

Requested by Senator STEINER HAYWARD

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2303**

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon de-
2 lete the rest of the line and insert “creating new provisions; amending ORS
3 243.061, 244.050, 418.517, 426.180, 426.234, 441.221, 441.233, 442.011, 676.185,
4 676.580, 676.583, 676.586, 676.608, 676.610, 676.612, 676.613, 676.615, 676.622,
5 676.625, 676.850, 731.036, 743B.001,”.

6 In line 3, delete the third “and”.

7 In line 4, after “743B.206” insert “; and declaring an emergency”.

8 On page 18, after line 20, insert:

9 **“SECTION 13. Section 14 of this 2017 Act is added to and made a**
10 **part of ORS 676.575 to 676.625.**

11 **“SECTION 14. (1) As used in this section:**

12 **“(a) ‘Alternative behavioral health practitioner’ includes a:**

13 **“(A) Hypnotherapist;**

14 **“(B) Sexologist;**

15 **“(C) Somatic therapist;**

16 **“(D) Life coach;**

17 **“(E) Parenting coach; or**

18 **“(F) Wellness coach.**

19 **“(b) ‘Behavioral health practitioner’ includes a:**

20 **“(A) Qualified mental health professional, other than a peer support**
21 **specialist or a peer wellness specialist as defined in ORS 414.025, who**

1 is not licensed in this state.

2 “(B) Qualified mental health associate who is not licensed in this
3 state.

4 “(c) ‘Represent oneself’ means to use any title or description of
5 services to be provided that implies that the individual is licensed,
6 certified or otherwise authorized by an agency of the state to use the
7 title or provide the described services.

8 “(2) An individual may not represent oneself as a behavioral health
9 practitioner or an alternative behavioral health practitioner if the in-
10 dividual is not registered by the Health Licensing Office in accordance
11 with this section.

12 “(3) The office shall prescribe procedures for the registration and
13 the renewal of registration of behavioral health practitioners and al-
14 ternative behavioral health practitioners, including but not limited to:

15 “(a) The form and manner of the application for registration and
16 for the renewal of a registration;

17 “(b) The application and renewal fee to be paid, which must be
18 sufficient to cover the costs of administering the registry;

19 “(c) The denial, suspension or revocation of a registration;

20 “(d) The imposition of fines or other penalties on individuals who
21 violate subsection (2) of this section or the requirements adopted un-
22 der subsection (4) of this section; and

23 “(e) A process for members of the public to make complaints about
24 behavioral health practitioners and alternative behavioral health
25 practitioners.

26 “(4) The office shall establish by rule:

27 “(a) Qualifications for each type of behavioral health practitioner
28 and alternative behavioral health practitioner, including training and
29 experience and, if appropriate, examinations; and

30 “(b) Ethical standards that must be observed by a behavioral health

1 **practitioner and an alternative behavioral health practitioner.**

2 **“(5) Rules adopted to carry out subsection (4) of this section must**
3 **require a behavioral health practitioner to be employed by:**

4 **“(a) An agency that is licensed or certified by the Oregon Health**
5 **Authority to provide mental health services; or**

6 **“(b) A health care organization that has a quality assurance process**
7 **that includes the supervision and review of the work of the behavioral**
8 **health practitioner.**

9 **“(6) The office shall request a criminal records check, in accordance**
10 **with ORS 181A.195, on all individuals applying to be registered or to**
11 **renew a registration under this section. The office may refuse to reg-**
12 **ister or renew a registration, or may suspend or revoke a registration,**
13 **for the commission of a prohibited act described in ORS 676.612.**

14 **“(7) The office shall appoint an advisory committee, as described in**
15 **ORS 183.333, to advise the office in the adoption of rules described in**
16 **subsection (4) of this section.**

17 **“(8) This section does not apply to an individual who provides ser-**
18 **vices that are within the scope of practice of the individual’s license**
19 **or certification or other authorization under state law.**

20 **“SECTION 15. ORS 418.517 is amended to read:**

21 **“418.517. (1) As used in this section:**

22 **“(a) ‘Medically accepted indication’ means any use for a covered outpa-**
23 **tient drug that is approved under the Federal Food, Drug and Cosmetic Act,**
24 **or recommended by the Pharmacy and Therapeutics Committee created by**
25 **ORS 414.353, or the use of which is supported by one or more citations in-**
26 **cluded or approved for inclusion in any of the following compendia:**

27 **“(A) American Hospital Formulary Service drug information;**

28 **“(B) United States Pharmacopoeia drug information or any successor**
29 **publication;**

30 **“(C) The DRUGDEX Information System; or**

1 “(D) Peer-reviewed medical literature.

