

**B-Engrossed**  
**House Bill 2503**

Ordered by the House June 5  
Including House Amendments dated April 20 and June 5

Sponsored by Representative NATHANSON; Representatives BARNHART, MALSTROM, NOSSE (at the request of Jaclyn Mahoney and Jennie Hawthorn-Mayes, co-founders of Daisy Chain) (Pre-session 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.

*[Directs]* **Allows** Health Licensing Office to issue lactation consultant licenses to qualified applicants. Requires lactation consultants to complete cultural competency and trauma-informed care continuing education courses. Prohibits unlicensed use of "lactation consultant" title and practice of lactation consultation. Provides exceptions to prohibition. **Allows office to impose discipline for certain violations. Directs office to provide administrative and regulatory oversight to lactation consultation program.** Imposes civil penalty for violation of licensure requirements.

Becomes operative January 1, 2018.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to lactation professionals; creating new provisions; amending ORS 676.185, 676.308, 676.583,  
3 676.586, 676.608, 676.610, 676.612, 676.613, 676.615, 676.622, 676.625, 676.850 and 676.992; and de-  
4 claring an emergency.

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

6 **SECTION 1. As used in sections 1 to 7 of this 2017 Act:**

7 (1) "Lactation consultant" means a person licensed to practice lactation consultation.

8 (2) "Lactation consultation" means the clinical application of scientific principles and  
9 evidence to provide care related to lactation to childbearing families. Lactation consultation  
10 includes, but is not limited to:

11 (a) Client assessment through systematic collection of data;

12 (b) Data analysis;

13 (c) Creation of a care plan;

14 (d) Implementation of the care plan, including demonstration and instructions to clients  
15 and communication with the clients' primary care provider;

16 (e) Evaluation of client outcomes;

17 (f) Problem identification and treatment;

18 (g) Recommendation and use of assistive devices; and

19 (h) Lactation education to childbearing families and to health care providers.

20 **SECTION 2. The Health Licensing Office may issue a lactation consultant license to an**  
21 **applicant who:**

22 (1) Is at least 18 years old;

23 (2) Submits sufficient proof, as determined by the office, that the applicant is:

24 (a) Certified by the International Board of Lactation Consultant Examiners, or its suc-

**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 cessor organization, as approved by the office by rule, as an International Board Certified  
2 Lactation Consultant; and

3 (b) In good standing in any other states where the applicant is authorized as a lactation  
4 consultant;

5 (3) Pays a licensure fee; and

6 (4) Meets other qualifications required by the office by rule.

7 **SECTION 3.** (1) A lactation consultant shall complete continuing education courses re-  
8 lated to:

9 (a) Cultural competency, approved by the Oregon Health Authority under ORS 413.450;  
10 and

11 (b) Trauma-informed care, through programs approved by the Health Licensing Office  
12 by rule.

13 (2) The office shall adopt rules related to the continuing education described in sub-  
14 section (1) of this section. The rules must include:

15 (a) Approval of continuing education programs related to trauma-informed care; and

16 (b) Requirements that lactation consultants:

17 (A) Complete initial cultural competency and trauma-informed care continuing education  
18 courses within one year of the date of initial licensure; and

19 (B) Complete additional cultural competency and trauma-informed care continuing edu-  
20 cation courses once every five years thereafter.

21 **SECTION 4.** A lactation consultant shall comply with the standards of practice and pro-  
22 fessional responsibility for lactation consultants that are adopted by rule by the Health Li-  
23 censing Office under section 7 of this 2017 Act.

24 **SECTION 5.** (1) A person may not practice lactation consultation or assume or use any  
25 title, words or abbreviations, including but not limited to the title or designation "lactation  
26 consultant," that indicate that the person is authorized to practice lactation consultation  
27 unless the person is licensed under section 2 of this 2017 Act.

28 (2) Subsection (1) of this section does not prohibit:

29 (a) A person licensed under the laws of this state in a profession or occupation other  
30 than lactation consultation from practicing lactation consultation as a part of the person's  
31 practice;

32 (b) The use of lactation consultation as an integral part of an education program; or

33 (c) A person whose training and national certification attest to the person's preparation  
34 and ability to practice their profession or occupation from practicing the profession or oc-  
35 cupation in which the person is certified, if the person does not represent that the person  
36 is a lactation consultant.

