

**PROPOSED AMENDMENTS TO
HOUSE BILL 2997**

1 On page 1 of the printed bill, line 2, after “676.607” delete the rest of the
2 line and lines 3 and 4 and insert “676.612, 687.405, 687.415, 687.420, 687.445,
3 687.480, 687.485 and 687.493; and declaring an emergency.”.

4 In line 17, delete “, her husband or her partner”.

5 On page 3, delete lines 43 through 45 and delete pages 4 through 13 and
6 insert:

7 **“SECTION 4.** ORS 687.485 is amended to read:

8 “687.485. In addition to the powers otherwise granted by ORS 687.405 to
9 687.495, the Oregon Health Licensing Agency, in consultation with the State
10 Board of Direct Entry Midwifery, may:

11 “(1) Determine whether applicants meet the qualifications under ORS
12 687.405 to 687.495, conduct examinations and grant licenses to qualified ap-
13 plicants upon compliance with the rules of the board [*and the agency*];

14 “(2) Do any act necessary or proper to effect and carry out the duties
15 required of the agency by ORS 687.405 to 687.495; **and**

16 “[*(3) Adopt rules for the administration of ORS 687.405 to 687.495; and*]

17 “[*(4)*] **(3)** Accept and expend donations, contributions and grant funds for
18 the purposes of ORS 687.405 to 687.495.

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“FINAL ORDER AUTHORITY

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22 **“SECTION 5.** Section 6 of this 2013 Act is added to and made a part

1 of ORS 676.605 to 676.625.

2 **“SECTION 6. The Oregon Health Licensing Agency shall delegate**
3 **the authority to enter a final order for all contested cases related to**
4 **the practice of direct entry midwifery, as defined in ORS 687.405, to the**
5 **State Board of Direct Entry Midwifery. Notwithstanding ORS 183.411,**
6 **the delegation of authority does not need to be made in writing before**
7 **the issuance of an order.**

8 **“SECTION 7. ORS 676.607 is amended to read:**

9 “676.607. (1) The Oregon Health Licensing Agency is responsible for the
10 administration and regulatory oversight of the boards, councils and programs
11 listed in ORS 676.606. The responsibilities of the agency include, but are not
12 limited to:

13 “(a) Budgeting;

14 “(b) Record keeping;

15 “(c) Staffing;

16 “(d) Contracting;

17 “(e) Consumer protection and investigating complaints;

18 “(f) Approving and collecting fees;

19 “(g) Establishing and administering uniform application processes for the
20 issuance of certificates, licenses, permits and registrations;

21 “(h) Issuing and renewing certificates, licenses, permits and registrations;

22 **“(i) Subject to ORS 687.445 and section 6 of this 2013 Act, condition-**
23 **ing, limiting, suspending, revoking or refusing to issue or renew a certificate,**
24 **license, permit or registration or otherwise disciplining applicants, certifi-**
25 **cate holders, licensees, permit holders and registration holders;**

26 “(j) Sanctioning any examination service provider, interpreter or proctor
27 who is under contract or agreement with the agency and who compromises
28 the security, confidentiality or integrity of examinations developed or con-
29 ducted pursuant to the statutory authority of the boards and councils listed
30 in ORS 676.606;

1 “(k) Enforcing all administrative rules adopted under any statute the
2 agency is charged with enforcing, including board, council and program ad-
3 ministrative rules establishing professional code of conduct and practice
4 standards, continuing education requirements, the scope of professional
5 practice and requirements for obtaining informed consent before providing
6 certain services or performing any procedure on clients;

7 “(L) Preparing, tracking and reporting agency performance measures;

8 “(m) Implementing regulatory streamlining initiatives to reduce regula-
9 tory burdens without compromising regulatory standards;

10 “(n) Preparing and circulating printed and electronic materials for edu-
11 cating or otherwise assisting applicants, certificate holders, licensees, permit
12 holders and registration holders and the public;

13 “(o) Adopting rules for the issuance of waivers or provisional authori-
14 zations to practice, and establishing special conditions of practice, during a
15 state of emergency declared by the Governor under ORS 401.165;

16 “(p) Referring impaired practitioners to a diversion program approved or
17 recognized by the agency and establishing criteria by rule for monitoring the
18 impaired practitioner’s progress and successful completion of the program;
19 and

20 “(q) Establishing requirements for additional education, training or
21 supervised experience to achieve compliance with the laws and rules gov-
22 erning professional practice.