2 “(b) ‘Psychotropic medication’ means medication the prescribed intent of
3 which is to affect or alter thought processes, mood or behavior, including
4 but not limited to antipsychotic, antidepressant and anxiolytic medication
5 and behavior medications. The classification of a medication depends upon
6 its stated intended effect when prescribed, because it may have many differ-
7 ent effects.

8 “(c) **‘Qualified mental health professional’ means a qualified mental**
9 **health professional registered under section 14 of this 2017 Act.**

10 “(2) The Department of Human Services shall develop by rule procedures
11 for the use of psychotropic medications for children placed in foster care by
12 the department.

13 “(3) The procedures shall include but not be limited to:

14 “(a) Required assessment by a qualified mental health professional or li-
15 censed medical professional, with expertise in children’s mental health, as
16 defined by rule of the department prior to issuance of a new prescription for
17 more than one psychotropic medication or any antipsychotic medication, ex-
18 cept in case of urgent medical need as defined by rule.

19 “(b) Required notice by the foster parent to the department within one
20 working day after receiving a new prescription of the psychotropic
21 medication.

22 “(c) Required timely notice by the department to the child’s parent and
23 the parent’s legal representative, if any, and the child’s legal representative
24 or the court appointed special advocate containing the following information:

25 “(A) The prescribed psychotropic medication;

26 “(B) The amount of the dosage;

27 “(C) The dosage recommended pursuant to a medically accepted indi-
28 cation;

29 “(D) The reason for the medication;

30 “(E) The efficacy of the medication; and

1 “(F) The side effects of the medication.

2 “(d) Specified follow-up and monitoring by the department of a child tak-
3 ing psychotropic medication including, but not limited to, an annual review
4 of medications by a licensed medical professional, or qualified mental health
5 professional with authority to prescribe drugs, other than the prescriber, if
6 the child has more than two prescriptions for psychotropic medications or
7 if the child is under the age of six years.

8 “(4) A psychotropic medication may not be prescribed for a child under
9 this section unless it is used for a medically accepted indication that is age
10 appropriate.

11 “(5) Any parent, legal representative of the parent, legal representative
12 of the child or court appointed special advocate may petition the juvenile
13 court for a hearing if the parent, the representative of the parent, if any, the
14 legal representative of the child or the advocate objects to the use of or the
15 prescribed dosage of the psychotropic medication. The court may order an
16 independent evaluation of the need for or the prescribed dosage of the
17 medication. The court may order that administration of the medication be
18 discontinued or the prescribed dosage be modified upon a showing that either
19 the prescribed medication or the dosage, or both, are inappropriate.

20 **“SECTION 16.** ORS 426.180 is amended to read:

21 “426.180. (1) ORS 426.180 to 426.210 apply to the commitment of an indi-
22 vidual in Indian country if the state does not have jurisdiction over the in-
23 dividual.

24 “(2) As used in this section and ORS 426.200 and 426.210, ‘hospital’ means
25 a hospital that is licensed under ORS chapter 441, other than an institution
26 listed in ORS 426.010.

27 “(3) If the court of a tribe having jurisdiction over an individual issues
28 an order finding that the individual is dangerous to self or to any other
29 person and is in need of immediate care, custody or treatment for mental
30 illness, a person may request that the individual be taken by a tribal police

1 officer or other peace officer to a hospital or nonhospital facility by sub-
2 mitting to the officer a certified copy of the order and an affidavit that in-
3 cludes:

4 “(a) The name and address of the nearest relative or legal guardian of the
5 individual; and

6 “(b) A medical history completed by one of the following, who may not
7 be related to the individual by blood or marriage:

8 “(A) The tribe’s mental health authority, if the tribe has entered into an
9 agreement with the state pursuant to ORS 430.630 (9)(a)(B);

10 “(B) A qualified mental health professional **registered under section 14**
11 **of this 2017 Act**; or

12 “(C) A licensed independent practitioner.

13 “(4) Upon receipt of the order and affidavit described in subsection (3) of
14 this section, the tribal police officer or other peace officer shall immediately
15 transport the individual to a hospital or a nonhospital facility and present
16 the individual to the hospital or nonhospital facility accompanied by the
17 court order and affidavit.

18 “(5) The director of the hospital or nonhospital facility may refuse to
19 admit the individual if a licensed independent practitioner, after reviewing
20 the documents accompanying the individual, is not satisfied that an emer-
21 gency exists or that the individual is dangerous to self or others and in need
22 of immediate care, custody or treatment for mental illness.

23 “(6) If the hospital or nonhospital facility admits the individual, the di-
24 rector or a licensed independent practitioner shall notify the community
25 mental health program director for the area and the circuit court with ju-
26 risdiction in the area where the facility is located. Upon receipt of the no-
27 tice, the community mental health program director shall initiate
28 commitment proceedings in accordance with ORS 426.070.

