

Enrolled
House Bill 2633

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

CHAPTER

AN ACT

Relating to sex offender treatment; creating new provisions; amending ORS 675.365, 675.370, 675.375, 675.380, 675.385, 675.395 and 676.992; and declaring an emergency.

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

SECTION 1. ORS 675.365 is amended to read:
675.365. As used in ORS 675.360 to 675.410:

(1) "Certified associate sex offender therapist" means a person who is certified under ORS 675.375 or 675.380 to provide services for the treatment and rehabilitation of *[sex offenders]* **persons described in section 3 of this 2017 Act** while under the direct supervision of a certified clinical sex offender therapist.

(2) "Certified clinical sex offender therapist" means a person who is certified under ORS 675.375 or 675.380 to provide services for the treatment and rehabilitation of *[sex offenders]* **persons described in section 3 of this 2017 Act** and who may supervise certified associate sex offender therapists.

(3) "**Certified secondary associate sex offender therapist**" means a person who is certified under ORS 675.375 or 675.380 to provide limited services for the treatment and rehabilitation of persons described in section 3 of this 2017 Act under the direct supervision of a certified clinical sex offender therapist.

[(3)] (4) "Certified sex offender therapist" means a certified clinical sex offender therapist *[or]*, a certified associate sex offender therapist **or a certified secondary associate sex offender therapist**.

[(4)] (5) "Direct supervision" means a minimum of two hours of supervision by a certified clinical sex offender therapist for each:

(a) 45 hours of direct clinical contact with a *[sex offender]* **person described in section 3 of this 2017 Act, if the individual being supervised is a certified associate sex offender therapist;**
or

(b) **10 hours of direct clinical contact with a person described in section 3 of this 2017 Act, if the individual being supervised is a certified secondary associate sex offender therapist.**

[(5)] (6) "Professional disclosure statement" means a statement about an applicant for certification under ORS 675.375 or 675.380 that includes the following information:

(a) Name, business address and telephone number;

(b) Philosophy and approach to treatment and rehabilitation of *[sex offenders]* **persons described in section 3 of this 2017 Act;**

- (c) Formal education and training;
- (d) Continuing education experience and name of supervisor, if any;
- (e) Fee schedules for [sex offender] **sexual abuse specific** treatment services; and
- (f) The name, address and telephone number of the Sex Offender Treatment Board.

[6] “Sex offender” means a person convicted or adjudicated of a sex crime, as defined in ORS 163A.005, or a sexual offense, as provided in ORS 163.305 to 163.467, and mandated by a court, a releasing authority, including the Oregon Youth Authority, or the Oregon Health Authority to successfully complete a sex offender treatment program.]

(7) [“Sex offender treatment”] **“Sexual abuse specific treatment”** means the process of evaluation, assessment and reformation of [sex offenders] **persons described in section 3 of this 2017 Act.**

SECTION 2. Section 3 of this 2017 Act is added to and made a part of ORS 675.360 to 675.410.

SECTION 3. ORS 675.360 to 675.410 apply to the provision of sexual abuse specific treatment to any person, regardless of whether the person:

- (1) Self-refers for sexual abuse specific treatment;
- (2) Has been convicted or adjudicated of a sex crime, as defined in ORS 163A.005, or a sexual offense, as provided in ORS 163.305 to 163.467, and mandated by a court, a releasing authority, including the Oregon Youth Authority, or the Oregon Health Authority to successfully complete a sexual abuse specific treatment program;
- (3) Has been referred for sexual abuse specific treatment by:
 - (a) The Department of Human Services;
 - (b) A district school board, public charter school or public or private institution of post-secondary education; or
 - (c) A county program for aging persons, persons with disabilities and veterans; or
- (4) Has been referred for sexual abuse specific treatment prior to trial on a criminal charge.

SECTION 4. ORS 675.370 is amended to read:

675.370. [(1) Unless a person has applied for and received certification under ORS 675.375 or 675.380, a person may not claim certification as or represent that person to be a:]

[(a) Certified clinical sex offender therapist; or]

[(b) Certified associate sex offender therapist.]

