

Senate Bill 136

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 John A. Kitzhaber for State Mortuary and Cemetery Board)

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**.

Allows certain regulatory boards to issue order punishing certain violations without issuing notice of intent to impose discipline.

A BILL FOR AN ACT

1
2 Relating to orders issued by a regulatory board; creating new provisions; and amending ORS 675.070,
3 675.337, 675.540, 675.745, 676.175, 676.992, 677.200, 677.265, 678.117, 679.250, 681.490, 682.991,
4 683.140, 684.155, 685.990, 686.450, 686.990, 687.250, 688.140, 688.915, 689.832 and 692.180.

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

6 **SECTION 1. (1) As used in this section, "board" means the:**

7 **(a) State Board of Examiners for Speech-Language Pathology and Audiology;**

8 **(b) State Board of Chiropractic Examiners;**

9 **(c) State Board of Licensed Social Workers;**

10 **(d) Oregon Board of Licensed Professional Counselors and Therapists;**

11 **(e) Oregon Board of Dentistry;**

12 **(f) Board of Examiners of Licensed Dietitians;**

13 **(g) State Board of Massage Therapists;**

14 **(h) State Mortuary and Cemetery Board;**

15 **(i) Oregon Board of Naturopathic Medicine;**

16 **(j) Oregon State Board of Nursing;**

17 **(k) Oregon Board of Optometry;**

18 **(L) State Board of Pharmacy;**

19 **(m) Oregon Medical Board;**

20 **(n) Occupational Therapy Licensing Board;**

21 **(o) Physical Therapist Licensing Board;**

22 **(p) State Board of Psychologist Examiners;**

23 **(q) Board of Medical Imaging;**

24 **(r) Oregon State Veterinary Medical Examining Board;**

25 **(s) Oregon Health Authority to the extent that the authority certifies emergency medical**
26 **technicians; and**

27 **(t) Oregon Health Licensing Agency.**

28 **(2) A board or person designated by a board may, without issuing a notice of intent to**
29 **impose discipline to the licensee or applicant, issue an order finding that a licensee or ap-**
30 **plicant has committed one of the following violations:**

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 (a) Failure to maintain current information, including a licensee’s address, employer, lo-
 2 cation or supervisor, with the board if required by the board.

3 (b) Failure to obtain board approval before change of ownership if required by the board.

4 (c) Failure to pay required fees.

5 (d) Failure to post required documents.

6 (e) Minor violations discovered during an inspection of a licensee’s premises or records,
 7 as prescribed by rule of the board.

8 (f) Failure to respond to a request for an audit if required by the board.

9 (g) Failure to provide professional disclosure documents to clients, if required by the
 10 board.

11 (h) Failure to complete or document completion of continuing education requirements.

12 (3) An order issued under subsection (2) of this section:

13 (a) Must include the information required under ORS 183.415.

14 (b) May impose a civil penalty of up to \$500.

15 (4) A board may not issue an order under subsection (2) of this section if the board is
 16 required to investigate under ORS 676.165.

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

18 **SECTION 2.** ORS 676.175 is amended to read:

19 676.175. (1) A health professional regulatory board shall keep confidential and not disclose to
 20 the public any information obtained by the board as part of an investigation of a licensee or appli-
 21 cant, including complaints concerning licensee or applicant conduct and information permitting the
 22 identification of complainants, licensees or applicants. However, the board may disclose information
 23 obtained in the course of an investigation of a licensee or applicant to the extent necessary to
 24 conduct a full and proper investigation.

25 (2) Notwithstanding subsection (1) of this section, if a health professional regulatory board votes
 26 not to issue a notice of intent to impose a disciplinary sanction:

27 (a) The board shall disclose information obtained as part of an investigation of an applicant or
 28 licensee if the person requesting the information demonstrates by clear and convincing evidence that
 29 the public interest in disclosure outweighs other interests in nondisclosure, including but not limited
 30 to the public interest in nondisclosure.

31 (b) The board may disclose to a complainant a written summary of information obtained as part
 32 of an investigation of an applicant or licensee resulting from the complaint to the extent the board
 33 determines necessary to explain the reasons for the board’s decision. An applicant or licensee may
 34 review and obtain a copy of any written summary of information disclosed to a complainant by the
 35 board after the board has deleted any information that could reasonably be used to identify the
 36 complainant.

37 (3) If a health professional regulatory board votes to issue a notice of intent to impose a disci-
 38 plinary sanction, upon written request by the licensee or applicant, the board shall disclose to the
 39 licensee or applicant all information obtained by the board in the investigation of the allegations in
 40 the notice except:

41 (a) Information that is privileged or confidential under a law other than this section.

42 (b) Information that would permit the identification of any person who provided information that
 43 led to the filing of the notice and who will not provide testimony at a hearing arising out of the
 44 investigation.

45 (c) Information that would permit the identification of any person as a person who made a

1 complaint to the board about a licensee or applicant.

2 (d) Reports of expert witnesses.