29 “(7) If an individual is admitted to a hospital or nonhospital facility under
30 this section, any licensed independent practitioner who is treating the indi-

1 vidual shall give the individual the warning under ORS 426.123.

2 “(8) This section may be applied as provided by agreement with the gov-
3 erning body of the reservation. Payment of costs for a commitment made
4 under this section shall be as provided under ORS 426.250.

5 “(9) The director of the hospital or nonhospital facility or licensed inde-
6 pendent practitioner shall notify the appropriate tribe regarding all actions
7 taken under ORS 426.180 to 426.210 no later than 24 hours after the action
8 is taken, except for information protected from disclosure by state or federal
9 law.

10 **“SECTION 17.** ORS 426.234 is amended to read:

11 “426.234. (1) At the time a person alleged to have a mental illness is ad-
12 mitted to or retained in a hospital or nonhospital facility under ORS 426.232
13 or 426.233, a licensed independent practitioner, a nurse or a qualified mental
14 health professional **registered under section 14 of this 2017 Act** at the
15 hospital or nonhospital facility shall:

16 “(a) Inform the person of the person’s right to representation by or ap-
17 pointment of counsel as described in ORS 426.100;

18 “(b) Give the person the warning under ORS 426.123;

19 “(c) Immediately examine the person;

20 “(d) Set forth, in writing, the condition of the person and the need for
21 emergency care or treatment; and

22 “(e) If the licensed independent practitioner, nurse or qualified mental
23 health professional reasonably suspects that the person is a foreign national,
24 inform the person of the person’s right to communicate with an official from
25 the consulate of the person’s country. A licensed independent practitioner,
26 nurse or qualified mental health professional is not civilly or criminally li-
27 able for failure to provide the information required by this paragraph. Fail-
28 ure to provide the information required by this paragraph does not in itself
29 constitute grounds for the exclusion of evidence that would otherwise be
30 admissible in a proceeding.

1 “(2)(a) At the time the person is admitted to or retained in a hospital
2 under ORS 426.232, the licensed independent practitioner shall contact the
3 community mental health program director of the county in which the person
4 resides, if the county of residence is different from the county in which the
5 hospital is located. The community mental health program director may re-
6 quest that the licensed independent practitioner notify the circuit court in
7 the county in which the person resides. If the community mental health
8 program director does not make the request, the licensed independent prac-
9 titioner shall notify, immediately and in writing, the circuit court in the
10 county in which the person is hospitalized.

11 “(b) At the time the person is admitted to a hospital under ORS 426.232
12 after being brought to the hospital by a peace officer under ORS 426.228, the
13 licensed independent practitioner shall contact the community mental health
14 program director of the county in which the person is hospitalized. The
15 community mental health program director of the county in which the person
16 is hospitalized may request that the licensed independent practitioner notify
17 the circuit court in the county in which the person is hospitalized. If the
18 community mental health program director does not make the request, the
19 licensed independent practitioner shall notify, immediately and in writing,
20 the circuit court in the county in which the person was taken into custody.

21 “(c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the
22 licensed independent practitioner responsible for a person admitted or re-
23 tained under ORS 426.232 determines that the person is not dangerous to self
24 or to any other person and is not in need of emergency care or treatment for
25 mental illness, the licensed independent practitioner may release the person
26 from the detention authorized by ORS 426.232. The licensed independent
27 practitioner shall immediately notify the circuit court notified under this
28 subsection and the community mental health program director of the person’s
29 release from detention.

30 “(3)(a) At the time the person is admitted to or retained in a nonhospital

1 facility under ORS 426.233, the community mental health program director
2 in the county where the person was taken into custody shall contact the
3 community mental health program director of the county in which the person
4 resides, if the county of residence is different from the county in which the
5 person was taken into custody. The community mental health program di-
6 rector of the county in which the person resides may request that the com-
7 munity mental health program director of the county in which the person
8 was taken into custody notify the circuit court in the county where the
9 person resides. Otherwise, the community mental health program director of
10 the county in which the person was taken into custody shall notify, imme-
11 diately and in writing, the circuit court in the county in which the person
12 was taken into custody.

13 “(b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a
14 community mental health program director, after consultation with a li-
15 censed independent practitioner, determines that a person admitted or re-
16 tained under ORS 426.233 is not dangerous to self or to any other person and
17 is not in need of immediate care, custody or treatment for mental illness, the
18 community mental health program director may release the person from de-
19 tention. The community mental health program director shall immediately
20 notify the circuit court originally notified under paragraph (a) of this sub-
21 section of the person’s release from detention.

