

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2124**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 25 and  
2 delete pages 2 and 3 and insert:

3 **“SECTION 1.** ORS 676.190, as amended by section 1, chapter 2, Oregon  
4 Laws 2012, is amended to read:

5 “676.190. (1) The Oregon Health Authority shall establish or contract to  
6 establish an impaired health professional program. The program must:

7 “(a) Enroll licensees of participating health profession licensing boards  
8 who have been diagnosed with alcohol or substance abuse or a mental health  
9 disorder;

10 “[*(b)* *Require that a licensee sign a written consent prior to enrollment in*  
11 *the program allowing disclosure and exchange of information between the*  
12 *program, the licensee’s board, the licensee’s employer, evaluators and treatment*  
13 *entities in compliance with ORS 179.505 and 42 C.F.R. part 2;]*

14 “[*(c)*] **(b)** Enter into diversion agreements with enrolled licensees;

15 “[*(d)*] **(c)** Assess and evaluate compliance with diversion agreements by  
16 enrolled licensees;

17 “[*(e)* *Assess the ability of an enrolled licensee’s employer to supervise the*  
18 *licensee and require an enrolled licensee’s employer to establish minimum*  
19 *training requirements for supervisors of enrolled licensees;]*

20 “[*(f)*] **(d)** Report substantial noncompliance with a diversion agreement to  
21 a noncompliant licensee’s board within one business day after the program  
22 learns of the substantial noncompliance, including but not limited to infor-

1 mation that a licensee:

2 “(A) Engaged in criminal behavior;

3 “(B) Engaged in conduct that caused injury, death or harm to the public,  
4 including engaging in sexual impropriety with a patient;

5 “(C) Was impaired in a health care setting in the course of the licensee’s  
6 employment;

7 “(D) Received a positive toxicology test result as determined by federal  
8 regulations pertaining to drug testing;

9 “(E) Violated a restriction on the licensee’s practice imposed by the pro-  
10 gram or the licensee’s board;

11 “(F) Was [*admitted to the hospital for mental illness or*] adjudged to be  
12 mentally incompetent;

13 “(G) Entered into a diversion agreement, but failed to participate in the  
14 program; or

15 “(H) Was referred to the program but failed to enroll in the program; and

16 “[*(g)*] (e) At least weekly, submit to licensees’ boards:

17 “(A) A list of licensees who were referred to the program by [*a*] **the**  
18 health profession licensing board and who are enrolled in the program; and

19 “(B) A list of licensees who were referred to the program by [*a*] **the**  
20 health profession licensing board and who successfully complete the program.

21 “(2) The lists submitted under subsection [*(1)(g)*] **(1)(e)** of this section are  
22 exempt from disclosure as a public record under ORS 192.410 to 192.505.

23 “(3) When the program reports **substantial** noncompliance to a licensee’s  
24 board, the report must include:

25 “(a) A description of the **substantial** noncompliance; **and**

26 “[*(b)* A copy of a report from the independent third party who diagnosed  
27 the licensee under ORS 676.200 (2)(a) or subsection (6)(a) of this section stating  
28 the licensee’s diagnosis;]

29 “[*(c)*] **(b)** A copy of the licensee’s diversion agreement[; *and*].

30 “[*(d)* The licensee’s employment status.]

1       “(4) The program may not diagnose or treat licensees enrolled in the  
2 program.

3       “(5) The diversion agreement required by subsection (1) of this section  
4 must:

5       “(a) Require the licensee to consent to disclosure and exchange of infor-  
6 mation between the program, the licensee’s board, the licensee’s employer,  
7 evaluators and treatment providers, in compliance with ORS 179.505 and 42  
8 C.F.R. part 2;

9       “(b) Require that the licensee comply continuously with the agreement for  
10 at least two years to successfully complete the program;

11       “(c) Based on an individualized assessment, require that the licensee ab-  
12 stain from mind-altering or intoxicating substances or potentially addictive  
13 drugs, unless the **substance or** drug is approved by the program and pre-  
14 scribed for a documented medical condition by a person authorized by law  
15 to prescribe the **substance or** drug to the licensee;

16       “(d) Require the licensee to report, **within 24 hours, the** use of mind-  
17 altering or intoxicating substances or potentially addictive drugs [*within 24*  
18 *hours*] **not approved by the program as described in paragraph (c) of**  
19 **this subsection;**

20       “(e) Require the licensee to agree to participate in a treatment plan ap-  
21 proved by a third party;

22       “(f) [*Contain*] **Recommend to the licensee’s board** limits on the  
23 licensee’s practice of the licensee’s health profession **as determined in the**  
24 **treatment plan;**

25       “(g) Provide for employer monitoring of the licensee;

26       “(h) Provide that the program may require an evaluation of the licensee’s  
27 fitness to practice before removing the limits on the licensee’s practice of the  
28 licensee’s health profession;

29       “(i) Require the licensee to submit to random drug or alcohol testing in  
30 accordance with federal regulations, **unless the licensee has not been di-**

1 **agnosed with a substance or alcohol use disorder and the licensee’s**  
2 **board does not require the licensee to submit to random drug or al-**  
3 **cohol testing;**

4 “(j) Require the licensee to report [*at least weekly*] to the program **as**  
5 **required by the agreement** [*regarding*] the licensee’s compliance with the  
6 agreement;

7 “(k) Require the licensee **who is arrested for a felony or who is con-**  
8 **victed of a misdemeanor or felony** to report [*any*] **the** arrest [*for*] or  
9 conviction [*of a misdemeanor or felony crime*] to the program within three  
10 business days after the licensee is arrested or convicted;

11 “(L) Require the licensee to report applications for licensure in other  
12 states, changes in employment and changes in practice setting; and

13 “(m) Provide that the licensee is responsible for the cost of evaluations,  
14 toxicology testing and treatment.

15 “(6)(a) A licensee of a board participating in the program may self-refer  
16 to the program.

17 “(b) The program shall require the licensee to attest that the licensee is  
18 not, to the best of the licensee’s knowledge, under investigation by the  
19 licensee’s board. The program shall enroll the licensee on the date on which  
20 the licensee attests that the licensee, to the best of the licensee’s knowledge,  
21 is not under investigation by the licensee’s board.

22 “(c) When a licensee self-refers to the program, the program shall:

23 “(A) Require that an independent third party approved by the licensee’s  
24 board to evaluate alcohol or substance abuse or mental health disorders  
25 evaluate the licensee for alcohol or substance abuse or mental health disor-  
26 ders; and

27 “(B) Investigate to determine whether the licensee’s practice while im-  
28 paired has presented or presents a danger to the public.

29 “(d) The program may not report a self-referred licensee’s enrollment in  
30 or successful completion of the program to the licensee’s board.

1       “(7) The authority shall adopt rules establishing a fee to be paid by the  
2 boards participating in the impaired health professional program for admin-  
3 istration of the program.

4       “(8) The authority shall arrange for an independent third party to audit  
5 the program **every four years** to ensure compliance with program guide-  
6 lines. The authority shall report the results of the audit to the Legislative  
7 Assembly, the Governor and the health profession licensing boards. The re-  
8 port may not contain individually identifiable information about licensees.

9       “(9) The authority may adopt rules to carry out this section.”.

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