[(2) ORS 675.360 to 675.410 apply only to certified sex offender therapists who treat sex offenders.]

[(3) A person may not:]

[(a) Attempt to obtain a certificate or renewal of a certificate under ORS 675.360 to 675.380 by bribery or fraudulent representation; or]

[(b) Purport to the public to be engaged in the practice of sex offender treatment under the title “clinical sex offender therapist” or “associate sex offender therapist” unless the person possesses an active certification under ORS 675.360 to 675.380.]

[(4) Nothing in ORS 675.360 to 675.410 is intended to limit or prevent the practice of an individual’s profession or to restrict a person from providing counseling or therapy if the person or individual does not represent to the public by title that the person or individual is a certified sex offender therapist.]

(1) A person may not:

(a) Engage in the practice of sexual abuse specific treatment or assume or use any title, words or abbreviations, including the title or designation “certified clinical sex offender therapist,” “certified associate sex offender therapist” or “certified secondary associate sex offender therapist,” that indicate that the person is authorized to engage in the practice of sexual abuse specific treatment unless the person holds a certificate issued under ORS 675.375 or 675.380.

(b) Attempt to obtain a certificate or renewal of a certificate under ORS 675.360 to 675.380 by bribery or fraudulent representation.

(2) Subsection (1) of this section does not prohibit a person who is authorized to practice a mental health profession other than sexual abuse specific treatment under the laws of this state:

(a) From practicing the person's mental health profession; or

(b) From providing sexual abuse specific treatment if the provision of sexual abuse specific treatment is within the person's scope of practice.

[(5)] (3) Each violation of [subsections (3) to (5)] subsection (1) of this section is a separate violation.

SECTION 5. ORS 675.375 is amended to read:

675.375. (1) To obtain certification as a clinical sex offender therapist [*or*], associate sex offender therapist **or secondary associate sex offender therapist**, an applicant must complete an application developed and prescribed by the Sex Offender Treatment Board and file a professional disclosure statement with the Health Licensing Office. The documents must be accompanied by the applicable fees established under ORS 676.592.

(2) Subject to the provisions of ORS 676.612, the office may issue [*two*] **three** types of certification to qualified applicants under this section:

(a) Clinical sex offender therapist; [*and*]

(b) Associate sex offender therapist; **and**

(c) **Secondary associate sex offender therapist.**

(3) To qualify as a certified clinical sex offender therapist, the applicant must:

(a) Be in compliance with applicable provisions and rules adopted by the office;

(b) Have at least a master's degree in the behavioral sciences;

(c) Have an active Oregon mental health professional license or equivalent license as determined by the office;

(d) Within not less than three years nor more than six years prior to application, have had a minimum of 2,000 hours of direct clinical contact with [*sex offenders*] **persons described in section 3 of this 2017 Act**, including:

(A) 1,000 hours of direct treatment services; and

(B) 500 hours of evaluations; and

(e) Have a minimum of 60 hours of formal training applicable to [*sex offender*] **sexual abuse specific** treatment and evaluation, achieved within the three years prior to application.

(4) To qualify as a certified associate sex offender therapist, the applicant must:

(a) Be in compliance with applicable provisions and rules adopted by the office;

(b) Have at least a bachelor's degree in the behavioral sciences;

(c) Have had a minimum of 1,000 hours of direct clinical contact with [*sex offenders*] **person described in section 3 of this 2017 Act**;

(d) Have a minimum of 30 hours of formal training applicable to [*sex offender*] **sexual abuse specific** treatment and evaluation, achieved within the three years prior to application; and

(e) Be under the direct supervision of a certified clinical sex offender therapist.