22 “(4) When the judge of the circuit court receives notice under subsection
23 (2) or (3) of this section, the judge immediately shall commence proceedings
24 under ORS 426.070 to 426.130. In a county having a population of 100,000 or
25 more, and when feasible in a county with a lesser population, the community
26 mental health program director or designee who directs the peace officer or
27 other authorized individual to take a person into custody under ORS 426.233
28 shall not also conduct the investigation as provided for under ORS 426.074.
29 Except when a person is being held under ORS 426.237 (1)(b), a person shall
30 not be held under ORS 426.232 or 426.233 for more than five judicial days

1 without a hearing being held under ORS 426.070 to 426.130.

2 “(5) When the judge of the circuit court receives notice under subsection
3 (2)(c) or (3)(b) of this section that a person has been released, and unless the
4 court receives the recommendation required by ORS 426.070 (4), the judge
5 shall dismiss the case no later than 14 days after the date the person was
6 initially detained.

7 **“SECTION 18.** ORS 676.185 is amended to read:

8 “676.185. As used in ORS 676.185 to 676.200:

9 “(1) ‘Direct supervisor’ means the individual who is responsible for:

10 “(a) Supervising a licensee enrolled in the impaired health professional
11 program;

12 “(b) Monitoring the licensee’s compliance with the requirements of the
13 program; and

14 “(c) Periodically reporting to the program on the licensee’s compliance
15 with the requirements of the program.

16 “(2) ‘Health profession licensing board’ means:

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

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

20 “(3) ‘Impaired professional’ means a licensee who is unable to practice
21 with professional skill and safety by reason of habitual or excessive use or
22 abuse of drugs, alcohol or other substances that impair ability or by reason
23 of a mental health disorder.

24 “(4) ‘Licensee’ means a health professional licensed or certified by or
25 registered with a health profession licensing board.

26 “(5) ‘Substantial noncompliance’ includes the following:

27 “(a) Criminal behavior;

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

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

1 “(d) A positive toxicology test result as determined by federal regulations
2 pertaining to drug testing;

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

6 “(f) Civil commitment for mental illness;

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

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

10 **“SECTION 19.** ORS 676.580 is amended to read:

11 “676.580. As used in ORS 676.575 to 676.625:

12 “(1) ‘Active authorization’ means an authorization that is current and not
13 suspended.

14 “(2) ‘Authorization’ means a certificate, license, permit or registration
15 issued by the Health Licensing Office that allows a person to practice:

16 “(a) One of the occupations or professions or maintain a facility subject
17 to the authority of the boards and councils **or regulated under a program**
18 listed in ORS 676.583; or

19 “(b) A profession or occupation subject to direct oversight by the office.

20 “(3) ‘Expired authorization’ means an authorization that has been not
21 current for more than three years.

22 “(4) ‘Inactive authorization’ means an authorization that has been not
23 current for three years or less.

24 **“SECTION 20.** ORS 676.583 is amended to read:

25 “676.583. Pursuant to ORS 676.586, the Health Licensing Office shall pro-
26 vide administrative and regulatory oversight and centralized service for the
27 following boards, [and] councils **and programs**:

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

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

30 “(3) State Board of Denture Technology, as provided in ORS 680.500 to

1 680.565;

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

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

6 “(6) Environmental Health Registration Board, as provided in ORS chap-
7 ter 700;

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

10 “(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to
11 694.170;

12 “(9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;

13 “(10) Nursing Home Administrators Board, as provided in ORS 678.710 to
14 678.820;

15 “(11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;

16 “(12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;
17 [*and*]

18 “(13) Board of Certified Advanced Estheticians, as provided in ORS
19 676.630 to 676.660; **and**

20 “(14) **Program for licensing behavioral health practitioners and al-**
21 **ternative behavioral health practitioners under section 14 of this 2017**
22 **Act.**

23 “**SECTION 21.** ORS 676.586 is amended to read:

24 “676.586. (1) The Health Licensing Office is responsible for the adminis-
25 tration and regulatory oversight of the boards, [*and*] councils **and programs**
26 listed in ORS 676.583. The responsibilities of the office include, but are not
27 limited to:

28 “(a) Budgeting;

29 “(b) Record keeping;

30 “(c) Staffing;