37 (3) Sections 1 to 7 of this 2017 Act do not apply to a person who is:

38 (a) Employed by or who contracts with the Oregon Health Authority or an entity that  
39 contracts with the authority, to promote or support breastfeeding through the Women, In-  
40 fants and Children Program under ORS 413.500; or

41 (b) A licensed health care practitioner in this state and who provides services similar to  
42 lactation consultation.

43 (4) Sections 1 to 7 of this 2017 Act do not require a person who is a certified lactation  
44 counselor to obtain a license issued under section 2 of this 2017 Act in order to perform any  
45 of the services described in section 1 (2) of this 2017 Act.

1       **SECTION 6.** In the manner prescribed in ORS chapter 183 for contested cases, the Health  
2       Licensing Office may impose a form of discipline listed in ORS 676.612 against a person li-  
3       censed under section 2 of this 2017 Act for any of the prohibited acts listed in section 5 of  
4       this 2017 Act and for any violation of a rule adopted under sections 1 to 7 of this 2017 Act.

5       **SECTION 7.** (1) The Health Licensing Office shall adopt rules to:

6       (a) Establish a process for issuing lactation consultant licenses;

7       (b) Establish licensure fees;

8       (c) Determine qualifications for applicants for initial licensure and licensure by  
9       reciprocity;

10       (d) Approve the certification issued by the International Board of Lactation Consultant  
11       Examiners or its successor organization, so long as the organization offers:

12       (A) A process to evaluate candidates for certification or education;

13       (B) A grievance process for applicants or individuals authorized by the organization; and

14       (C) A process for recertification or reauthorization;

15       (e) Develop and maintain a publicly available record of lactation consultants; and

16       (f) Establish standards of practice and professional responsibility for lactation consult-  
17       ants that reflect the standards established by the International Board of Lactation Consult-  
18       ant Examiners.

19       (2) The office may adopt other rules as necessary to carry out the provisions of sections  
20       1 to 7 of this 2017 Act.

21       **SECTION 8.** ORS 676.185 is amended to read:

22       676.185. As used in ORS 676.185 to 676.200:

23       (1) “Direct supervisor” means the individual who is responsible for:

24       (a) Supervising a licensee enrolled in the impaired health professional program;

25       (b) Monitoring the licensee’s compliance with the requirements of the program; and

26       (c) Periodically reporting to the program on the licensee’s compliance with the requirements of  
27       the program.

28       (2) “Health profession licensing board” means:

29       (a) A health professional regulatory board as defined in ORS 676.160; or

30       (b) The Health Licensing Office for a board [or], council **or program** listed in ORS 676.583.

31       (3) “Impaired professional” means a licensee who is unable to practice with professional skill  
32       and safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances that  
33       impair ability or by reason of a mental health disorder.

34       (4) “Licensee” means a health professional licensed or certified by or registered with a health  
35       profession licensing board.

36       (5) “Substantial noncompliance” includes the following:

37       (a) Criminal behavior;

38       (b) Conduct that causes injury, death or harm to the public, or a patient, including sexual  
39       impropriety with a patient;

40       (c) Impairment in a health care setting in the course of employment;

41       (d) A positive toxicology test result as determined by federal regulations pertaining to drug  
42       testing;

43       (e) Violation of a restriction on a licensee’s practice imposed by the impaired health professional  
44       program established under ORS 676.190 or the licensee’s health profession licensing board;

45       (f) Civil commitment for mental illness;

1 (g) Failure to participate in the program after entering into a diversion agreement under ORS  
2 676.190; or

3 (h) Failure to enroll in the program after being referred to the program.

4 **SECTION 9.** ORS 676.308 is amended to read:

5 676.308. (1) As used in this section:

6 (a) "Authorization" means a license, registration, certificate or other authorization to engage in  
7 a profession.

8 (b) "Board" means a health professional regulatory board, as defined in ORS 676.160, or a board  
9 [or], council **or program** listed in ORS 676.583.

