

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO B-ENGROSSED HOUSE BILL 2997

By JOINT COMMITTEE ON WAYS AND MEANS

July 5

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 Laws 2013 (Enrolled
4 House Bill 2101), is amended to read:

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

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

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

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

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

18 “(a) Take evidence;

19 “(b) Administer oaths;

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

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

22 “(e) Require answers to interrogatories;

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

25 “(g) Conduct criminal and civil background checks to determine conviction of a crime that bears
26 a demonstrable relationship to the field of practice.

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

30 “(5) If a person fails to comply with a subpoena issued under this section, the judge of the Cir-
31 cuit Court for Marion County may compel obedience by initiating proceedings for contempt as in
32 the case of disobedience of the requirements of a subpoena issued from the court.

33 “(6) If necessary, the director, or an employee designated by the director, may appear before a
34 magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a
35 warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer,

1 to enter the described property, to remove any person or obstacle, to defend any threatened violence
2 to the director or a designee of the director or an officer, upon entering private property, or to as-
3 sist the director in enforcing the agency's authority in any way.

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

6 "(8) If an authorization holder who is the subject of a complaint or an investigation is to appear
7 before the agency, the agency shall provide the authorization holder with a current summary of the
8 complaint or the matter being investigated not less than 10 days before the date that the authori-
9 zation holder is to appear. At the time the summary of the complaint or the matter being investi-
10 gated is provided, the agency shall provide the authorization holder with a current summary of
11 documents or alleged facts that the agency has acquired as a result of the investigation. The name
12 of the complainant may be withheld from the authorization holder.

13 "(9) An authorization holder who is the subject of an investigation, and any person acting on
14 behalf of the authorization holder, may not contact the complainant until the authorization holder
15 has requested a contested case hearing and the agency has authorized the taking of the
16 complainant's deposition pursuant to ORS 183.425.

17 "(10) Except in an investigation or proceeding conducted by the agency or another public entity,
18 or in an action, suit or proceeding in which a public entity is a party, an authorization holder may
19 not be questioned or examined regarding any communication with the agency made in an appear-
20 ance before the agency as part of an investigation.

21 "(11) This section does not prohibit examination or questioning of an authorization holder re-
22 garding records about the authorization holder's care and treatment of a patient or affect the
23 admissibility of those records.

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

26 "**(a) Allow the State Board of Direct Entry Midwifery to review the motion or complaint
27 before beginning the investigation;**

28 "**(b) Allow the board to prioritize the investigation with respect to other investigations
29 related to the practice of direct entry midwifery; and**

30 "**(c) Consult with the board during and after the investigation for the purpose of deter-
31 mining whether to pursue disciplinary action."**

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