- 1 “(d) Contracting;
- 2 “(e) Consumer protection and investigating complaints;
- 3 “(f) Establishing and collecting fees;
- 4 “(g) Establishing and administering uniform application processes for the
5 issuance of authorizations;
- 6 “(h) Issuing and renewing authorizations;
- 7 “(i) Subject to ORS 676.616 and 687.445, conditioning, limiting, suspend-
8 ing, revoking or refusing to issue or renew an authorization or otherwise
9 disciplining applicants and authorization holders;
- 10 “(j) Sanctioning any examination service provider, interpreter or proctor
11 who is under contract or agreement with the office and who compromises the
12 security, confidentiality or integrity of examinations developed or conducted
13 pursuant to the statutory authority of the boards, [and] councils **and pro-**
14 **grams** listed in ORS 676.583;
- 15 “(k) Enforcing all administrative rules adopted under any statute the of-
16 fice is charged with enforcing, including board, [and] council **and program**
17 administrative rules establishing professional code of conduct and practice
18 standards, the scope of professional practice and requirements for obtaining
19 informed consent before providing certain services or performing any proce-
20 dure on clients;
- 21 “(L) Preparing, tracking and reporting office performance measures;
- 22 “(m) Implementing regulatory streamlining initiatives to reduce regula-
23 tory burdens without compromising regulatory standards;
- 24 “(n) Preparing and circulating printed and electronic materials for edu-
25 cating or otherwise assisting applicants, authorization holders and the pub-
26 lic;
- 27 “(o) Adopting rules for the issuance of waivers or provisional authori-
28 zations to practice, and establishing special conditions of practice, during a
29 state of emergency declared by the Governor under ORS 401.165;
- 30 “(p) Referring impaired practitioners to a diversion program approved or

1 recognized by the office and establishing criteria by rule for monitoring the
2 impaired practitioner's progress and successful completion of the program;

3 “(q) Establishing requirements for additional education, training or
4 supervised experience to achieve compliance with the laws and rules gov-
5 erning professional practice;

6 “(r) Establishing by rule continuing education requirements for renewal
7 of an authorization if the office determines that continuing education is ap-
8 propriate for renewal of the authorization;

9 “(s) Exempting from authorization requirements a person who provides
10 services at charitable or fund raising events, after the office has considered
11 and evaluated the written request for an exemption on an individual basis;
12 and

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

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

18 **“SECTION 22.** ORS 676.608 is amended to read:

19 “676.608. (1) As used in this section, ‘public entity’ has the meaning given
20 that term in ORS 676.177.

21 “(2)(a) The Health Licensing Office shall carry out the investigatory du-
22 ties necessary to enforce the provisions of ORS 676.575 to 676.625 and 676.992.

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

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

30 “(3) While conducting an investigation authorized under subsection (2)

1 of this section or a hearing related to an investigation, the office may:

2 “(a) Take evidence;

3 “(b) Administer oaths;

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

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

6 “(e) Require answers to interrogatories;

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

9 “(g) Conduct criminal and civil background checks to determine con-
10 viction of a crime that bears a demonstrable relationship to the field of
11 practice.

12 “(4) In exercising its authority under this section, the office may issue
13 subpoenas over the signature of the Director of the Health Licensing Office
14 or designated employee of the director and in the name of the State of
15 Oregon.

16 “(5) If a person fails to comply with a subpoena issued under this section,
17 the judge of the Circuit Court for Marion County may compel obedience by
18 initiating proceedings for contempt as in the case of disobedience of the re-
19 quirements of a subpoena issued from the court.

20 “(6) If necessary, the director, or an employee designated by the director,
21 may appear before a magistrate empowered to issue warrants in criminal
22 cases to request that the magistrate issue a warrant. The magistrate shall
23 issue a warrant, directing it to any sheriff or deputy or police officer, to
24 enter the described property, to remove any person or obstacle, to defend any
25 threatened violence to the director or a designee of the director or an officer,
26 upon entering private property, or to assist the director in enforcing the
27 office’s authority in any way.

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

30 “(8) If an authorization holder who is the subject of a complaint or an

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

9 “(9) An authorization holder who is the subject of an investigation, and
10 any person acting on behalf of the authorization holder, may not contact the
11 complainant until the authorization holder has requested a contested case
12 hearing and the office has authorized the taking of the complainant’s depo-
13 sition pursuant to ORS 183.425.

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

19 “(11) This section does not prohibit examination or questioning of an au-
20 thorization holder regarding records about the authorization holder’s care
21 and treatment of a patient or affect the admissibility of those records.

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

24 “(a) Allow the State Board of Direct Entry Midwifery to review the mo-
25 tion or complaint before beginning the investigation;

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

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

30 **SECTION 23.** ORS 676.610 is amended to read:

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

4 “(b) The Director of the Oregon Health Authority shall establish the
5 qualifications for and appoint the Director of the Health Licensing Office,
6 who holds office at the pleasure of the Director of the Oregon Health Au-
7 thority.

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

11 “(d) The Director of the Health Licensing Office is in the unclassified
12 service.