10 (c) "Military spouse or domestic partner" means a spouse or domestic partner of an active  
11 member of the Armed Forces of the United States who is the subject of a military transfer to  
12 Oregon.

13 (2) A board shall issue an authorization to a military spouse or domestic partner if the military  
14 spouse or domestic partner provides the board with:

15 (a) Evidence that the applicant is married to, or in a domestic partnership with, an active  
16 member of the Armed Forces of the United States who is assigned to a duty station located in  
17 Oregon by official active duty military order;

18 (b) Evidence that the military spouse or domestic partner is authorized by another state or  
19 territory of the United States to provide services regulated by the board; and

20 (c) Evidence that the military spouse or domestic partner:

21 (A) Has provided services or taught the subject matter regulated by the board for at least one  
22 year during the three years immediately preceding the date on which the military spouse or do-  
23 mestic partner submits an application for an authorization; and

24 (B) Has demonstrated competency, as determined by the board by rule, over services regulated  
25 by the board.

26 (3) A board may issue a temporary authorization to an applicant who applies for an authori-  
27 zation under subsection (2) of this section before the board receives the evidence required by sub-  
28 section (2) of this section if the military spouse or domestic partner affirms on the application that  
29 the military spouse or domestic partner:

30 (a) Has requested evidence of authorization from the state or territory in which the military  
31 spouse or domestic partner is authorized; and

32 (b) Is not subject to disciplinary action in that state or territory for a matter related to services  
33 regulated by the board.

34 **SECTION 10.** ORS 676.583 is amended to read:

35 676.583. Pursuant to ORS 676.586, the Health Licensing Office shall provide administrative and  
36 regulatory oversight and centralized service for the following boards [*and*], councils **and**  
37 **programs**:

38 (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

39 (2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;

40 (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;

41 (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

42 (5) Respiratory Therapist and Polysomnographic Technologist Licensing Board, as provided in  
43 ORS 688.800 to 688.840;

44 (6) Environmental Health Registration Board, as provided in ORS chapter 700;

45 (7) Board of Electrologists and Body Art Practitioners, as provided in ORS 690.350 to 690.410;

- 1 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;
- 2 (9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;
- 3 (10) Nursing Home Administrators Board, as provided in ORS 678.710 to 678.820;
- 4 (11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;
- 5 (12) Behavior Analysis Regulatory Board, as provided in ORS 676.806; *[and]*
- 6 (13) Board of Certified Advanced Estheticians, as provided in ORS 676.630 to 676.660; **and**
- 7 (14) **Lactation consultation, as provided in sections 1 to 7 of this 2017 Act.**

8 **SECTION 11.** ORS 676.586 is amended to read:

9 676.586. (1) The Health Licensing Office is responsible for the administration and regulatory  
10 oversight of the boards *[and]*, councils **and programs** listed in ORS 676.583. The responsibilities of  
11 the office include, but are not limited to:

- 12 (a) Budgeting;
- 13 (b) Record keeping;
- 14 (c) Staffing;
- 15 (d) Contracting;
- 16 (e) Consumer protection and investigating complaints;
- 17 (f) Establishing and collecting fees;
- 18 (g) Establishing and administering uniform application processes for the issuance of authori-  
19 zations;
- 20 (h) Issuing and renewing authorizations;
- 21 (i) Subject to ORS 676.616 and 687.445, conditioning, limiting, suspending, revoking or refusing  
22 to issue or renew an authorization or otherwise disciplining applicants and authorization holders;
- 23 (j) Sanctioning any examination service provider, interpreter or proctor who is under contract  
24 or agreement with the office and who compromises the security, confidentiality or integrity of ex-  
25 aminations developed or conducted pursuant to the statutory authority of the boards *[and]*, councils  
26 **and programs** listed in ORS 676.583;
- 27 (k) Enforcing all administrative rules adopted under any statute the office is charged with en-  
28 forcing, including board *[and]*, council **and program** administrative rules establishing professional  
29 code of conduct and practice standards, the scope of professional practice and requirements for ob-  
30 taining informed consent before providing certain services or performing any procedure on clients;
- 31 (L) Preparing, tracking and reporting office performance measures;
- 32 (m) Implementing regulatory streamlining initiatives to reduce regulatory burdens without com-  
33 promising regulatory standards;
- 34 (n) Preparing and circulating printed and electronic materials for educating or otherwise as-  
35 sisting applicants, authorization holders and the public;
- 36 (o) Adopting rules for the issuance of waivers or provisional authorizations to practice, and es-  
37 tablishing special conditions of practice, during a state of emergency declared by the Governor un-  
38 der ORS 401.165;
- 39 (p) Referring impaired practitioners to a diversion program approved or recognized by the office  
40 and establishing criteria by rule for monitoring the impaired practitioner's progress and successful  
41 completion of the program;
- 42 (q) Establishing requirements for additional education, training or supervised experience to  
43 achieve compliance with the laws and rules governing professional practice;
- 44 (r) Establishing by rule continuing education requirements for renewal of an authorization if the  
45 office determines that continuing education is appropriate for renewal of the authorization;

