

HB 3355-A15
(LC 1561)
6/14/17 (SCT/ps)

Requested by Senator JOHNSON

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3355**

1 On page 1 of the printed A-engrossed bill, line 2, delete “675.085 and
2 675.110;” and insert “677.265 and 677.320;”.

3 In line 24, delete “State Board of Psychologist Examiners” and insert
4 “Oregon Medical Board”.

5 On page 2, delete lines 20 through 44 and insert:

6 “(a) Review and make recommendations to the Oregon Medical Board on
7 clinical residency programs proposed by applicants seeking a conditional
8 certificate of prescriptive authority;

9 “(b) Review and make recommendations to the Oregon Medical Board on
10 applications submitted for certificates of prescriptive authority;

11 “(c) Develop and make recommendations to the Oregon Medical Board
12 regarding the formulary and make recommendations for annual revisions of
13 the formulary;

14 “(d) Develop and make recommendations to the Oregon Medical Board
15 regarding standards, examinations and continuing education for prescribing
16 psychologists; and

17 “(e) Report to the Oregon Medical Board regarding the use of prescriptive
18 authority by prescribing psychologists.

19 “(5) A majority of the members of the committee constitutes a quorum for
20 the transaction of business.

21 “(6) Official action by the committee requires the approval of a majority

1 of the members of the committee.

2 “(7) The committee may seek the assistance of a neutral third party in
3 resolving disagreements among the committee members and facilitating the
4 collaborative process.

5 “(8) The committee shall meet at times and places specified by the call
6 of the chairperson or a majority of the members of the committee.

7 “(9) The committee may adopt rules necessary for the operation of the
8 committee.

9 “(10) The Oregon Medical Board shall provide staff support to the com-
10 mittee.

11 “(11) Members of the committee are not entitled to compensation, but may
12 be reimbursed from funds available to the Oregon Medical Board for actual
13 and necessary”.

14 On page 3, line 2, delete “State Board of” and insert “Oregon Medical
15 Board”.

16 In line 3, delete “Psychologist Examiners”.

17 In line 32, delete “and”.

18 After line 32, insert:

19 “(c) Has completed education in biomedical science that the board deter-
20 mines is sufficient; and”.

21 In line 33, delete “(c)” and insert “(d)”.

22 In line 45, after “psychologists” insert “, including the number of pre-
23 scribing psychologists practicing in rural and urban areas,”.

24 On page 4, line 20, delete “State” and insert “Oregon Medical”.

25 In line 21, delete “of Psychologist Examiners”.

26 In line 28, delete “State Board of Psychologist Examiners” and insert
27 “Oregon Medical Board”.

28 In line 44, delete “State Board of Psychologist Examiners” and insert
29 “Oregon Medical Board”.

30 On page 5, line 6, delete “State Board of Psychologist” and insert “Oregon

1 Medical Board”.

2 In line 7, delete “Examiners”.

3 Delete lines 23 through 45 and insert:

4 **“SECTION 8.** ORS 677.265 is amended to read:

5 “677.265. In addition to any other powers granted by this chapter, the
6 Oregon Medical Board may:

7 “(1) Adopt necessary and proper rules for administration of this chapter
8 including but not limited to:

9 “(a) Establishing fees and charges to carry out its legal responsibilities,
10 subject to prior approval by the Oregon Department of Administrative Ser-
11 vices and a report to the Emergency Board prior to adopting the fees and
12 charges. The fees and charges shall be within the budget authorized by the
13 Legislative Assembly as that budget may be modified by the Emergency
14 Board. The fees and charges established under this section may not exceed
15 the cost of administering the program or the purpose for which the fee or
16 charge is established, as authorized by the Legislative Assembly for the
17 Oregon Medical Board’s budget, or as modified by the Emergency Board or
18 future sessions of the Legislative Assembly.

19 “(b) Establishing standards and tests to determine the moral, intellectual,
20 educational, scientific, technical and professional qualifications required of
21 applicants for licenses under this chapter.

22 “(c) Enforcing the provisions of this chapter and exercising general
23 supervision over the practice of medicine and podiatry within this state. In
24 determining whether to discipline a licensee for a standard of care violation,
25 the Oregon Medical Board shall determine whether the licensee used that
26 degree of care, skill and diligence that is used by ordinarily careful physi-
27 cians in the same or similar circumstances in the community of the physician
28 or a similar community.

29 “(2) Issue, deny, suspend and revoke licenses and limited licenses, assess
30 costs of proceedings and fines and place licensees on probation as provided

1 in this chapter.

2 “(3) Use the gratuitous services and facilities of private organizations to
3 receive the assistance and recommendations of the organizations in admin-
4 istering this chapter.

5 “(4) Make its personnel and facilities available to other regulatory agen-
6 cies of this state, or other bodies interested in the development and im-
7 provement of the practice of medicine or podiatry in this state, upon terms
8 and conditions for reimbursement as are agreed to by the Oregon Medical
9 Board and the other agency or body.

10 “(5) Appoint examiners, who need not be members of the Oregon Medical
11 Board, and employ or contract with the American Public Health Association
12 or the National Board of Medical Examiners or other organizations, agencies
13 and persons to prepare examination questions and score examination papers.