13 “(2) The Director of the Health Licensing Office shall provide the
14 boards, [and] councils **and programs** administered by the office with such
15 services and employees as the office requires to carry out the office’s duties.
16 Subject to any applicable provisions of the State Personnel Relations Law,
17 the Director of the Health Licensing Office shall appoint all subordinate of-
18 ficers and employees of the office, prescribe their duties and fix their com-
19 pensation.

20 “(3) The Director of the Health Licensing Office is responsible for carry-
21 ing out the duties, functions and powers under ORS 675.360 to 675.410,
22 676.575 to 676.625, 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500
23 to 680.565, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840,
24 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170
25 and ORS chapter 700 **and section 14 of this 2017 Act.**

26 “(4) The enumeration of duties, functions and powers in subsection (3) of
27 this section is not intended to be exclusive or to limit the duties, functions
28 and powers imposed on or vested in the office by other statutes.

29 **“SECTION 24.** ORS 676.612 is amended to read:

30 “676.612. (1) Subject to ORS 676.616 and 687.445, and in the manner pre-

1 scribed in ORS chapter 183 for contested cases and as specified in ORS
2 675.385, 676.825, 678.780, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407,
3 691.477, 694.147 and 700.111 **and section 14 of this 2017 Act**, the Health Li-
4 censing Office may refuse to issue or renew, may suspend or revoke or may
5 otherwise condition or limit an authorization or may discipline or place on
6 probation an authorization holder for commission of the prohibited acts
7 listed in subsection (2) of this section.

8 “(2) A person subject to the authority of a board or council **or regulated**
9 **under a program** listed in ORS 676.583 commits a prohibited act if the
10 person engages in:

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

15 “(b) **Willfully** using, causing or promoting the use of any advertising
16 matter, promotional literature, testimonial, guarantee, warranty, label,
17 insignia or any other representation, however disseminated or published, that
18 is false, misleading or deceptive.

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

22 “(d) Practicing under a false, misleading or deceptive name, or
23 impersonating another authorization holder.

24 “(e) Permitting a person other than the authorization holder to use the
25 authorization.

26 “(f) Practicing with a physical or mental condition that presents an un-
27 reasonable risk of harm to the authorization holder or to the person or
28 property of others in the course of performing the authorization holder’s
29 duties.

30 “(g) Practicing while under the influence of alcohol, controlled substances

1 or other skill-impairing substances, or engaging in the illegal use of con-
2 trolled substances or other skill-impairing substances so as to create a risk
3 of harm to the person or property of others in the course of performing the
4 duties of an authorization holder.

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

7 “(i) Employing, directly or indirectly, any suspended, uncertified, unli-
8 censed or unregistered person to practice a regulated occupation or profes-
9 sion subject to the authority of the boards and councils **or regulated under**
10 **a program** listed in ORS 676.583.

11 “(j) Unprofessional conduct, negligence, incompetence, repeated violations
12 or any departure from or failure to conform to standards of practice in per-
13 forming services or practicing in a regulated occupation or profession subject
14 to the authority of the boards and councils **or regulated under a program**
15 listed under ORS 676.583.

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

20 “(L) Failing to report any adverse action, as required by statute or rule,
21 taken against the authorization holder by another regulatory jurisdiction or
22 any peer review body, health care institution, professional association, gov-
23 ernmental agency, law enforcement agency or court for acts or conduct
24 similar to acts or conduct that would constitute grounds for disciplinary
25 action as described in this section.

26 “(m) Violation of a statute regulating an occupation or profession subject
27 to the authority of the boards and councils **or regulated under a program**
28 listed in ORS 676.583.

29 “(n) Violation of any rule regulating an occupation or profession subject
30 to the authority of the boards and councils **or regulated under a program**

1 listed in ORS 676.583.

2 “(o) Failing to cooperate with the office in any investigation, inspection
3 or request for information.

4 “(p) Selling or fraudulently obtaining or furnishing an authorization to
5 practice in a regulated occupation or profession subject to the authority of
6 the boards and councils **or regulated under a program** listed in ORS
7 676.583, or aiding or abetting such an act.

8 “(q) Selling or fraudulently obtaining or furnishing any record related to
9 practice in a regulated occupation or profession subject to the authority of
10 the boards and councils **or regulated under a program** listed in ORS
11 676.583, or aiding or abetting such an act.

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

15 “(3) For the purpose of requesting a state or nationwide criminal records
16 check under ORS 181A.195, the office may require the fingerprints of a per-
17 son who is:

18 “(a) Applying for an authorization;

19 “(b) Applying for renewal of an authorization; or

20 “(c) Under investigation by the office.

21 “(4) If the office places an authorization holder on probation under sub-
22 section (1) of this section, the office, in consultation with the appropriate
23 board or council, **if applicable**, may determine and at any time modify the
24 conditions of the probation.