1 (s) Exempting from authorization requirements a person who provides services at charitable or  
2 fund raising events, after the office has considered and evaluated the written request for an ex-  
3 emption on an individual basis; and

4 (t) Establishing requirements by rule for the issuance of a provisional authorization for purposes  
5 related to education or training.

6 (2) The enumeration of duties, functions and powers in subsection (1) of this section is not in-  
7 tended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office  
8 by other statutes.

9 **SECTION 12.** ORS 676.608 is amended to read:

10 676.608. (1) As used in this section, "public entity" has the meaning given that term in ORS  
11 676.177.

12 (2)(a) The Health Licensing Office shall carry out the investigatory duties necessary to enforce  
13 the provisions of ORS 676.575 to 676.625 and 676.992.

14 (b) Subject to subsection (12) of this section, the office, upon its own motion, may initiate and  
15 conduct investigations of matters relating to the practice of occupations or professions subject to  
16 the authority of the boards [*and*], councils **and programs** listed in ORS 676.583.

17 (c) Subject to subsection (12) of this section, when the office receives a complaint against an  
18 authorization holder, the office shall investigate the complaint as provided in ORS 676.165.

19 (3) While conducting an investigation authorized under subsection (2) of this section or a hear-  
20 ing related to an investigation, the office may:

21 (a) Take evidence;

22 (b) Administer oaths;

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

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

25 (e) Require answers to interrogatories;

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

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

30 (4) In exercising its authority under this section, the office may issue subpoenas over the sig-  
31 nature of the Director of the Health Licensing Office or designated employee of the director and in  
32 the name of the State of Oregon.

33 (5) If a person fails to comply with a subpoena issued under this section, the judge of the Circuit  
34 Court for Marion County may compel obedience by initiating proceedings for contempt as in the  
35 case of disobedience of the requirements of a subpoena issued from the court.

36 (6) If necessary, the director, or an employee designated by the director, may appear before a  
37 magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a  
38 warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer,  
39 to enter the described property, to remove any person or obstacle, to defend any threatened violence  
40 to the director or a designee of the director or an officer, upon entering private property, or to as-  
41 sist the director in enforcing the office's authority in any way.

42 (7) In all investigations and hearings, the office and any person affected by the investigation or  
43 hearing may have the benefit of counsel.

44 (8) If an authorization holder who is the subject of a complaint or an investigation is to appear  
45 before the office, the office shall provide the authorization holder with a current summary of the

1 complaint or the matter being investigated not less than 10 days before the date that the authori-  
2 zation holder is to appear. At the time the summary of the complaint or the matter being investi-  
3 gated is provided, the office shall provide the authorization holder with a current summary of  
4 documents or alleged facts that the office has acquired as a result of the investigation. The name  
5 of the complainant may be withheld from the authorization holder.

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

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

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

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

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

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

23 (c) Consult with the board during and after the investigation for the purpose of determining  
24 whether to pursue disciplinary action.

25 **SECTION 13.** ORS 676.610 is amended to read:

26 676.610. (1)(a) The Health Licensing Office is under the supervision and control of a director,  
27 who is responsible for the performance of the duties, functions and powers and for the organization  
28 of the office.