3 (4) Information disclosed to a licensee or applicant under subsection (3) of this section may be
4 further disclosed by the licensee or applicant only to the extent necessary to prepare for a hearing
5 on the notice of intent to impose a disciplinary sanction.

6 (5)(a) A health professional regulatory board shall disclose:

7 (A) A notice of intent to impose a disciplinary sanction against a licensee or applicant that has
8 been issued by vote of the board;

9 (B) A final order that results from the board's notice of intent to impose a disciplinary sanction;

10 (C) **An order issued under section 1 of this 2011 Act;**

11 [(C)] (D) An emergency suspension order;

12 [(D)] (E) A consent order or stipulated agreement that involves licensee or applicant conduct;

13 and

14 [(E)] (F) Information to further an investigation into board conduct under ORS 192.685.

15 (b) A health professional regulatory board may make the information required to be disclosed
16 under paragraph (a)(A) to [(D)] (E) of this subsection available in electronic form, accessible by use
17 of a personal computer or similar technology that provides direct electronic access to the informa-
18 tion.

19 (6) If a notice of intent to impose a disciplinary sanction has been issued by vote of a health
20 professional regulatory board, a final order that results from the board's notice of intent to impose
21 a disciplinary sanction, an emergency suspension order or a consent order or stipulated agreement
22 that involves licensee or applicant conduct shall summarize the factual basis for the board's dispo-
23 sition of the matter.

24 (7) A health professional regulatory board record or order, or any part thereof, obtained as part
25 of or resulting from an investigation, contested case proceeding, consent order, [or] stipulated
26 agreement **or proceeding under section 1 of this 2011 Act**, is not admissible as evidence and
27 [may] **does** not preclude an issue or claim in any civil proceeding except in a proceeding between
28 the board and the licensee or applicant as otherwise allowed by law.

29 (8)(a) Notwithstanding subsection (1) of this section, it is not disclosure to the public for a board
30 to permit other public officials and members of the press to attend executive sessions where infor-
31 mation obtained as part of an investigation is discussed. Public officials and members of the press
32 attending such executive sessions shall not disclose information obtained as part of an investigation
33 to any other member of the public.

34 (b) For purposes of this subsection, "public official" means a member or member-elect, or any
35 member of the staff or an employee, of a public entity as defined by ORS 676.177.

36 (9) A health professional regulatory board may establish fees reasonably calculated to reimburse
37 the actual cost of disclosing information to licensees or applicants as required by subsection (3) of
38 this section.

39 **SECTION 3.** ORS 681.490 is amended to read:

40 681.490. (1) The State Board of Examiners for Speech-Language Pathology and Audiology:

41 (a) May, upon its own motion, investigate any alleged violation of this chapter.

42 (b) Shall, upon the complaint of any resident of this state, investigate any alleged violation of
43 this chapter.

44 (2) In the conduct of investigations, the board may:

45 (a) Take evidence;

1 (b) Take the depositions of witnesses, including the person charged, in the manner provided by
 2 law in civil cases;

3 (c) Compel the appearance of witnesses, including the person charged, before the board in per-
 4 son the same as in civil cases;

5 (d) Require answers to interrogatories; and

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

8 (3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas
 9 over the signature of the board chairperson and the seal of the board in the name of the State of
 10 Oregon.

11 (4) The board may bring a cause of action for injunction or other appropriate remedy to enforce
 12 any provision of this chapter.

13 (5) In addition to or in lieu of any other sanction permitted under this chapter, the board may,
 14 **in the manner provided in ORS 183.745:**

15 (a) Impose a civil penalty of up to \$5,000 for each violation of the provisions of this chapter or
 16 rules adopted by the board under this chapter. [*A civil penalty imposed under this section shall be*
 17 *imposed in the manner provided in ORS 183.745.*]

18 **(b) Impose civil penalties as provided in section 1 of this 2011 Act.**

19 **SECTION 4.** ORS 684.155 is amended to read:

20 684.155. In addition to any other powers granted by this chapter, the State Board of Chiropractic
 21 Examiners may:

22 (1) Adopt necessary and proper rules:

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

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

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

30 (B) As used in this paragraph, "ancillary personnel" means a chiropractic physician's staff per-
 31 sonnel who are directed or designated, by spoken or written words or other means, to follow and
 32 carry out the chiropractic physician's orders or directions.

33 (2) Issue, deny, suspend and revoke licenses and limited licenses, assess costs of proceedings and
 34 place persons on probation as provided in this chapter.

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

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

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

45 (6) Prescribe the time, place, method, manner, scope and subjects of examinations under this

1 chapter.

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

5 (8) For the purpose of requesting a state or nationwide criminal records check under ORS
6 181.534 require each applicant for a license or certification, or renewal of a license or certification,
7 to be fingerprinted.