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

1 **“SECTION 25.** ORS 676.613 is amended to read:

2 “676.613. (1) In addition to all other remedies, when it appears to the
3 Health Licensing Office that a person is engaged in, has engaged in or is
4 about to engage in any act, practice or transaction that violates any pro-
5 vision of ORS 675.360 to 675.410, 676.810, 676.815, 678.710 to 678.820, 680.500
6 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to
7 690.225, 690.350 to 690.410, 691.405 to 691.485 or 694.015 to 694.170 or ORS
8 chapter 700 **or section 14 of this 2017 Act**, the office may, through the At-
9 torney General or the district attorney of the county in which the act,
10 practice or transaction occurs or will occur, apply to the court for an in-
11 junction restraining the person from the act, practice or transaction.

12 “(2) A court may issue an injunction under this section without proof of
13 actual damages. An injunction issued under this section does not relieve a
14 person from any other prosecution or enforcement action taken for violation
15 of statutes listed in subsection (1) of this section.

16 **“SECTION 26.** ORS 676.615 is amended to read:

17 “676.615. (1) In accordance with applicable provisions of ORS chapter 183,
18 the Director of the Health Licensing Office may adopt rules necessary for
19 the administration of the laws that the Health Licensing Office is charged
20 with administering.

21 “(2) In accordance with applicable provisions of ORS chapter 183, the di-
22 rector may adopt rules necessary for the administration of ORS 676.575 to
23 676.625 and 676.992.

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

28 “(4) Pursuant to ORS 676.575 and 676.586, the office may adopt rules to
29 recognize specialties within a regulated field of practice subject to the au-
30 thority of the boards and councils **or regulated by programs** listed in ORS

1 676.583 and may establish requirements for education, experience, examina-
2 tions and supervision as necessary to ensure public safety and competency
3 within the specialty.

4 **“SECTION 27.** ORS 676.622 is amended to read:

5 “676.622. (1) A transaction conducted through a state or local system or
6 network that provides electronic access to the Health Licensing Office in-
7 formation and services is exempt from any requirement under ORS 675.360
8 to 675.410, 676.575 to 676.625, 676.810, 676.815, 676.992, 680.500 to 680.565,
9 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225,
10 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter
11 700 **and section 14 of this 2017 Act**, and rules adopted thereunder, requiring
12 an original signature or the submission of handwritten materials.

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

15 **“SECTION 28.** ORS 676.625, as amended by section 7, chapter 240, Oregon
16 Laws 2013, is amended to read:

17 “676.625. (1) The Health Licensing Office shall establish by rule and shall
18 collect fees and charges to carry out the office’s responsibilities under ORS
19 676.575 to 676.625, 676.850 and 676.992 and any responsibility imposed on the
20 office pertaining to the boards, [and] councils **and programs** administered
21 and regulated by the office pursuant to ORS 676.583.

22 “(2) The Health Licensing Office Account is established separate and
23 distinct from the General Fund. The account shall consist of the moneys
24 credited to the account by the Legislative Assembly. All moneys in the ac-
25 count are continuously appropriated to and shall be used by the office for
26 payment of expenses of the office in carrying out the duties, functions and
27 obligations of the office, and for payment of the expenses of the boards,
28 [and] councils **and programs** administered and regulated by the office pur-
29 suant to ORS 676.583. The office shall keep a record of all moneys credited
30 to the account and report the source from which the moneys are derived and

1 the activity of each board, [or] council **or program** that generated the
2 moneys.

3 “(3) Subject to prior approval of the Oregon Department of Administrative
4 Services and a report to the Emergency Board prior to establishing fees and
5 charges credited to the account, the fees and charges may not exceed the cost
6 of administering the office and the boards, [and] councils **and programs**
7 within the office, as authorized by the Legislative Assembly within the
8 office’s budget, as the budget may be modified by the Emergency Board.

9 “(4) All moneys credited to the account pursuant to ORS 676.592 and
10 676.806, and moneys credited to the account from other office and program
11 fees established by the office by rule, are continuously appropriated to the
12 office for carrying out the duties, functions and powers of the office under
13 ORS 676.575 to 676.625, 676.806, 676.850 and 676.992.

14 “(5) The moneys received from civil penalties assessed under ORS 676.992
15 shall be deposited and accounted for as are other moneys received by the
16 office and shall be for the administration and enforcement of the statutes
17 governing the boards, [and] councils **and programs** administered by the of-
18 fice.