29 (b) The Director of the Oregon Health Authority shall establish the qualifications for and ap-  
30 point the Director of the Health Licensing Office, who holds office at the pleasure of the Director  
31 of the Oregon Health Authority.

32 (c) The Director of the Health Licensing Office shall receive a salary as provided by law or, if  
33 not so provided, as prescribed by the Director of the Oregon Health Authority.

34 (d) The Director of the Health Licensing Office is in the unclassified service.

35 (2) The Director of the Health Licensing Office shall provide the boards, [and] councils **and**  
36 **programs** administered by the office with [such] **any** services and employees as the office requires  
37 to carry out the office's duties. Subject to any applicable provisions of the State Personnel Relations  
38 Law, the Director of the Health Licensing Office shall appoint all subordinate officers and employ-  
39 ees of the office, prescribe their duties and fix their compensation.

40 (3) The Director of the Health Licensing Office is responsible for carrying out the duties, func-  
41 tions and powers under ORS 675.360 to 675.410, 676.575 to 676.625, 676.810, 676.815, 676.825, 676.992,  
42 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to  
43 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS  
44 chapter 700 **and sections 1 to 7 of this 2017 Act.**

45 (4) The enumeration of duties, functions and powers in subsection (3) of this section is not in-

1 tended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office  
2 by other statutes.

3 **SECTION 14.** ORS 676.612 is amended to read:

4 676.612. (1) Subject to ORS 676.616 and 687.445, and in the manner prescribed in ORS chapter  
5 183 for contested cases and as specified in ORS 675.385, 676.825, 678.780, 680.535, 687.445, 688.734,  
6 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111 **and section 6 of this 2017 Act**, the Health  
7 Licensing Office may refuse to issue or renew, may suspend or revoke or may otherwise condition  
8 or limit an authorization or may discipline or place on probation an authorization holder for com-  
9 mission of the prohibited acts listed in subsection (2) of this section.

10 (2) A person subject to the authority of a board [*or*], council **or program** listed in ORS 676.583  
11 commits a prohibited act if the person engages in:

12 (a) Fraud, misrepresentation, concealment of material facts or deception in applying for or ob-  
13 taining an authorization to practice in this state, or in any written or oral communication to the  
14 office concerning the issuance or retention of the authorization.

15 (b) Using, causing or promoting the use of any advertising matter, promotional literature, testi-  
16 monial, guarantee, warranty, label, insignia or any other representation, however disseminated or  
17 published, that is false, misleading or deceptive.

18 (c) Making a representation that the authorization holder knew or should have known is false  
19 or misleading regarding skill or the efficacy or value of treatment or remedy administered by the  
20 authorization holder.

21 (d) Practicing under a false, misleading or deceptive name, or impersonating another authori-  
22 zation holder.

23 (e) Permitting a person other than the authorization holder to use the authorization.

24 (f) Practicing with a physical or mental condition that presents an unreasonable risk of harm  
25 to the authorization holder or to the person or property of others in the course of performing the  
26 authorization holder's duties.

27 (g) Practicing while under the influence of alcohol, controlled substances or other skill-impairing  
28 substances, or engaging in the illegal use of controlled substances or other skill-impairing sub-  
29 stances so as to create a risk of harm to the person or property of others in the course of per-  
30 forming the duties of an authorization holder.

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

32 (i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered per-  
33 son to practice a regulated occupation or profession subject to the authority of the boards [*and*],  
34 councils **and programs** listed in ORS 676.583.

35 (j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from  
36 or failure to conform to standards of practice in performing services or practicing in a regulated  
37 occupation or profession subject to the authority of the boards [*and*], councils **and programs** listed  
38 under ORS 676.583.

39 (k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of con-  
40 viction, certified by the clerk of the court entering the conviction, is conclusive evidence of the  
41 conviction. A plea of no contest or an admission of guilt is a conviction for purposes of this para-  
42 graph.