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

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

14 **(11) Impose civil penalties as provided in section 1 of this 2011 Act.**

15 **SECTION 5.** ORS 675.540 is amended to read:

16 675.540. (1) The State Board of Licensed Social Workers may impose any or all of the sanctions
17 specified in subsection (2) of this section, upon proof, after a hearing pursuant to the provisions of
18 ORS chapter 183 relating to a contested case, that a regulated social worker:

19 (a) Has been convicted in this or any other state of a crime that is a felony in this state;

20 (b) Has been convicted of a felony in a federal court;

21 (c) Is unable to perform the practice of social work by reason of physical illness;

22 (d) Has an impairment as defined in ORS 676.303;

23 (e) Has been grossly negligent or has engaged in unprofessional conduct in the practice of social
24 work; or

25 (f) Has violated any provision of ORS 675.510 to 675.600 or any rule adopted under ORS 675.600.

26 (2) Pursuant to the provisions of subsection (1) of this section, the board may:

27 (a) Deny, suspend, revoke or refuse to renew any authorization to practice regulated social work
28 issued under ORS 675.510 to 675.600.

29 (b) Place a regulated social worker on probation and impose conditions or limits on the scope
30 of practice of a regulated social worker.

31 (c) Impose a civil penalty not to exceed \$3,000 for each violation.

32 (3) The expiration, or voluntary surrender by a regulated social worker, of an authorization to
33 practice regulated social work does not deprive the board of jurisdiction to proceed with any in-
34 vestigation of, or any action or disciplinary proceedings against, the regulated social worker.

35 (4) Information that the board obtains as part of an investigation into the conduct of a regulated
36 social worker or an applicant for an authorization to practice regulated social work or as part of
37 a contested case proceeding, consent order or stipulated agreement involving the conduct of a reg-
38 ulated social worker or applicant, is confidential as provided under ORS 676.175.

39 (5) Subject to the provisions of ORS chapter 183 relating to a contested case, the board may
40 impose a civil penalty in an amount up to \$5,000 upon proof that, after a person's authorization to
41 practice regulated social work has been revoked by the board, the person has:

42 (a) Engaged in the practice of clinical social work; or

43 (b) Represented that the person is a regulated social worker.

44 **(6) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

45 **SECTION 6.** ORS 675.745 is amended to read:

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

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

7 (b) Is unable to perform the practice of professional counseling or marriage and family therapy
8 by reason of physical illness;

9 (c) Has an impairment as defined in ORS 676.303;

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

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

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

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

19 (h) 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 a registered intern upon
22 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 \$2,500 for
32 each ground for discipline listed in subsection (1) of this section found by the board.

33 (5) Pursuant to ORS 183.745, the board may impose a civil penalty of not more than \$2,500 for
34 each violation of or failure to observe any limitation or condition imposed by the board on the
35 licensee's or registered intern's practice under subsection (2) of this section.

36 **(6) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

37 [(6)] (7) Information that the board obtains as part of an investigation into licensee or applicant
38 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
39 licensee or applicant conduct is confidential as provided under ORS 676.175.

40 [(7)] (8) In addition to the actions authorized by subsections (1) and (2) of this section, the board
41 may take such disciplinary action as the board in its discretion finds proper, including but not lim-
42 ited to the assessment of the costs of the disciplinary process.

43 **SECTION 7.** ORS 679.250 is amended to read:

44 679.250. The powers and duties of the Oregon Board of Dentistry are as follows:

45 (1) To, during the month of April of each year, organize and elect from its membership a presi-

1 dent who shall hold office for one year, or until the election and qualification of a successor.

2 (2) To authorize all necessary disbursements to carry out the provisions of this chapter, includ-
3 ing but not limited to, payment for necessary supplies, office equipment, books and expenses for the
4 conduct of examinations, payment for legal and investigative services rendered to the board, and
5 such other expenditures as are provided for in this chapter.

6 (3) To employ such inspectors, examiners, special agents, investigators, clerical assistants, as-
7 sistants and accountants as are necessary for the investigation and prosecution of alleged violations
8 and the enforcement of this chapter and for such other purposes as the board may require. Nothing
9 in this chapter shall be construed to prevent assistance being rendered by an employee of the board
10 in any hearing called by it. However, all obligations for salaries and expenses incurred under this
11 chapter shall be paid from the fees accruing to the board under this chapter and not otherwise.

12 (4)(a) To conduct examinations of applicants for license to practice dentistry and dental hygiene
13 at least twice in each year.

14 (b) In conducting examinations for licensure, the board may enter into a compact with other
15 states for conducting regional examinations with other board of dental examiners concerned, or by
16 a testing service recognized by such boards.

17 (5) To meet for the transaction of other business at the call of the president. A majority of board
18 members shall constitute a quorum. A majority vote of those present shall be a decision of the entire
19 board. The board's proceedings shall be open to public inspection in all matters affecting public in-
20 terest.

21 (6) To keep an accurate record of all proceedings of the board and of all its meetings, of all
22 receipts and disbursements, of all prosecutions for violation of this chapter, of all examinations for
23 license to practice dentistry, with the names and qualifications for examination of any person ex-
24 amined, together with the addresses of those licensed and the results of such examinations, a record
25 of the names of all persons licensed to practice dentistry in Oregon together with the addresses of
26 all such persons having paid the license fee prescribed in ORS 679.120 and the names of all persons
27 whose license to practice has been revoked or suspended.

