batterer intervention program
41 as a batterer intervention program in development upon approval of a plan by the committee.
42 If the committee denies a plan, the committee shall provide a written explanation for the
43 reason of the denial. A denial may be appealed pursuant to the provisions of ORS chapter
44 183.

45 (d) The agency may review a batterer intervention program in development one year af-

1 ter the program is registered, or at such other times as the agency determines appropriate,
2 to evaluate whether the program is making sufficient progress toward meeting the goals of
3 the plan.

4 (3) Registration provided under this section expires two years from the date of issuance.
5 Registration may not be renewed unless specifically approved by the agency.

6 **SECTION 4.** In the manner prescribed in ORS chapter 183 for contested cases, and at the
7 direction of the Advisory Committee for Batterer Intervention, the Oregon Health Licensing
8 Agency may impose a form of discipline listed in ORS 676.612 against any person providing
9 a batterer intervention program for any of the grounds listed in ORS 676.612 or for any vio-
10 lation of the provisions of sections 1 to 9 of this 2009 Act or the rules adopted under sections
11 1 to 9 of this 2009 Act.

12 **SECTION 5.** (1) The Advisory Committee for Batterer Intervention is established within
13 the Oregon Health Licensing Agency. The committee consists of members appointed by the
14 Attorney General as needed to carry out the work of the committee. All members of the
15 committee must be residents of this state.

16 (2) The agency shall provide the committee with any administrative services and em-
17 ployees that the committee requires to carry out its duties for the administration of sections
18 1 to 9 of this 2009 Act.

19 (3) Members of the committee are eligible for compensation and expenses as provided in
20 ORS 292.495 from funds available under section 8 of this 2009 Act.

21 (4) The Attorney General, or the designated representative of the Attorney General, shall
22 serve as the chairperson of the committee. Another member of the committee may be se-
23 lected by the Attorney General, after consultation with the committee, to serve as vice
24 chairperson. The chairperson and vice chairperson shall have such duties and powers nec-
25 essary for the performance of the functions of those offices as the committee determines.

26 (5) A majority of the committee constitutes a quorum for the transaction of business.

27 (6) The committee shall meet at times and places specified by the call of the chairperson
28 or of a majority of the members of the committee.

29 **SECTION 6.** The Advisory Committee for Batterer Intervention established under section
30 5 of this 2009 Act shall:

31 (1) Establish the requirements and standards that a batterer intervention program must
32 meet to be certified as provided by section 2 of this 2009 Act.

33 (2) Establish the requirements and standards that a batterer intervention program must
34 meet to be registered as a batterer intervention program in development as provided by
35 section 3 of this 2009 Act.

36 (3) Establish the requirements for reviewing a plan submitted by an applicant to become
37 registered as a batterer intervention program in development and for reviewing the progress
38 of a program in meeting the goals of the plan, as provided by section 3 of this 2009 Act.

39 (4) Establish the standards of practice and professional responsibility and standards for
40 education, training and practical experience for a batterer intervention program to continue
41 to be certified or registered as provided by sections 2 and 3 of this 2009 Act.

42 (5) Develop an examination to test applicants' knowledge of the requirements of sections
43 1 to 9 of this 2009 Act, the rules adopted under sections 1 to 9 of this 2009 Act and any other
44 relevant practice standards.

45 (6) Establish the standards for certifying a batterer intervention program that is certified

1 in another state.

2 (7) Advise the Oregon Health Licensing Agency on all matters related to administering
3 sections 1 to 9 of this 2009 Act and recommend rules, standards and guidelines necessary for
4 the administration of sections 1 to 9 of this 2009 Act.

5 **SECTION 7.** (1) For the purpose of administering sections 1 to 9 of this 2009 Act, the
6 Oregon Health Licensing Agency shall:

7 (a) Determine if a batterer intervention program meets the certification requirements
8 of section 2 of this 2009 Act, and certify programs that meet the requirements.