19 **“SECTION 29.** ORS 676.850 is amended to read:

20 “676.850. (1) As used in this section, ‘board’ means the:

21 “(a) State Board of Examiners for Speech-Language Pathology and
22 Audiology;

23 “(b) State Board of Chiropractic Examiners;

24 “(c) State Board of Licensed Social Workers;

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

26 “(e) Oregon Board of Dentistry;

27 “(f) Board of Licensed Dietitians;

28 “(g) State Board of Massage Therapists;

29 “(h) Oregon Board of Naturopathic Medicine;

30 “(i) Oregon State Board of Nursing;

1 “(j) Nursing Home Administrators Board;
2 “(k) Oregon Board of Optometry;
3 “(L) State Board of Pharmacy;
4 “(m) Oregon Medical Board;
5 “(n) Occupational Therapy Licensing Board;
6 “(o) Physical Therapist Licensing Board;
7 “(p) State Board of Psychologist Examiners;
8 “(q) Board of Medical Imaging;
9 “(r) State Board of Direct Entry Midwifery;
10 “(s) State Board of Denture Technology;
11 “(t) Respiratory Therapist and Polysomnographic Technologist Licensing
12 Board;
13 “(u) Home Care Commission; *[and]*
14 “(v) Oregon Health Authority, to the extent that the authority licenses
15 emergency medical service providers; **and**
16 **“(w) Health Licensing Office for occupations or professions subject**
17 **to regulation by the office.**
18 “(2)(a) In collaboration with the Oregon Health Authority, a board may
19 adopt rules under which the board may require a person authorized to prac-
20 tice the profession regulated by the board to receive cultural competency
21 continuing education approved by the authority under ORS 413.450.
22 “(b) Cultural competency continuing education courses may be taken in
23 addition to or, if a board determines that the cultural competency continuing
24 education fulfills existing continuing education requirements, instead of any
25 other continuing education requirement imposed by the board.
26 “(3)(a) A board, or the Health Licensing Office for those boards for which
27 the office issues and renews authorizations to practice the profession regu-
28 lated by the board, shall document participation in cultural competency
29 continuing education by persons authorized to practice a profession regu-
30 lated by the board.

1 “(b) For purposes of documenting participation under this subsection, a
2 board may adopt rules requiring persons authorized to practice the profes-
3 sion regulated by the board to submit documentation to the board, or to the
4 office for those boards for which the office issues and renews authorizations
5 to practice the profession regulated by the board, of participation in cultural
6 competency continuing education.

7 “(4) A board shall report biennially to the authority on the participation
8 documented under subsection (3) of this section.

9 “(5) The authority, on or before August 1 of each even-numbered year,
10 shall report to the interim committees of the Legislative Assembly related
11 to health care on the information submitted to the authority under sub-
12 section (4) of this section.

13 **“SECTION 30. A person holding the title of or providing services**
14 **as a qualified mental health professional or qualified mental health**
15 **associate on the operative date specified in section 31 of this 2017 Act**
16 **may continue to hold the title of and provide services as a qualified**
17 **mental health professional or qualified mental health associate with-**
18 **out registering with the Health Licensing Office until the earlier of:**

19 “(1) The date the office denies the individual’s application to regis-
20 ter; or

21 “(2) Thirty days after the registration program created in section
22 14 of this 2017 Act begins operating.

23 **“SECTION 31. Sections 14 and 30 of this 2017 Act, the amendments**
24 **to ORS 243.061, 244.050, 418.517, 426.180, 426.234, 441.221, 441.233, 442.011,**
25 **676.185, 676.580, 676.583, 676.586, 676.608, 676.610, 676.612, 676.613, 676.615,**
26 **676.622, 676.625, 676.850, 731.036, 743B.001, 743B.197 and 743B.200 and**
27 **section 2, chapter 575, Oregon Laws 2015, by sections 1 to 12 and 15 to**
28 **29 of this 2017 Act and the repeal of ORS 735.721, 735.723, 735.725, 735.727**
29 **and 743B.206 by section 32 of this 2017 Act become operative on Janu-**
30 **ary 1, 2018.”**

1 In line 21, delete “13” and insert “32”.

2 After line 21, insert:

3 **“SECTION 33. The Health Licensing Office may take any action**
4 **prior to the operative date specified in section 31 of this 2017 Act that**
5 **is necessary for the office to exercise, on and after the operative date**
6 **specified in section 31 of this 2017 Act, all of the duties, functions and**
7 **powers conferred on the office by sections 14 and 30 of this 2017 Act**
8 **and the amendments to ORS 418.517, 426.180, 426.234, 676.185, 676.580,**
9 **676.583, 676.586, 676.608, 676.610, 676.612, 676.613, 676.615, 676.622, 676.625**
10 **and 676.850 by sections 15 to 29 of this 2017 Act.**

11 **“SECTION 34. This 2017 Act being necessary for the immediate**
12 **preservation of the public peace, health and safety, an emergency is**
13 **declared to exist, and this 2017 Act takes effect on its passage.”.**

14