28 (7) To make and enforce rules necessary for the procedure of the board, for the conduct of ex-
29 aminations, for regulating the practice of dentistry, and for regulating the services of dental
30 hygienists and dental auxiliary personnel not inconsistent with the provisions of this chapter. As
31 part of such rules, the board may require the procurement of a permit or other certificate. Any
32 permit issued may be subject to periodic renewal. In adopting rules, the board shall take into ac-
33 count all relevant factors germane to an orderly and fair administration of this chapter and of ORS
34 680.010 to 680.205, the practices and materials generally and currently used and accepted by persons
35 licensed to practice dentistry in this state, dental techniques commonly in use, relevant technical
36 reports published in recognized dental journals, the curriculum at accredited dental schools, the
37 desirability of reasonable experimentation in the furtherance of the dental arts, and the desirability
38 of providing the highest standard of dental care to the public consistent with the lowest economic
39 cost.

40 (8) Upon its own motion or upon any complaint, to initiate and conduct investigations of and
41 hearings on all matters relating to the practice of dentistry, the discipline of licensees, or pertaining
42 to the enforcement of any provision of this chapter. In the conduct of investigations or upon the
43 hearing of any matter of which the board may have jurisdiction, the board may take evidence, ad-
44 minister oaths, take the depositions of witnesses, including the person charged, in the manner pro-
45 vided by law in civil cases, and compel their appearance before it in person the same as in civil

1 cases, by subpoena issued over the signature of an employee of the board and in the name of the
2 people of the State of Oregon, require answers to interrogatories, and compel the production of
3 books, papers, accounts, documents and testimony pertaining to the matter under investigation or
4 to the hearing. In all investigations and hearings, the board and any person affected thereby may
5 have the benefit of counsel, and all hearings shall be held in compliance with ORS chapter 183.
6 Notwithstanding ORS 676.165, 676.175 and 679.320, if a licensee who is the subject of an investi-
7 gation or complaint is to appear before members of the board investigating the complaint, the board
8 shall provide the licensee with a current summary of the complaint or the matter being investigated
9 not less than five days prior to the date that the licensee is to appear. At the time the summary of
10 the complaint or the matter being investigated is provided, the board shall provide to the licensee
11 a current summary of documents or alleged facts that the board has acquired as a result of the in-
12 vestigation. The name of the complainant or other information that reasonably may be used to
13 identify the complainant may be withheld from the licensee.

14 (9) To require evidence as determined by rule of continuing education or to require satisfactory
15 evidence of operative competency before reissuing or renewing licenses for the practice of dentistry
16 or dental hygiene.

17 (10) To adopt and enforce rules regulating administration of general anesthesia and conscious
18 sedation by a dentist or under the supervision of a dentist in the office of the dentist. As part of
19 such rules, the board may require the procurement of a permit which must be periodically renewed.

20 (11) To order an applicant or licensee to submit to a physical examination, mental examination
21 or a competency examination when the board has evidence indicating the incapacity of the applicant
22 or licensee to practice safely.

23 **(12) To impose civil penalties as provided in section 1 of this 2011 Act.**

24 **SECTION 8. The Board of Examiners of Licensed Dietitians may impose civil penalties**
25 **as provided in section 1 of this 2011 Act.**

26 **SECTION 9.** ORS 687.250 is amended to read:

27 687.250. (1) The State Board of Massage Therapists shall report to the proper district attorney
28 all cases that in the judgment of the board warrant criminal prosecution under ORS 687.991.

29 (2) The board may, in its own name, assess a civil penalty against any licensed or unlicensed
30 person violating a provision of ORS 687.011 to 687.250, 687.895 and 687.991. The board may assess
31 the civil penalty instead of or in addition to disciplinary action under ORS 687.081, an injunction
32 issued under ORS 687.021 or criminal prosecution by the district attorney under this section. The
33 amount of the civil penalty may not exceed \$1,000 for any single violation.

34 **(3) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

35 (4) Except as the board may otherwise provide under ORS 182.462 (5), moneys collected through
36 the assessment of civil penalties by the board under this [subsection] section or ORS 687.081 shall
37 be deposited into the account created by the board pursuant to ORS 182.470 and are continuously
38 appropriated to the board for carrying out the provisions of ORS 687.011 to 687.250, 687.895 and
39 687.991.

40 **SECTION 10.** ORS 692.180 is amended to read:

41 692.180. (1) Upon complaint or upon its own motion, the State Mortuary and Cemetery Board
42 may investigate a complaint made by any person or by the board. If the board finds any of the
43 causes described in this section in regard to any person, licensee or applicant or the holder of a
44 certificate of authority, the board may impose a civil penalty of not more than \$1,000 for each vio-
45 lation, suspend or revoke a license to practice or to operate under this chapter or refuse to grant

1 or renew a license. The causes are as follows:

2 (a) Misrepresentation in the conduct of business or in obtaining a license.