9 (b) Determine if a batterer intervention program meets the registration requirements
10 of section 3 of this 2009 Act, and register programs that meet the requirements.

11 (c) Administer any examinations required for certification under section 2 of this 2009
12 Act.

13 (d) Make available through a public website a list of all certified batterer intervention
14 programs and batterer intervention programs in development.

15 (e) Make all disbursements necessary to carry out the provisions of sections 1 to 9 of this
16 2009 Act.

17 (f) Keep a record of the proceedings of the agency related to the issuance, renewal, de-
18 nial, suspension and revocation of certificates and registrations issued under sections 1 to 9
19 of this 2009 Act.

20 (2) For the purpose of administering sections 1 to 9 of this 2009 Act, the agency may:

21 (a) Refuse to issue or renew a certificate or registration to a batterer intervention pro-
22 gram or may suspend or revoke a certificate or registration for a batterer intervention
23 program.

24 (b) Provide for any appropriate waivers of requirements provided by sections 1 to 9 of
25 this 2009 Act and any appropriate temporary certificates.

26 (c) In consultation with the Advisory Committee for Batterer Intervention, create any
27 subcommittees within the committee as deemed necessary. Persons who are not committee
28 members may be appointed as nonvoting members to serve on the subcommittees with the
29 approval of the committee.

30 **SECTION 8.** (1) The Oregon Health Licensing Agency shall establish by rule and shall
31 collect fees and charges to carry out the responsibilities of the agency under sections 1 to 9
32 of this 2009 Act.

33 (2) All moneys received by the agency under subsection (1) of this section shall be paid
34 into the General Fund of the State Treasury and credited to the Oregon Health Licensing
35 Agency Account and are appropriated continuously to, and shall be used by, the agency only
36 as authorized by ORS 676.625.

37 (3) In addition to the fees and charges established under subsection (1) of this section,
38 the agency may assess fees and charges for providing copies of official documents or records
39 and for recovering administrative costs associated with compiling, photocopying or preparing
40 and delivering documents or records.

41 **SECTION 9.** (1) A person may not:

42 (a) Attempt to obtain a certificate or renewal of a certificate under sections 1 to 9 of this
43 2009 Act by bribery or fraudulent representation; or

44 (b) Purport to the public to provide a certified batterer intervention program, a regis-
45 tered batterer intervention program or a batterer intervention program in development un-

1 less the person possesses a valid certificate or registration issued as provided by sections 1
 2 to 9 of this 2009 Act.

3 (2) Nothing in sections 1 to 9 of this 2009 Act is intended to limit or prevent a person
 4 from providing a batterer intervention program or to restrict a person from providing a
 5 batterer intervention program if the person does not represent to the public by title that the
 6 person provides a certified batterer intervention program, a registered batterer intervention
 7 program or a batterer intervention program in development.

8 (3) Each violation of this section is a separate violation.

9 **SECTION 10.** ORS 676.606 is amended to read:

10 676.606. Pursuant to ORS 676.607, the Oregon Health Licensing Agency shall provide adminis-
 11 trative and regulatory oversight and centralized service for the following [*boards, advisory councils*
 12 *and program*]:

13 (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

14 (2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;

15 (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.570;

16 (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

17 (5) Respiratory Therapist Licensing Board, as provided in ORS 688.800 to 688.840;

18 (6) Environmental Health Registration Board, as provided in ORS chapter 700;

19 (7) Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, as
 20 provided in ORS 690.350 to 690.430;

21 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.185;

22 (9) Body piercing licensing program, as provided in ORS 690.500 to 690.570; [*and*]

23 (10) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410[.]; **and**

24 (11) **Advisory Committee for Batterer Intervention, as provided in sections 1 to 9 of this**
 25 **2009 Act.**

26 **SECTION 11.** ORS 676.610 is amended to read:

27 676.610. (1)(a) The Oregon Health Licensing Agency is under the supervision and control of a
 28 director, who is responsible for the performance of the duties, functions and powers and for the or-
 29 ganization of the agency.