43 (L) Failing to report any adverse action, as required by statute or rule, taken against the au-  
44 thorization holder by another regulatory jurisdiction or any peer review body, health care institu-  
45 tion, professional association, governmental agency, law enforcement agency or court for acts or



1 conduct similar to acts or conduct that would constitute grounds for disciplinary action as described  
2 in this section.

3 (m) Violation of a statute regulating an occupation or profession subject to the authority of the  
4 boards *[and]*, councils **and programs** listed in ORS 676.583.

5 (n) Violation of any rule regulating an occupation or profession subject to the authority of the  
6 boards *[and]*, councils **and programs** listed in ORS 676.583.

7 (o) Failing to cooperate with the office in any investigation, inspection or request for informa-  
8 tion.

9 (p) Selling or fraudulently obtaining or furnishing an authorization to practice in a regulated  
10 occupation or profession subject to the authority of the boards *[and]*, councils **and programs** listed  
11 in ORS 676.583, or aiding or abetting such an act.

12 (q) Selling or fraudulently obtaining or furnishing any record related to practice in a regulated  
13 occupation or profession subject to the authority of the boards *[and]*, councils **and programs** listed  
14 in ORS 676.583, or aiding or abetting such an act.

15 (r) Failing to pay an outstanding civil penalty or fee that is due or failing to meet the terms of  
16 any order issued by the office that has become final.

17 (3) For the purpose of requesting a state or nationwide criminal records check under ORS  
18 181A.195, the office may require the fingerprints of a person who is:

19 (a) Applying for an authorization;

20 (b) Applying for renewal of an authorization; or

21 (c) Under investigation by the office.

22 (4) If the office places an authorization holder on probation under subsection (1) of this section,  
23 the office, in consultation with the appropriate board *[or]*, council **or program**, may determine and  
24 at any time modify the conditions of the probation.

25 (5) If an authorization is suspended, the authorization holder may not practice during the term  
26 of suspension. Upon the expiration of the term of suspension, the authorization may be reinstated  
27 by the office if the conditions of suspension no longer exist and the authorization holder has satis-  
28 fied all requirements in the relevant statutes or administrative rules for issuance, renewal or rein-  
29 statement.

30 **SECTION 15.** ORS 676.613 is amended to read:

31 676.613. (1) In addition to all other remedies, when it appears to the Health Licensing Office that  
32 a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that  
33 violates any provision of ORS 675.360 to 675.410, 676.810, 676.815, 678.710 to 678.820, 680.500 to  
34 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to  
35 690.410, 691.405 to 691.485 or 694.015 to 694.170 or ORS chapter 700 **or sections 1 to 7 of this 2017**  
36 **Act**, the office may, through the Attorney General or the district attorney of the county in which  
37 the act, practice or transaction occurs or will occur, apply to the court for an injunction restraining  
38 the person from the act, practice or transaction.

39 (2) A court may issue an injunction under this section without proof of actual damages. An in-  
40 junction issued under this section does not relieve a person from any other prosecution or enforce-  
41 ment action taken for violation of statutes listed in subsection (1) of this section.

42 **SECTION 16.** ORS 676.615 is amended to read:

43 676.615. (1) In accordance with applicable provisions of ORS chapter 183, the Director of the  
44 Health Licensing Office may adopt rules necessary for the administration of the laws that the  
45 Health Licensing Office is charged with administering.

1 (2) In accordance with applicable provisions of ORS chapter 183, the director may adopt rules  
2 necessary for the administration of ORS 676.575 to 676.625 and 676.992.

3 (3) The office may adopt rules establishing requirements for placement of an authorization issued  
4 by the office in a dormant status upon application by the authorization holder and establishing  
5 conditions for reactivation of the authorization.

6 (4) Pursuant to ORS 676.575 and 676.586, the office may adopt rules to recognize specialties  
7 within a regulated field of practice subject to the authority of the boards [*and*], councils **and pro-**  
8 **grams** listed in ORS 676.583 and may establish requirements for education, experience, examinations  
9 and supervision as necessary to ensure public safety and competency within the specialty.

