

HB 2997
Relating to direct entry midwifery

We previously amended and reported out House Bill 2997 which establishes the infrastructure for the Oregon Health Licensing Agency to require licensure to practice direct entry midwifery in Oregon. Legislative Counsel produced the –B20 amendment to resolve conflicts identified during its review process of measures in the second chamber.

I recommend House Bill 2997 be amended, and reported out do pass as amended.

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
B-ENGROSSED HOUSE BILL 2997**

1 On page 4 of the printed B-engrossed bill, delete lines 18 through 45.

2 On page 5, delete lines 1 through 33 and insert:

3 **“SECTION 5.** ORS 676.608, as amended by section 10, chapter 314, Oregon
4 Laws 2013 (Enrolled House Bill 2101), is amended to read:

5 “676.608. (1) As used in this section, ‘public entity’ has the meaning given
6 that term in ORS 676.177.

7 “(2)(a) The Oregon Health Licensing Agency shall carry out *[all]* **the**
8 investigatory duties *[relating to the boards and councils listed in ORS*
9 *676.606]* **necessary to enforce the provisions of ORS 676.605 to 676.625**
10 **and 676.992.**

11 “(b) *[Upon its own motion,]* **Subject to subsection (12) of this section,**
12 **the agency, upon its own motion,** may initiate and conduct investigations
13 of matters relating to the practice of occupations or professions subject to
14 the authority of the boards and councils listed in ORS 676.606.

15 “(c) **Subject to subsection (12) of this section,** when the agency re-
16 ceives a complaint *[by any person]* against an authorization holder, the
17 agency shall investigate the complaint as provided in ORS 676.165.

18 “(3) While conducting an investigation authorized under subsection (2)
19 of this section or a hearing related to an investigation, the agency may:

20 “(a) Take evidence;

21 “(b) Administer oaths;

22 “(c) Take the depositions of witnesses, including the person charged;

1 “(d) Compel the appearance of witnesses, including the person charged;

2 “(e) Require answers to interrogatories;

3 “(f) Compel the production of books, papers, accounts, documents and
4 testimony pertaining to the matter under investigation; and

5 “(g) Conduct criminal and civil background checks to determine con-
6 viction of a crime that bears a demonstrable relationship to the field of
7 practice.

8 “(4) In exercising its authority under this section, the agency may issue
9 subpoenas over the signature of the Director of the Oregon Health Licensing
10 Agency or designated employee thereof and in the name of the State of
11 Oregon.

12 “(5) If a person fails to comply with a subpoena issued under this section,
13 the judge of the Circuit Court for Marion County may compel obedience by
14 initiating proceedings for contempt as in the case of disobedience of the re-
15 quirements of a subpoena issued from the court.

16 “(6) If necessary, the director, or an employee designated by the director,
17 may appear before a magistrate empowered to issue warrants in criminal
18 cases to request that the magistrate issue a warrant. The magistrate shall
19 issue a warrant, directing it to any sheriff or deputy or police officer, to
20 enter the described property, to remove any person or obstacle, to defend any
21 threatened violence to the director or a designee of the director or an officer,
22 upon entering private property, or to assist the director in enforcing the
23 agency’s authority in any way.

24 “(7) In all investigations and hearings, the agency and any person affected
25 by the investigation or hearing may have the benefit of counsel.

26 “(8) If an authorization holder who is the subject of a complaint or an
27 investigation is to appear before the agency, the agency shall provide the
28 authorization holder with a current summary of the complaint or the matter
29 being investigated not less than 10 days before the date that the authori-
30 zation holder is to appear. At the time the summary of the complaint or the

1 matter being investigated is provided, the agency shall provide the authori-
2 zation holder with a current summary of documents or alleged facts that the
3 agency has acquired as a result of the investigation. The name of the
4 complainant may be withheld from the authorization holder.

5 “(9) An authorization holder who is the subject of an investigation, and
6 any person acting on behalf of the authorization holder, may not contact the
7 complainant until the authorization holder has requested a contested case
8 hearing and the agency has authorized the taking of the complainant’s de-
9 position pursuant to ORS 183.425.

10 “(10) Except in an investigation or proceeding conducted by the agency
11 or another public entity, or in an action, suit or proceeding in which a public
12 entity is a party, an authorization holder may not be questioned or examined
13 regarding any communication with the agency made in an appearance before
14 the agency as part of an investigation.

15 “(11) This section does not prohibit examination or questioning of an au-
16 thorization holder regarding records about the authorization holder’s care
17 and treatment of a patient or affect the admissibility of those records.

18 **“(12) In conducting an investigation related to the practice of direct**
19 **entry midwifery, as defined in ORS 687.405, the agency shall:**

20 **“(a) Allow the State Board of Direct Entry Midwifery to review the**
21 **motion or complaint before beginning the investigation;**

22 **“(b) Allow the board to prioritize the investigation with respect to**
23 **other investigations related to the practice of direct entry midwifery;**
24 **and**

25 **“(c) Consult with the board during and after the investigation for**
26 **the purpose of determining whether to pursue disciplinary action.”.**

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