23 “(2) The enumeration of duties, functions and powers in subsection (1) of
24 this section is not intended to be exclusive or to limit the duties, functions
25 and powers imposed on or vested in the agency by other statutes.

26 “**SECTION 8.** ORS 676.612 is amended to read:

27 “676.612. (1) **Subject to ORS 687.445 and section 6 of this 2013 Act, and**
28 in the manner prescribed in ORS chapter 183 for contested cases and as
29 specified in ORS 675.385, 678.780, 680.535, 687.445, 688.734, 688.836, 690.167,
30 690.407, 691.477, 694.147 and 700.111, the Oregon Health Licensing Agency

1 may refuse to issue or renew, may suspend or revoke or may otherwise con-
2 dition or limit a certificate, license, permit or registration to practice issued
3 by the agency or may discipline or place on probation a holder of a certif-
4 icate, license, permit or registration for commission of the prohibited acts
5 listed in subsection (2) of this section.

6 “(2) A person subject to the authority of a board, council or program
7 listed in ORS 676.606 commits a prohibited act if the person engages in:

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

12 “(b) Using, causing or promoting the use of any advertising matter, pro-
13 motional literature, testimonial, guarantee, warranty, label, insignia or any
14 other representation, however disseminated or published, that is false, mis-
15 leading or deceptive.

16 “(c) Making a representation that the certificate, license, permit or reg-
17 istration holder knew or should have known is false or misleading regarding
18 skill or the efficacy or value of treatment or remedy administered by the
19 holder.

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

22 “(e) Permitting a person other than the certificate, license, permit or
23 registration holder to use the certificate, license, permit or registration.

24 “(f) Practicing with a physical or mental condition that presents an un-
25 reasonable risk of harm to the holder of a certificate, license, permit or
26 registration or to the person or property of others in the course of perform-
27 ing the holder’s duties.

28 “(g) Practicing while under the influence of alcohol, controlled substances
29 or other skill-impairing substances, or engaging in the illegal use of con-
30 trolled substances or other skill-impairing substances so as to create a risk

1 of harm to the person or property of others in the course of performing the
2 duties of a holder of a certificate, license, permit or registration.

3 “(h) Failing to properly and reasonably accept responsibility for the
4 actions of employees.

5 “(i) Employing, directly or indirectly, any suspended, uncertified, unli-
6 censed or unregistered person to practice a regulated occupation or profes-
7 sion subject to the authority of the boards, councils and programs listed in
8 ORS 676.606.

9 “(j) Unprofessional conduct, negligence, incompetence, repeated violations
10 or any departure from or failure to conform to standards of practice in per-
11 forming services or practicing in a regulated occupation or profession subject
12 to the authority of the boards, councils and programs listed under ORS
13 676.606.

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

19 “(L) Failing to report any adverse action, as required by statute or rule,
20 taken against the certificate, license, permit or registration holder by an-
21 other regulatory jurisdiction or any peer review body, health care institu-
22 tion, professional association, governmental agency, law enforcement agency
23 or court for acts or conduct similar to acts or conduct that would constitute
24 grounds for disciplinary action as described in this section.

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

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

29 “(o) Failing to cooperate with the agency in any investigation, inspection
30 or request for information.

1 “(p) Selling or fraudulently obtaining or furnishing any certificate, li-
2 cense, permit or registration to practice in a regulated occupation or pro-
3 fession subject to the authority of the boards, councils and programs listed
4 in ORS 676.606, or aiding or abetting such an act.

5 “(q) Selling or fraudulently obtaining or furnishing any record related to
6 practice in a regulated occupation or profession subject to the authority of
7 the boards, councils and programs listed in ORS 676.606, or aiding or
8 abetting such an act.

9 “(r) Failing to pay an outstanding civil penalty or fee that is due or
10 failing to meet the terms of any order issued by the agency that has become
11 final.

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

15 “(a) Applying for a certificate, license, permit or registration that is is-
16 sued by the agency;

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

19 “(c) Under investigation by the agency.