(5) **To qualify as a certified secondary associate sex offender therapist, the applicant must:**

(a) **Be in compliance with applicable provisions and rules adopted by the office;**

(b) **Have at least a master's degree in the behavioral sciences;**

(c) **Have an active Oregon mental health professional license or equivalent license as determined by the office or be a registered intern for a mental health professional licensed in Oregon;**

(d) **Have a minimum of 15 hours of formal training applicable to sexual abuse specific treatment and evaluation, achieved within the three years prior to application;**

(e) **Be under the direct supervision of a certified clinical sex offender therapist; and**

(f) Provide sexual abuse specific treatment services to not more than nine clients in a calendar month, unless the applicant is accruing hours to qualify for application as a certified associate sex offender therapist.

SECTION 6. ORS 675.380 is amended to read:

675.380. Upon receipt of an application and the applicable fees established under ORS 676.592, the Health Licensing Office shall certify a clinical sex offender therapist [*or*], associate sex offender therapist **or secondary associate sex offender therapist** if the applicant provides evidence to the satisfaction of the office that the applicant is recognized as a clinical sex offender therapist [*or*], associate sex offender therapist **or secondary associate sex offender therapist** in another state in which the requirements for [*such*] recognition are, in the judgment of the office, in consultation with the Sex Offender Treatment Board, at least equivalent to the requirements of ORS 675.360 to 675.410 and rules of the office.

SECTION 7. ORS 675.385 is amended to read:

675.385. (1) In the manner prescribed in ORS chapter 183 for contested cases, and at the direction of the Sex Offender Treatment Board, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against [*any*] a certified **clinical** sex offender therapist, **certified associate sex offender therapist or certified secondary associate sex offender therapist** for any of the grounds listed in ORS 676.612 and for any violation of the provisions of, **or rules adopted under**, ORS 675.360 to 675.410[, *or the rules adopted thereunder*].

(2) The office may impose disciplinary sanctions against a certified **clinical** sex offender therapist, **certified associate sex offender therapist or certified secondary associate sex offender therapist** for any of the following reasons:

(a) The person was convicted of violating ORS 675.390, or of a felony or misdemeanor that brings into question the person's competence or integrity as a certified **clinical** sex offender therapist, **certified associate sex offender therapist or certified secondary associate sex offender therapist**.

(b) The person's mental health professional license, or equivalent license, has been revoked, suspended or restricted by the issuing authority.

(c) The person has violated ORS 675.370 [(3) to (5)] (1), or any rules adopted by the office pertaining to certification.

(d) The person has failed to file or has filed a false, misleading or incomplete professional disclosure statement with the office.

(e) The person has practiced beyond the scope of the person's certification under ORS 675.380.

SECTION 8. ORS 675.395 is amended to read:

675.395. (1) The Sex Offender Treatment Board is established within the Health Licensing Office. The board shall consist of seven members appointed by the Governor from lists of recommended persons submitted as provided in subsection (2) of this section. All members of the board must be residents of this state.

(2) Of the members appointed to the board:

(a) Two shall be from a list submitted by the Oregon Association for the Treatment of Sexual Abusers;

(b) Two shall be from a list submitted by the Oregon Adolescent Sex [*Offender*] **Offending Treatment Network or a successor organization**;

(c) One shall be from a list submitted by the Oregon Association of Community Corrections Directors;

(d) One shall be from a list submitted by the Oregon Juvenile Department Directors Association; and

(e) One shall be from a list submitted by a victims' advocacy organization.

(3) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at

least four years must elapse before the person is again eligible for appointment to serve on the board.

(4) Members of the board are eligible for compensation and expenses as provided in ORS 292.495.

(5) The board shall select one of its members to serve as chair and another to serve as vice chair, for those terms and with such duties and powers necessary for the performance of the functions of those offices as the board determines.

(6) A majority of the board constitutes a quorum for the transaction of business.

(7) The board shall meet at times and places specified by the call of the chair or of a majority of the members of the board. The board shall meet at least once each calendar year.

(8) A board member appointed under this section who is also a **certified** clinical sex offender therapist [*or*], **certified** associate sex offender therapist **or certified secondary associate sex offender therapist** must satisfy all requirements for certification provided in ORS 675.375 and must obtain certification within 12 months of the member's appointment.