3 (b) Fraudulent or dishonest conduct, when the conduct bears a demonstrable relationship to fu-
4 neral service practice, embalming practice or the operation of cemeteries, crematoriums or other
5 facilities for final disposition of human remains.

6 (c) Except as provided in this paragraph, solicitation of human remains by the licensee or any
7 agent, assistant or employee of the licensee, either before or after death. This paragraph does not
8 apply to:

9 (A) Activities permissible under ORS 97.923 to 97.949; or

10 (B) The sale, in accordance with provisions of the Insurance Code, of prearranged funeral or
11 cemetery merchandise or services, or any combination thereof, to be funded by the contemporaneous
12 or subsequent assignment of a life insurance policy or an annuity contract.

13 (d) Offensive treatment of dead human bodies or evidence that a body in the person's custody
14 has been disposed of in violation of ORS chapter 432 or rules adopted pursuant thereto.

15 (e) Aiding or abetting a person who is not a licensee or an apprentice in any act involving the
16 disposition of dead human bodies before the bodies undergo final disposition or before the bodies are
17 transported out of the State of Oregon.

18 (f) Sale or reuse of any casket or body container that has been previously utilized for the
19 placement of a deceased human body. This does not include use of a rental cover as defined in ORS
20 692.010.

21 (g) Violation of any of the provisions of this chapter or any rules adopted under this chapter.

22 (h) Violation of any provision of ORS 97.929 or 97.937 or regulations adopted by the Federal
23 Trade Commission regulating funeral industry practices.

24 (i) Conviction of a crime, when the crime bears a demonstrable relationship to funeral service
25 practice, embalming practice, death care consultant practice or the operation of cemeteries,
26 crematoriums or other facilities for final disposition of human remains. A certified copy of the con-
27 viction is conclusive evidence of the conviction.

28 (j) Violation of ORS chapter 97 as it relates to disposition of human bodies and to cemeteries.

29 (k) Refusing to surrender promptly the custody of a dead human body, upon the express order
30 of the person lawfully entitled to the custody of the body.

31 (L) Acting as the legal representative of any deceased person for whom the licensee has ren-
32 dered services governed by this chapter. This subsection does not prohibit a licensee from acting
33 as the legal representative of a deceased relative or a deceased licensee if the deceased licensee
34 was a partner, employee or employer in the licensee's practice.

35 (m) Failure to pay any civil penalty imposed by the board within 10 days after the order is en-
36 tered or, if appealed, within 10 days after the order is sustained on appeal.

37 (n) Impairment as defined in ORS 676.303.

38 **(2) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

39 [(2)] **(3)** All amounts recovered under this section shall be deposited in the State Mortuary and
40 Cemetery Board Account established under ORS 692.375.

41 [(3)] **(4)** Civil penalties under this section shall be imposed as provided in ORS 183.745.

42 [(4)] **(5)** Upon receipt of a complaint, the board shall conduct an investigation as described under
43 ORS 676.165.

44 [(5)] **(6)** Information that the board obtains as part of an investigation into licensee or applicant
45 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving

1 licensee or applicant conduct is confidential as provided under ORS 676.175.

2 **SECTION 11.** ORS 685.990 is amended to read:

3 685.990. (1) Violation of any provision of this chapter is a Class A misdemeanor.

4 (2)[(a)] In addition to any other sanctions authorized by law, the Oregon Board of Naturopathic
5 Medicine may impose a civil penalty not to exceed \$5,000 for each violation of any provision of this
6 chapter, or of any rule adopted by the board.

7 **(3) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

8 [(b)] (4) Civil penalties imposed under this [subsection] **section** shall be imposed as provided in
9 ORS 183.745.

10 **SECTION 12.** ORS 678.117 is amended to read:

11 678.117. (1)(a) The Oregon State Board of Nursing shall adopt by rule a schedule establishing
12 the amount of civil penalty that may be imposed for any violation of ORS 678.010 to 678.445 or any
13 rule of the board. No civil penalty shall exceed \$5,000.

14 [(2)] (b) In imposing a penalty pursuant to this [section] **subsection**, the board shall consider the
15 following factors:

16 [(a)] (A) The past history of the person incurring the penalty in observing the provisions of ORS
17 678.010 to 678.445 and the rules adopted pursuant thereto.

18 [(b)] (B) The economic and financial conditions of the person incurring the penalty.

19 **(2) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

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

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

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

25 **SECTION 13.** ORS 683.140 is amended to read:

26 683.140. (1) The Oregon Board of Optometry may discipline as provided in **subsection (2) of this**
27 **section** any optometrist or person, where appropriate, for the following causes:

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

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

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

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

35 (e) Employing directly or indirectly any suspended or unlicensed optometrist to perform any
36 work covered by ORS 683.010 to 683.340.

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

39 (g) Impairment as defined in ORS 676.303.

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

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

44 (j) Advertising professional methods or professional superiority.

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

1 (L) Violating the federal Controlled Substances Act.