10 **SECTION 17.** ORS 676.622 is amended to read:

11 676.622. (1) A transaction conducted through a state or local system or network that provides  
12 electronic access to the Health Licensing Office information and services is exempt from any re-  
13 quirement under ORS 675.360 to 675.410, 676.575 to 676.625, 676.810, 676.815, 676.992, 680.500 to  
14 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to  
15 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700 **and sections 1 to 7 of this**  
16 **2017 Act**, and rules adopted thereunder, requiring an original signature or the submission of hand-  
17 written materials.

18 (2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are acceptable  
19 and have the same force as original signatures.

20 **SECTION 18.** ORS 676.625, as amended by section 7, chapter 240, Oregon Laws 2013, is  
21 amended to read:

22 676.625. (1) The Health Licensing Office shall establish by rule and shall collect fees and charges  
23 to carry out the office's responsibilities under ORS 676.575 to 676.625, 676.850 and 676.992 and any  
24 responsibility imposed on the office pertaining to the boards [*and*], councils **and programs** admin-  
25 istered and regulated by the office pursuant to ORS 676.583.

26 (2) The Health Licensing Office Account is established separate and distinct from the General  
27 Fund. The account shall consist of the moneys credited to the account by the Legislative Assembly.  
28 All moneys in the account are continuously appropriated to and shall be used by the office for  
29 payment of expenses of the office in carrying out the duties, functions and obligations of the office,  
30 and for payment of the expenses of the boards [*and*], councils **and programs** administered and  
31 regulated by the office pursuant to ORS 676.583. The office shall keep a record of all moneys cred-  
32 ited to the account and report the source from which the moneys are derived and the activity of  
33 each board [*or*], council **or program** that generated the moneys.

34 (3) Subject to prior approval of the Oregon Department of Administrative Services and a report  
35 to the Emergency Board prior to establishing fees and charges credited to the account, the fees and  
36 charges may not exceed the cost of administering the office and the boards [*and*], councils **and**  
37 **programs** within the office, as authorized by the Legislative Assembly within the office's budget,  
38 as the budget may be modified by the Emergency Board.

39 (4) All moneys credited to the account pursuant to ORS 676.592 and 676.806, and moneys cred-  
40 ited to the account from other office and program fees established by the office by rule, are con-  
41 tinuously appropriated to the office for carrying out the duties, functions and powers of the office  
42 under ORS 676.575 to 676.625, 676.806, 676.850 and 676.992.

43 (5) The moneys received from civil penalties assessed under ORS 676.992 shall be deposited and  
44 accounted for as are other moneys received by the office and shall be for the administration and  
45 enforcement of the statutes governing the boards [*and*], councils **and programs** administered by the

1 office.

2 **SECTION 19.** ORS 676.850 is amended to read:

3 676.850. (1) As used in this section, “board” means the:

4 (a) State Board of Examiners for Speech-Language Pathology and Audiology;

5 (b) State Board of Chiropractic Examiners;

6 (c) State Board of Licensed Social Workers;

7 (d) Oregon Board of Licensed Professional Counselors and Therapists;

8 (e) Oregon Board of Dentistry;

9 (f) Board of Licensed Dietitians;

10 (g) State Board of Massage Therapists;

11 (h) Oregon Board of Naturopathic Medicine;

12 (i) Oregon State Board of Nursing;

13 (j) Nursing Home Administrators Board;

14 (k) Oregon Board of Optometry;

15 (L) State Board of Pharmacy;

16 (m) Oregon Medical Board;

17 (n) Occupational Therapy Licensing Board;

18 (o) Physical Therapist Licensing Board;

19 (p) State Board of Psychologist Examiners;

20 (q) Board of Medical Imaging;

21 (r) State Board of Direct Entry Midwifery;

22 (s) State Board of Denture Technology;

23 (t) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

24 (u) Home Care Commission; *[and]*

25 (v) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-  
26 vice providers; **and**

27 **(w) Health Licensing Office, to the extent that the office licenses lactation consultants.**

28 (2)(a) In collaboration with the Oregon Health Authority, a board may adopt rules under which  
29 the board may require a person authorized to practice the profession regulated by the board to re-  
30 ceive cultural competency continuing education approved by the authority under ORS 413.450.