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

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

30 **“SECTION 9.** ORS 687.445 is amended to read:

1 “687.445. In the manner prescribed in ORS chapter 183 for contested cases
2 and in consultation with [*the State Board of Direct Entry Midwifery,*] the
3 Oregon Health Licensing Agency, **the State Board of Direct Entry**
4 **Midwifery** may impose a form of discipline specified in ORS 676.612 against
5 any person practicing direct entry midwifery for any of the grounds listed
6 in ORS 676.612 and for any violation of the provisions of ORS 687.405 to
7 687.495[,] or the rules adopted [*thereunder*] **under ORS 687.405 to 687.495.**

8
9 **“OTHER CHANGES TO STATE BOARD OF DIRECT ENTRY**
10 **MIDWIFERY**

11
12 **“SECTION 10.** ORS 687.405 is amended to read:

13 “687.405. As used in ORS 687.405 to 687.495, ‘direct entry midwifery’ means
14 **providing the following services for compensation:**

15 “(1) Supervision of the conduct of labor and childbirth;

16 “(2) Providing advice to a parent as to the progress of childbirth; [*or*]

17 “(3) Rendering prenatal, intrapartum and postpartum care; **and**

18 **“(4) Making newborn assessments.**

19 **“SECTION 11.** ORS 687.493 is amended to read:

20 “687.493. (1) A **direct entry** midwife licensed under ORS 687.405 to 687.495
21 may purchase and administer authorized scheduled legend drugs and devices
22 that are used in pregnancy, birth, postpartum care, newborn care or resus-
23 citation and that are deemed integral to providing safe care to the public
24 by the State Board of Direct Entry Midwifery by rule.

25 “(2) Legend drugs authorized under subsection (1) of this section are
26 limited:

27 “(a) For neonatal use to prophylactic ophthalmic medications, vitamin K
28 and oxygen; and

29 “(b) For maternal use to **Group B Streptococcal antibiotic**
30 **prophylaxis,** postpartum antihemorrhagics, Rh₀(D) immune globulin,

1 epinephrine, intravenous fluids, local anesthetic and oxygen.

2 “(3) Legend devices authorized under subsection (1) of this section are
3 limited to devices for injection of medications, for the administration of
4 intravenous fluids, for adult and infant resuscitation and for rupturing the
5 amniotic membranes.

6 “(4) A pharmacist who dispenses drugs and devices to a licensed midwife
7 as authorized by this section and in conformity with the provisions of ORS
8 chapter 689 is not liable for any adverse reactions caused by administration
9 of the legend drugs and devices by the midwife.

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“APPLICABILITY

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13 **“SECTION 12. (1) The amendments to ORS 687.420 by section 2 of**
14 **this 2013 Act apply to persons who submit an application to the Oregon**
15 **Health Licensing Agency to become licensed as a direct entry midwife**
16 **on or after the operative date specified in section 13 of this 2013 Act.**

17 **“(2) Notwithstanding the amendments to ORS 687.415 by section 1**
18 **of this 2013 Act, a person who is not licensed to practice direct entry**
19 **midwifery under ORS 687.405 to 687.495 may continue to practice direct**
20 **entry midwifery until January 1, 2015.**

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“OPERATIVE DATE

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24 **“SECTION 13. (1) Sections 5 and 6 of this 2013 Act and the amend-**
25 **ments to statutes by sections 1 to 4 and 7 to 11 of this 2013 Act become**
26 **operative on January 1, 2014.**

27 **“(2) The State Board of Direct Entry Midwifery may take any action**
28 **before the operative date specified in subsection (1) of this section to**
29 **enable the board to exercise, on and after the operative date specified**
30 **in subsection (1) of this section, all of the duties, functions and powers**

1 conferred on the board by section 6 of this 2013 Act and the amend-
2 ments to statutes by sections 1 to 4 and 7 to 11 of this 2013 Act.

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“UNIT CAPTIONS

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6 **“SECTION 14. The unit captions used in this 2013 Act are provided**
7 **only for the convenience of the reader and do not become part of the**
8 **statutory law of this state or express any legislative intent in the**
9 **enactment of this 2013 Act.**

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“EMERGENCY CLAUSE

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13 **“SECTION 15. This 2013 Act being necessary for the immediate**
14 **preservation of the public peace, health and safety, an emergency is**
15 **declared to exist, and this 2013 Act takes effect on its passage.”.**

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