30 (b) The Director of the Oregon Department of Administrative Services shall establish the qual-
 31 ifications for and appoint the Director of the Oregon Health Licensing Agency, who holds office at
 32 the pleasure of the Director of the Oregon Department of Administrative Services.

33 (c) The Director of the Oregon Health Licensing Agency shall receive a salary as provided by
 34 law or, if not so provided, as prescribed by the Director of the Oregon Department of Administrative
 35 Services.

36 (d) The Director of the Oregon Health Licensing Agency shall be in the unclassified service.

37 (2) The Director of the Oregon Health Licensing Agency shall be responsible for the perform-
 38 ance of duties and functions of the boards, councils and programs administered by the agency. The
 39 Director of the Oregon Health Licensing Agency shall provide the boards, councils and programs
 40 with such services and employees as the agency requires to carry out its duties. Subject to any ap-
 41 plicable provisions of the State Personnel Relations Law, the Director of the Oregon Health Li-
 42 censing Agency shall appoint all subordinate officers and employees of the agency, prescribe their
 43 duties and fix their compensation.

44 (3) Except as provided in section 18, chapter 885, Oregon Laws 1999, the Director of the Oregon
 45 Health Licensing Agency shall be responsible for carrying out the duties, functions and powers un-

1 der ORS 675.360 to 675.410, 680.500 to 680.570, 680.990 (2), 687.405 to 687.495, 688.800 to 688.840,
 2 688.995, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570, 690.992 and 694.015 to 694.185 and
 3 ORS chapter 700 **and sections 1 to 9 of this 2009 Act.**

4 (4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the
 5 Oregon Health Licensing Agency by other statutes.
 6

7 **SECTION 12.** ORS 676.612 is amended to read:

8 676.612. (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified
 9 in ORS 675.385, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111 **and**
 10 **section 4 of this 2009 Act**, the Oregon Health Licensing Agency may refuse to issue or renew, may
 11 suspend or revoke or may place on probation or otherwise discipline a holder of a certificate, permit,
 12 license or registration to practice issued by the agency for any of the following reasons:

13 (a) Fraud, misrepresentation, concealment of material facts or deception in applying for or obtaining an authorization to practice in this state, or in any written or oral communication to the
 14 agency concerning the issuance or retention of the authorization.
 15

16 (b) Using, causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, insignia or any other representation, however disseminated or
 17 published, that is false, misleading or deceptive.
 18

19 (c) Making a representation that the certificate, permit, license or registration holder knew or should have known is false or misleading regarding skill or the efficacy or value of treatment or
 20 remedy administered by the holder.
 21

22 (d) Practicing under a false, misleading or deceptive name, or impersonating another certificate, permit, license or registration holder.
 23

24 (e) Permitting a person other than the certificate, permit, license or registration holder to use
 25 the certificate, permit, license or registration.
 26

27 (f) Practicing with a physical or mental condition that presents an unreasonable risk of harm to the practitioner or to the person or property of others in the course of performing the practitioner's duties.
 28

29 (g) Practicing while under the influence of alcohol, controlled substances or other skill-impairing substances, or engaging in the illegal use of controlled substances or other skill-impairing substances so as to create a risk of harm to the person or property of others in the course of performing the practitioner's duties.
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33 (h) Failing to properly and reasonably accept responsibility for the actions of employees.

34 (i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered person to practice a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.
 35
 36

37 (j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards, councils and programs listed under ORS 676.606.
 38
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 40

41 (k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of the conviction. A plea of no contest or an admission of guilt shall be considered a conviction for purposes of this paragraph.
 42
 43
 44

45 (L) Failing to report any adverse action, as required by statute or rule, taken against the cer-

1 tificate, permit, license, or registration holder by another regulatory jurisdiction or any peer review
 2 body, health care institution, professional association, governmental agency, law enforcement agency
 3 or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary
 4 action as described in this section.