31 (b) Cultural competency continuing education courses may be taken in addition to or, if a board  
32 determines that the cultural competency continuing education fulfills existing continuing education  
33 requirements, instead of any other continuing education requirement imposed by the board.

34 (3)(a) A board, or the Health Licensing Office for those boards for which the office issues and  
35 renews authorizations to practice the profession regulated by the board, shall document partic-  
36 ipation in cultural competency continuing education by persons authorized to practice a profession  
37 regulated by the board.

38 (b) For purposes of documenting participation under this subsection, a board may adopt rules  
39 requiring persons authorized to practice the profession regulated by the board to submit documen-  
40 tation to the board, or to the office for those boards for which the office issues and renews author-  
41 izations to practice the profession regulated by the board, of participation in cultural competency  
42 continuing education.

43 (4) A board shall report biennially to the authority on the participation documented under sub-  
44 section (3) of this section.

45 (5) The authority, on or before August 1 of each even-numbered year, shall report to the interim

1 committees of the Legislative Assembly related to health care on the information submitted to the  
2 authority under subsection (4) of this section.

3 **SECTION 20.** ORS 676.992 is amended to read:

4 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other  
5 penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to  
6 exceed \$5,000 for each violation of the following statutes and any rule adopted under the following  
7 statutes:

8 (a) ORS 688.701 to 688.734 (athletic training);

9 (b) ORS 690.005 to 690.225 (cosmetology);

10 (c) ORS 680.500 to 680.565 (denture technology);

11 (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);

12 (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal im-  
13 planting and scarification);

14 (f) ORS 694.015 to 694.170 (dealing in hearing aids);

15 (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);

16 (h) ORS chapter 700 (environmental sanitation);

17 (i) ORS 675.360 to 675.410 (sex offender treatment);

18 (j) ORS 678.710 to 678.820 (nursing home administrators);

19 (k) ORS 691.405 to 691.485 (dietitians);

20 (L) ORS 676.612 (prohibited acts);

21 (m) ORS 676.810 and 676.815 (applied behavior analysis);

22 (n) ORS 681.700 to 681.730 (music therapy); [and]

23 (o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure); **and**

24 **(p) Sections 1 to 7 of this 2017 Act (lactation consultation).**

25 (2) The office may take any other disciplinary action that it finds proper, including but not  
26 limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any  
27 statute listed in subsection (1) of this section or any rule adopted under any statute listed in sub-  
28 section (1) of this section.

29 (3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a  
30 violation of ORS 694.042.

31 (4) In imposing a civil penalty under this section, the office shall consider the following factors:

32 (a) The immediacy and extent to which the violation threatens the public health or safety;

33 (b) Any prior violations of statutes, rules or orders;

34 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-  
35 lation; and

36 (d) Any other aggravating or mitigating factors.

37 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

38 (6) The moneys received by the office from civil penalties under this section shall be deposited  
39 in the Health Licensing Office Account and are continuously appropriated to the office for the ad-  
40 ministration and enforcement of the laws the office is charged with administering and enforcing that  
41 govern the person against whom the penalty was imposed.

42 **SECTION 21.** (1) **Sections 1 to 7 of this 2017 Act and the amendments to ORS 676.185,**  
43 **676.308, 676.583, 676.586, 676.608, 676.610, 676.612, 676.613, 676.615, 676.622, 676.625, 676.850 and**  
44 **676.992 by sections 8 to 20 of this 2017 Act become operative on January 1, 2018.**

45 **(2) The Health Licensing Office may take any action before the operative date specified**

1 in subsection (1) of this section that is necessary to enable the office to exercise, on and  
2 after the operative date specified in subsection (1) of this section, all of the duties, functions  
3 and powers conferred on the office by sections 1 to 7 of this 2017 Act and the amendments  
4 to ORS 676.185, 676.308, 676.583, 676.586, 676.608, 676.610, 676.612, 676.613, 676.615, 676.622,  
5 676.625, 676.850 and 676.992 by sections 8 to 20 of this 2017 Act.

6 SECTION 22. This 2017 Act being necessary for the immediate preservation of the public  
7 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect  
8 on its passage.

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