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

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

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

13 (p) Any violation of the provisions of ORS 683.010 to 683.340.

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

16 (a) Deny an initial license;

17 (b) Revoke, suspend or refuse to renew a license;

18 (c) Place the optometrist on probation;

19 (d) Impose limitations on the optometrist; or

20 (e) Take other disciplinary action as the board in its discretion finds proper, including the as-
 21 sessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil
 22 penalty not to exceed \$10,000 for each violation, or both.

23 **(3) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

24 **SECTION 14.** ORS 689.832 is amended to read:

25 689.832. (1) In addition to any other liability or penalty provided by law, the State Board of
 26 Pharmacy may impose a civil penalty for any violation of the provisions of this chapter or ORS
 27 chapter 475 or any rule of the board. A civil penalty imposed under this subsection may not exceed
 28 \$1,000 for each violation by an individual and \$10,000 for each violation by a drug outlet.

29 **(2) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

30 [(2)] **(3)** All penalties recovered under this section shall be deposited into the State Board of
 31 Pharmacy Account established in ORS 689.139.

32 [(3)] **(4)** Any civil penalty under this section shall be imposed in the manner provided in ORS
 33 183.745.

34 [(4)] **(5)** Notwithstanding ORS 183.745, the person to whom the notice is addressed shall have
 35 10 days from the date of service of the notice in which to make written application for a hearing
 36 before the board.

37 **SECTION 15.** ORS 677.200 is amended to read:

38 677.200. Except as provided in ORS 677.202 or 677.205 (1)(a) **or section 1 of this 2011 Act**, any
 39 proceeding for disciplinary action of a licensee licensed under this chapter shall be substantially in
 40 accord with the following procedure:

41 (1) A written complaint of some person, not excluding members or employees of the Oregon
 42 Medical Board, shall be verified and filed with the board.

43 (2) A hearing shall be given to the accused in accordance with ORS chapter 183 as a contested
 44 case.

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

1 677.265. In addition to any other powers granted by this chapter, the Oregon Medical Board
2 may:

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

5 (a) Establishing fees and charges to carry out its legal responsibilities, subject to prior approval
6 by the Oregon Department of Administrative Services and a report to the Emergency Board prior
7 to adopting the fees and charges. The fees and charges shall be within the budget authorized by the
8 Legislative Assembly as that budget may be modified by the Emergency Board. The fees and charges
9 established under this section may not exceed the cost of administering the program or the purpose
10 for which the fee or charge is established, as authorized by the Legislative Assembly for the Oregon
11 Medical Board's budget, or as modified by the Emergency Board or future sessions of the Legislative
12 Assembly.

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

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

21 (2) Issue, deny, suspend and revoke licenses and limited licenses, assess costs of proceedings and
22 fines and place licensees on probation as provided in this chapter.

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

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

29 (5) Appoint examiners, who need not be members of the Oregon Medical Board, and employ or
30 contract with the American Public Health Association or the National Board of Medical Examiners
31 or other organizations, agencies and persons to prepare examination questions and score examina-
32 tion papers.

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

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

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

43 **(9) Impose civil penalties as provided in section 1 of this 2011 Act.**

44 [(9)] (10) For the purpose of requesting a state or nationwide criminal records check under ORS
45 181.534, require the fingerprints of a person who is:

- 1 (a) Applying for a license that is issued by the board;
- 2 (b) Applying for renewal of a license that is issued by the board; or
- 3 (c) Under investigation by the board.

4 [(10)] (11) Administer oaths, issue notices and subpoenas in the name of the board, enforce
 5 subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as
 6 are reasonably necessary to carry out its duties under this chapter.

7 **SECTION 17. The Occupational Therapy Licensing Board may impose civil penalties as**
 8 **provided in section 1 of this 2011 Act.**

9 **SECTION 18.** ORS 675.337 is amended to read:

10 675.337. (1) After public hearing, the Occupational Therapy Licensing Board by rule shall adopt
 11 a schedule establishing the civil penalty that may be imposed under ORS 675.336.

12 **(2) Except when the board imposes a civil penalty under section 1 of this 2011 Act:**

13 (a) For a first violation of the provisions of ORS 675.210 to 675.340, the board shall issue a
 14 warning notice.

15 (b) The board may impose a fine of not to exceed \$200 on a second violation [and].

16 (c) **The board** may impose a fine of not to exceed \$1,000 upon third and subsequent violations.

17 [(2)] (3) In imposing a penalty pursuant to the schedule adopted pursuant to subsection (1) of
 18 this section, the board shall consider the following factors:

19 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
 20 necessary or appropriate to correct any violation.

21 (b) Any prior violations of the statute or rule.

22 (c) The economic or financial conditions of the person incurring the penalty.

23 (d) The immediacy and extent to which the violation threatens the public health or safety.

24 [(3)] (4) A civil penalty imposed under ORS 675.336 may be remitted or reduced upon such terms
 25 or conditions as the board considers proper and consistent with the public health and safety.