5 (m) Violation of a statute regulating an occupation or profession subject to the authority of the
 6 boards, councils and programs listed in ORS 676.606.

7 (n) Violation of any rule regulating an occupation or profession subject to the authority of the
 8 boards, councils and programs listed in ORS 676.606.

9 (o) Failing to cooperate with the agency in any investigation, inspection or request for infor-
 10 mation.

11 (2) The agency may refuse to issue or renew, may suspend or revoke or may place on probation
 12 or otherwise sanction a holder of a certificate, permit, license or registration to practice issued by
 13 the agency for failure to pay an outstanding civil penalty or fee that is due or for failure to meet
 14 the terms of any order issued by the agency that has become final.

15 (3) For the purpose of requesting a state or nationwide criminal records check under ORS
 16 181.534, the agency may require the fingerprints of a person who is:

17 (a) Applying for a certificate, permit, license or registration that is issued by the agency;

18 (b) Applying for renewal of a certificate, permit, license or registration that is issued by the
 19 agency; or

20 (c) Under investigation by the agency.

21 (4) If the agency places a holder of a certificate, permit, license or registration on probation
 22 under subsection (1) of this section, the agency, in consultation with the appropriate board, council
 23 or program, may determine and at any time modify the conditions of the probation.

24 (5) If a certificate, permit, license or registration is suspended, the holder may not practice
 25 during the term of suspension. Upon the expiration of the term of suspension, the certificate, permit,
 26 license or registration may be reinstated by the agency if the conditions of suspension no longer
 27 exist and the holder has satisfied all requirements in the relevant statutes or administrative rules
 28 for issuance, renewal or reinstatement.

29 **SECTION 13.** ORS 676.613 is amended to read:

30 676.613. (1) In addition to all other remedies, when it appears to the Oregon Health Licensing
 31 Agency that a person is engaged in, has engaged in or is about to engage in any act, practice or
 32 transaction that violates any provision of ORS 675.360 to 675.410, 676.617, 680.500 to 680.570, 687.405
 33 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, 690.500 to
 34 690.570 or 694.015 to 694.185 or ORS chapter 700 **or sections 1 to 9 of this 2009 Act**, the agency
 35 may, through the Attorney General or the district attorney of the county in which the act, practice
 36 or transaction occurs or will occur, apply to the court for an injunction restraining the person from
 37 the act, practice or transaction.

38 (2) A court may issue an injunction under this section without proof of actual damages. An in-
 39 junction issued under this section does not relieve a person from any other prosecution or enforce-
 40 ment action taken for violation of statutes listed in subsection (1) of this section.

41 **SECTION 14.** ORS 676.992 is amended to read:

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

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

- 1 (b) ORS 690.500 to 690.570 (body piercing);
- 2 (c) ORS 690.005 to 690.235 (cosmetology);
- 3 (d) ORS 680.500 to 680.570 (denture technology);
- 4 (e) ORS 687.405 to 687.495 (direct entry midwifery);
- 5 (f) ORS 690.350 to 690.430 (electrology and permanent coloring or tattooing);
- 6 (g) ORS 694.015 to 694.185 (dealing in hearing aids);
- 7 (h) ORS 688.800 to 688.840 (respiratory therapy);
- 8 (i) ORS chapter 700 (environmental sanitation);
- 9 (j) ORS 676.617 (single facility licensure); [*and*]
- 10 (k) ORS 675.360 to 675.410 (sex offender treatment)[.]; **and**

11 **(L) Sections 1 to 9 of this 2009 Act (batterer intervention programs).**

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

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

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

- 19 (a) The immediacy and extent to which the violation threatens the public health or safety;
- 20 (b) Any prior violations of statutes, rules or orders;
- 21 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-
22 lation; and
- 23 (d) Any other aggravating or mitigating factors.
- 24 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

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

30