

A-Engrossed
Senate Bill 430

Ordered by the House June 2
Including House Amendments dated June 2

Sponsored by Senator KRUSE (Presession filed.)

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.

Authorizes State Board of Psychologist Examiners to [*withhold license to practice from applicant*] **impose sanctions on person regulated by board** who has been convicted of sex crime.

Authorizes State Board of Licensed Social Workers to [*withhold license, certification or registration to practice from applicant*] **impose sanctions on person regulated by board** who has been convicted of sex crime.

Authorizes Oregon Board of Licensed Professional Counselors and Therapists to [*withhold license to practice from applicant*] **impose sanctions on person regulated by board** who has been convicted of sex crime.

A BILL FOR AN ACT

1
2 Relating to licensure of mental health professionals; creating new provisions; and amending ORS
3 675.070, 675.540 and 675.745.

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

5 **SECTION 1.** ORS 675.070 is amended to read:

6 675.070. (1) [*Where*] **If** any of the grounds enumerated in subsection (2) of this section exist, the
7 State Board of Psychologist Examiners may impose any of the following sanctions:

8 (a) Deny a license to any applicant;

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

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

12 (d) Issue a letter of reprimand;

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

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

16 (g) Impose a civil penalty as [*set forth*] **described** in subsection (3) of this section.

17 (2) [*Grounds exist for imposition of any of the sanctions enumerated*] **The board may impose a**
18 **sanction listed** in subsection (1) of this section against any psychologist or psychologist associate
19 or applicant, or, [*where*] **if** applicable, any unlicensed person found in violation of ORS 675.010 to
20 675.150, when, in the judgment of the board, the person:

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

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

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

24 (d) Is guilty of immoral or unprofessional conduct or of gross negligence in the practice of psy-
chology, [*which includes*] **including** but [*is*] not limited to:

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

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

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

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

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

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

16 (i) Has obtained a fee or payment from a patient or third party payer through fraud or inten-
17 tional misrepresentation; **or**

18 (j) **Notwithstanding ORS 670.280, has been convicted of a sex crime as defined in ORS**
19 **181.805 or has been convicted in another state or jurisdiction of a crime that is substantially**
20 **equivalent to a sex crime as defined in ORS 181.805.**

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

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

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

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

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

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

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

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

32 (4) [In case of any] **If a conviction [required under] described in** subsection (2) of this section
33 [as] **is used as** grounds for denial, refusal, suspension, revocation, reprimand, probation or imposi-
34 tion of a civil penalty, a certified copy of the record of the conviction shall be conclusive evidence.

35 (5) The board may license an applicant or renew or restore any license suspended or revoked
36 under subsection (2)(a) of this section due to a mental health condition if the board determines that
37 the applicant or former licensed psychologist or former psychologist associate no longer has an
38 impairment due to a mental health condition.

39 (6) License suspension or revocation in another state is grounds for license denial or discipli-
40 nary action by the board.

41 **SECTION 2.** ORS 675.540, as amended by section 3, chapter 60, Oregon Laws 2013, is amended
42 to read:

43 675.540. (1) The State Board of Licensed Social Workers may impose any or all of the sanctions
44 specified in subsection (2) of this section, upon proof, after a hearing pursuant to the provisions of
45 ORS chapter 183 relating to a contested case, that a regulated social worker:

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

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

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

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

5 (e) Has been grossly negligent or has engaged in unprofessional conduct in the practice of social
6 work; [or]

7 (f) Has violated any provision of ORS 675.510 to 675.600 or any rule adopted under ORS
8 675.600; or

9 **(g) Notwithstanding ORS 670.280, has been convicted of a sex crime as defined in ORS**
10 **181.805 or has been convicted in another state or jurisdiction of a crime that is substantially**
11 **equivalent to a sex crime as defined in ORS 181.805.**

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

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

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

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

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

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

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

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

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

30 (6) Subject to the provisions of ORS chapter 183 relating to a contested case, the board may
31 impose a civil penalty of up to \$3,000 upon proof that a person who is not a regulated social worker
32 has:

33 (a) Represented that the person is a regulated social worker; or

34 (b) Used the title "social worker" or any title, words or abbreviations that indicate that the
35 person has an authorization to practice regulated social work in violation of ORS 675.520.

36 (7) Subject to the provisions of ORS chapter 183 relating to a contested case, the board may
37 impose a civil penalty of up to \$5,000 upon proof that a person who is not a clinical social worker
38 licensed under ORS 675.530 or a clinical social work associate certified under ORS 675.537 has:

39 (a) Engaged in the practice of clinical social work, unless the person is permitted to practice
40 clinical social work under ORS 675.523; or

41 (b) Represented that the person is a clinical social worker or clinical social work associate.

42 **SECTION 3.** ORS 675.745 is amended to read:

43 675.745. (1) The Oregon Board of Licensed Professional Counselors and Therapists may deny,
44 suspend, revoke or refuse to issue or to renew any license issued under ORS 675.715 to 675.835 upon
45 proof that the applicant for licensure or the licensee:

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

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

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

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

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

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

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

16 (h) Has been disciplined by a state mental health licensing board or program in this or any other
17 state for violation of competency or conduct standards; or

18 (i) **Notwithstanding ORS 670.280, has been convicted of a sex crime as defined in ORS**
19 **181.805 or has been convicted in another state or jurisdiction of a crime that is substantially**
20 **equivalent to a sex crime as defined in ORS 181.805.**

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

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

42 **SECTION 4. (1) The amendments to ORS 675.070 by section 1 of this 2015 Act apply to**
43 **applications for licensure received, and licenses issued or renewed, by the State Board of**
44 **Psychologist Examiners on or after the effective date of this 2015 Act.**

45 **(2) The amendments to ORS 675.540 by section 2 of this 2015 Act apply to applications for**

1 **licensure, certification or registration received, and licenses, certifications or registrations**
2 **issued or renewed, by the State Board of Licensed Social Workers on or after the effective**
3 **date of this 2015 Act.**

4 **(3) The amendments to ORS 675.745 by section 3 of this 2015 Act apply to applications for**
5 **licensure received, and licenses issued or renewed, by the Oregon Board of Licensed Profes-**
6 **sional Counselors and Therapists on or after the effective date of this 2015 Act.**

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