14 “(6) Determine the schools, colleges, universities, institutions and train-
15 ing acceptable in connection with licensing under this chapter. All residency,
16 internship and other training programs carried on in this state by any hos-
17 pital, institution or medical facility shall be subject to approval by the
18 Oregon Medical Board. The board shall accept the approval by the American
19 Osteopathic Association or the American Medical Association in lieu of ap-
20 proval by the board.

21 “(7) Prescribe the time, place, method, manner, scope and subjects of ex-
22 aminations under this chapter.

23 “(8) Prescribe all forms that it considers appropriate for the purposes of
24 this chapter, and require the submission of photographs and relevant per-
25 sonal history data by applicants for licensure under this chapter.

26 “(9) For the purpose of requesting a state or nationwide criminal records
27 check under ORS 181A.195, require the fingerprints of a person who is:

28 “(a) Applying for a license that is issued by the board;

29 “(b) Applying for renewal of a license that is issued by the board; or

30 “(c) Under investigation by the board.

1 “(10) Administer oaths, issue notices and subpoenas in the name of the
2 board, enforce subpoenas in the manner authorized by ORS 183.440, hold
3 hearings and perform such other acts as are reasonably necessary to carry
4 out its duties under this chapter.

5 “(11) **Issue, suspend, revoke or deny certificates of prescriptive au-**
6 **thority under section 3 of this 2017 Act, and may renew or deny re-**
7 **newal of certificates of prescriptive authority.**

8 “**SECTION 9.** ORS 677.320 is amended to read:

9 “677.320. (1) Upon the complaint of any citizen of this state, or upon its
10 own initiative, the Oregon Medical Board may investigate any alleged vio-
11 lation of this chapter. If, after the investigation, the board has reason to
12 believe that any person is subject to prosecution criminally for the violation
13 of this chapter, it shall lay the facts before the proper district attorney.

14 “(2) In the conduct of investigations, the board or its designated repre-
15 sentative may:

16 “(a) Take evidence;

17 “(b) Take the depositions of witnesses, including the person charged;

18 “(c) Compel the appearance of witnesses, including the person charged;

19 “(d) Require answers to interrogatories; and

20 “(e) Compel the production of books, papers, accounts, documents and
21 testimony pertaining to the matter under investigation.

22 “(3) In exercising its authority under subsection (2) of this section, the
23 board may issue subpoenas over the signature of the executive director and
24 the seal of the board in the name of the State of Oregon.

25 “(4) In any proceeding under this section where the subpoena is addressed
26 to a licensee of this board, it shall not be a defense that the material that
27 is subject to the subpoena is protected under a patient and physician privi-
28 lege.

29 “(5) If a licensee who is the subject of an investigation or complaint is
30 to appear before members of the board investigating the complaint, the board

1 shall provide the licensee with a current summary of the complaint or the
2 matter being investigated not less than five days prior to the date that the
3 licensee is to appear. At the time the summary of the complaint or the
4 matter being investigated is provided, the board shall provide to the licensee
5 a current summary of documents or alleged facts that the board has acquired
6 as a result of the investigation. The name of the complainant or other in-
7 formation that reasonably may be used to identify the complainant may be
8 withheld from the licensee.

9 “(6) A licensee who is the subject of an investigation and any person au-
10 thorized to act on behalf of the licensee shall not knowingly contact the
11 complainant until the licensee has requested a contested case hearing and
12 the board has authorized the taking of the complainant’s deposition pursuant
13 to ORS 183.425.

14 “(7) Except in an investigation or proceeding conducted by the board or
15 another public entity, or in an action, suit or proceeding where a public
16 entity is a party, a licensee shall not be questioned or examined regarding
17 any communication with the board made in an appearance before the board
18 as part of an investigation. This section shall not prohibit examination or
19 questioning of a licensee regarding records dealing with a patient’s care and
20 treatment or affect the admissibility of those records. As used in this section,
21 ‘public entity’ has the meaning given that term in ORS 676.177.

22 “(8) **If an investigation under this section reveals that a prescribing**
23 **psychologist, as defined in section 1 of this 2017 Act, has improperly**
24 **used prescriptive authority, the board shall notify the Committee on**
25 **Prescribing Psychologists established in section 2 of this 2017 Act. The**
26 **board may impose disciplinary action as permitted under ORS**
27 **677.205.”**

28 On page 6, delete lines 1 through 39.

29 In line 44, delete “Three” and insert “Four”.

30 In line 45, delete “Three” and insert “Five”.

1 Delete page 7 and insert:

2 **“SECTION 11. (1) Sections 2 to 7 of this 2017 Act and the amend-**
3 **ments to ORS 677.265 and 677.320 by sections 8 and 9 of this 2017 Act**
4 **become operative on January 1, 2018.**

5 **“(2) The Oregon Medical Board may take any action before the op-**
6 **erative date specified in subsection (1) of this section that is necessary**
7 **for the board to exercise, on and after the operative date specified in**
8 **subsection (1) of this section, all of the duties, functions and powers**
9 **conferred on the board by sections 2 to 7 of this 2017 Act and the**
10 **amendments to ORS 677.265 and 677.320 by sections 8 and 9 of this 2017**
11 **Act.**

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

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