26 **SECTION 19.** ORS 688.140 is amended to read:

27 688.140. (1) The Physical Therapist Licensing Board, after notice and hearing as provided in
 28 ORS 688.145, may impose any or all of the following sanctions or take any of the following actions
 29 upon any of the grounds specified in subsection (2) of this section:

30 (a) Refuse to license any applicant.

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

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

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

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

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

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

37 (h) Issue letters of reprimand.

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

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

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

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

1 (c) Obtains or attempts to obtain or renew a license or temporary permit by fraud or misrepresenta-
2 tion.

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

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

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

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

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

16 (i) Has an impairment as defined in ORS 676.303.

17 (j) Has had an application for licensure refused because of conduct or circumstances that would
18 be grounds for sanctions by the board, or a license revoked or suspended, or other disciplinary
19 action taken by the proper authorities of another state, territory or country.

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

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

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

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

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

35 (n) Obtains or attempts to obtain a fee for physical therapy services by fraud or misrepresenta-
36 tion.

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

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

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

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

44 (s) Fails to maintain adequate patient records.

45 (t) Fails to maintain patient confidentiality.

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

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

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

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

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

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

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

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

21 (e) Take emergency action to suspend a person’s license or restrict the person’s practice or
 22 employment pending proceedings by the board.

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

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

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

35 (a) Dismiss the complaint.

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

39 **(5) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

40 ~~[(5)]~~ (6) The board may apply for injunctive relief in any court of competent jurisdiction to en-
 41 join any person from committing any act in violation of ORS 688.010 to 688.201. Injunction pro-
 42 ceedings are in addition to, and not in lieu of, penalties or other sanctions prescribed in ORS 688.010
 43 to 688.201.

44 **SECTION 20.** ORS 675.070 is amended to read:

45 675.070. (1) Where any of the grounds enumerated in subsection (2) of this section exist, the

1 State Board of Psychologist Examiners may impose any of the following sanctions:

2 (a) Deny a license to any applicant;

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

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

6 (d) Issue a letter of reprimand;

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

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

10 (g) Impose a civil penalty as set forth in subsection (3) of this section.

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

15 (a) Has an impairment as defined in ORS 676.303;

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

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

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

20 (A) Any conduct or practice contrary to recognized standard of ethics of the psychological
21 profession or any conduct or practice that constitutes a danger to the health or safety of a patient
22 or the public, or any conduct, practice or condition that adversely affects a psychologist or psy-
23 chologist associate's ability to practice psychology safely and skillfully.

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

28 (e) Has practiced or attempted to practice medicine without being licensed to do so;

29 (f) Has obtained or attempted to obtain a license under ORS 675.010 to 675.150 by fraud or ma-
30 terial misrepresentation;

31 (g) Has impersonated a licensed psychologist or psychologist associate or has allowed another
32 person to use the license of the psychologist;

33 (h) Has violated any provision of ORS 675.010 to 675.150 or any provision of the code of pro-
34 fessional conduct formulated under ORS 675.110 (12); or

35 (i) Has obtained a fee or payment from a patient or third party payer through fraud or inten-
36 tional misrepresentation.

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

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

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

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

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

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

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

1 (E) The person subject to the penalty violated ORS 675.020 by practicing psychology or repre-
 2 senting that the person is a psychologist without having a license.

3 (4) In case of any conviction required under subsection (2) of this section as grounds for denial,
 4 refusal, suspension, revocation, reprimand, probation or imposition of a civil penalty, a certified copy
 5 of the record of the conviction shall be conclusive evidence.

6 **(5) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

7 [(5)] (6) The board may license an applicant or renew or restore any license suspended or re-
 8 voked under subsection (2)(a) of this section due to a mental health condition if the board determines
 9 that the applicant or former licensed psychologist or former psychologist associate no longer has
 10 an impairment due to a mental health condition.

11 [(6)] (7) License suspension or revocation in another state is grounds for license denial or dis-
 12 ciplinary action by the board.

13 **SECTION 21.** ORS 688.915 is amended to read:

14 688.915. (1) In addition to any other sanction authorized by law, the Board of Medical Imaging
 15 may impose a civil penalty not to exceed \$1,000 per occurrence for any violation of ORS 688.405 to
 16 688.605, or of any rules adopted under those provisions. The penalty may be imposed whether or not
 17 the person incurring the penalty has been licensed or been issued a permit under ORS 688.405 to
 18 688.605, or has made application for a license or permit under those sections. A civil penalty may
 19 be imposed in lieu of a refusal to grant or renew a license or permit, or a suspension or revocation
 20 of a license or permit, under ORS 688.525.

21 **(2) The board may impose civil penalties as provided in section 1 of this 2011 Act.**

22 [(2)] (3) Civil penalties under this section shall be imposed in the manner provided by ORS
 23 183.745.

24 [(3)] (4) All penalties recovered under this section shall be credited to the Board of Medical
 25 Imaging Account established under ORS 688.585.

26 **SECTION 22.** ORS 686.990 is amended to read:

27 686.990. (1) Violation of ORS 686.020 (1)(a) is a Class A misdemeanor.