SECTION 9. ORS 676.992 is amended to read:

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

- (a) ORS 688.701 to 688.734 (athletic training);
- (b) ORS 690.005 to 690.225 (cosmetology);
- (c) ORS 680.500 to 680.565 (denture technology);
- (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);
- (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal implanting and scarification);
- (f) ORS 694.015 to 694.170 (dealing in hearing aids);
- (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);
- (h) ORS chapter 700 (environmental sanitation);
- (i) ORS 675.360 to 675.410 (*[sex offender]* **sexual abuse specific** treatment);
- (j) ORS 678.710 to 678.820 (nursing home administrators);
- (k) ORS 691.405 to 691.485 (dietitians);
- (L) ORS 676.612 (prohibited acts);
- (m) ORS 676.810 and 676.815 (applied behavior analysis);
- (n) ORS 681.700 to 681.730 (music therapy); and
- (o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure).

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

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

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

- (a) The immediacy and extent to which the violation threatens the public health or safety;
- (b) Any prior violations of statutes, rules or orders;
- (c) The history of the person incurring a penalty in taking all feasible steps to correct any violation; and
- (d) Any other aggravating or mitigating factors.

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

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

SECTION 10. Sections 11 and 12 of this 2017 Act are added to and made a part of ORS 675.360 to 675.410.

SECTION 11. (1) ORS 675.360 to 675.410 do not apply to:

(a) A student enrolled in an approved educational program who is pursuing a graduate degree in a mental health field, if the student provides sexual abuse specific treatment services only for academic credit as part of an organized and supervised training program.

(b) A person employed by a local, state or federal government agency, community mental health program or drug and alcohol treatment program licensed or certified in this state, if the person's activities and services are performed and provided within the person's scope of employment.

(c) A person who is a recognized member of the clergy, if the person is acting in the person's capacity as a member of the clergy.

(2) A person described in subsection (1) of this section may not use the title "certified clinical sex offender therapist," "certified associate sex offender therapist," "certified secondary associate sex offender therapist" or a similar title.

SECTION 12. A person who engages in the practice of sexual abuse specific treatment as a certified clinical sex offender therapist, and who did not hold an active Oregon mental health professional license or equivalent license as determined by the Health Licensing Office as of the date of the person's initial certification, may continue to engage in the practice of sexual abuse specific treatment as a certified clinical sex offender therapist only if the person obtains an Oregon mental health professional license or equivalent license as determined by the office not later than January 1, 2021.

SECTION 13. (1) Not later than December 31, 2018, the Department of Corrections, the Oregon Health Authority and the Oregon Youth Authority shall each submit a report to the interim committees of the Legislative Assembly related to the judiciary in the manner provided in ORS 192.245. A report submitted under this section must include:

(a) A description of any complaints the submitting agency received against persons employed by the agency who provide sexual abuse specific treatment as defined in ORS 675.365 and who are not certified under ORS 675.375; and

(b) Any steps that the submitting agency would need to take to ensure that any of the agency's employees to whom ORS 675.360 to 675.410 do not apply because of section 11 (1)(b) of this 2017 Act become certified under ORS 675.375 if section 11 (1)(b) of this 2017 Act were to be repealed.

(2) A local, state or federal governmental agency, community mental health program or drug and alcohol treatment program licensed or certified by this state that employs a person to whom the requirements of ORS 675.360 to 675.410 do not apply because of section 11 (1)(b) of this 2017 Act may submit the report described in subsection (1) of this section.

SECTION 14. (1) Sections 3 and 11 to 13 of this 2017 Act and the amendments to ORS 675.365, 675.370, 675.375, 675.380, 675.385, 675.395 and 676.992 by sections 1 and 4 to 9 of this 2017 Act become operative on January 1, 2018.

(2) The Health Licensing Office and the Sex Offender Treatment Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the office and the board to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the office and the board by sections 3 and 11 to 13 of this 2017 Act and the amendments to ORS 675.365, 675.370, 675.375, 675.380, 675.385, 675.395 and 676.992 by sections 1 and 4 to 9 of this 2017 Act.

SECTION 15. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by House May 4, 2017

Repassed by House June 13, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 8, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State