28 **(2) The Oregon State Veterinary Medical Examining Board may impose civil penalties as**
 29 **provided in section 1 of this 2011 Act.**

30 [(2)] (3) In addition to any other sanction imposed by law, the [*Oregon State Veterinary Medical*
 31 *Examining*] board may impose a civil penalty not to exceed \$5,000 for each violation of ORS 686.020
 32 (1).

33 [(3)] (4) Failure to file a report of suspected aggravated animal abuse as required by ORS
 34 686.455 is punishable by a fine of not more than \$1,000.

35 **SECTION 23.** ORS 686.450 is amended to read:

36 686.450. As used in ORS 686.450 to 686.465 and 686.990 [(3)]:

37 (1)(a) "Aggravated animal abuse" means any animal abuse as described in ORS 167.322.

38 (b) "Aggravated animal abuse" does not include:

39 (A) Good animal husbandry, as defined in ORS 167.310; or

40 (B) Any exemption listed in ORS 167.335.

41 (2) "Law enforcement agency" means:

42 (a) Any city or municipal police department.

43 (b) Any county sheriff's office.

44 (c) The Oregon State Police.

45 (d) A law enforcement division of a humane society in Oregon that employs special agents au-

1 thORIZED under ORS 131.805.

2 (e) A law enforcement division of a county or municipal animal control agency that employs
3 sworn officers.

4 (3) "Veterinarian" means a person licensed to practice veterinary medicine under ORS chapter
5 686.

6 **SECTION 24.** ORS 682.991 is amended to read:

7 682.991. (1) Violation of any provision of ORS 682.028, 682.047 (5) or 682.204 is a Class A
8 misdemeanor. Each day of continuing violation shall be considered a separate offense.

9 (2) Violation of any provision of this chapter is a misdemeanor. In any prosecution for such vi-
10 olation it shall be sufficient to sustain a conviction to show a single act of conduct in violation of
11 any of the provisions of this chapter and it shall not be necessary to show a general course of such
12 conduct.

13 (3) In addition to the penalties under this section, the Oregon Health Authority may assess civil
14 penalties of up to \$5,000 per violation against any entity or person licensed under this chapter or
15 subject to licensure under this chapter.

16 **(4) The authority may impose civil penalties as provided in section 1 of this 2011 Act.**

17 **SECTION 25.** ORS 676.992 is amended to read:

18 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other
19 penalty or remedy provided by law, the Oregon Health Licensing Agency may impose a civil penalty
20 not to exceed \$5,000 for each violation of the following statutes and any rule adopted thereunder:

- 21 (a) ORS 688.701 to 688.734 (athletic training);
- 22 (b) ORS 690.500 to 690.570 (body piercing);
- 23 (c) ORS 690.005 to 690.235 (cosmetology);
- 24 (d) ORS 680.500 to 680.565 (denture technology);
- 25 (e) ORS 687.405 to 687.495 (direct entry midwifery);
- 26 (f) ORS 690.350 to 690.430 (electrology and permanent coloring or tattooing);
- 27 (g) ORS 694.015 to 694.185 (dealing in hearing aids);
- 28 (h) ORS 688.800 to 688.840 (respiratory therapy);
- 29 (i) ORS chapter 700 (environmental sanitation);
- 30 (j) ORS 676.617 (single facility licensure);
- 31 (k) ORS 675.360 to 675.410 (sex offender treatment);
- 32 (L) ORS 678.710 to 678.820 (nursing home administrators); and
- 33 (m) ORS 676.612 (prohibited acts).

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

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

40 (4) In imposing a civil penalty pursuant to **subsection (1) of this section**, the agency shall
41 consider the following factors:

- 42 (a) The immediacy and extent to which the violation threatens the public health or safety;
- 43 (b) Any prior violations of statutes, rules or orders;
- 44 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-
45 lation; and

1 (d) Any other aggravating or mitigating factors.

2 **(5) The agency may impose civil penalties as provided in section 1 of this 2011 Act.**

3 [(5)] **(6)** Civil penalties under this section shall be imposed as provided in ORS 183.745.

4 [(6)] **(7)** The moneys received by the agency from civil penalties under this section shall be paid
5 into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency
6 Account established under ORS 676.625. Such moneys are continuously appropriated to the agency
7 for the administration and enforcement of the laws the agency is charged with administering and
8 enforcing that govern the person against whom the penalty was imposed.

9 **SECTION 26. Sections 1, 8 and 17 of this 2011 Act and the amendments to ORS 675.070,**
10 **675.337, 675.540, 675.745, 676.175, 676.992, 677.200, 677.265, 678.117, 679.250, 681.490, 682.991,**
11 **683.140, 684.155, 685.990, 686.450, 686.990, 687.250, 688.140, 688.915, 689.832 and 692.180 by**
12 **sections 2 to 7, 9 to 16 and 18 to 25 of this 2011 Act apply to violations that occur on or after**
13 **the effective date of this 2011 Act.**

14