

# House Bill 4129

Sponsored by Representatives MCKEOWN, ESQUIVEL, Senators ROBLAN, GELSER; Representatives ALONSO LEON, GOMBERG, GREENLICK, LEWIS, MARSH, NOSSE, PILUSO, POWER, SALINAS, SANCHEZ, SMITH DB, SOLLMAN, VIAL, WITT, Senators BOQUIST, JOHNSON, KRUSE, TAYLOR (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 **as introduced**.

Directs Health Licensing Office to issue residential care facility administrator license to qualified applicant. Requires individual currently employed as residential care facility administrator to obtain provisional license and pass examination on or before December 31, 2020. Renames "Nursing Home Administrators Board" as "Long Term Care Administrators Board."

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to residential care facilities; creating new provisions; amending ORS 192.556, 401.651,  
3 431A.850, 433.045, 441.057, 441.406, 676.108, 676.150, 676.350, 676.400, 676.565, 676.595, 676.850,  
4 676.992, 678.710, 678.720, 678.740, 678.770, 678.800, 678.810, 678.820 and 743B.454; and declaring  
5 an emergency.

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

## RESIDENTIAL CARE FACILITY ADMINISTRATOR LICENSE

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10 **SECTION 1. Sections 2 to 4 of this 2018 Act are added to and made a part of ORS 678.710**  
11 **to 678.820.**

12 **SECTION 2. The Health Licensing Office shall issue a residential care facility adminis-**  
13 **trator license to an applicant who:**

14 (1) **Is at least 21 years of age;**

15 (2) **Has earned at least a high school diploma or its equivalent;**

16 (3)(a) **For at least two of the last five years has been employed in a professional or**  
17 **managerial capacity in a health or social service related field; or**

18 (b) **Has earned at least a bachelor's degree in a health or social service related field;**

19 (4) **Has completed at least 40 hours of training approved by the office by rule;**

20 (5) **Pays a licensure fee; and**

21 (6) **Passes the examination described in section 3 of this 2018 Act.**

22 **SECTION 3. (1) The Long Term Care Administrators Board shall administer an exam-**  
23 **ination for licensure as a residential care facility administrator at least once a year.**

24 (2) **An applicant for licensure under section 2 of this 2018 Act shall pay an examination**  
25 **or reexamination fee established by the Health Licensing Office under ORS 676.576.**

26 (3) **The board shall adopt rules to:**

27 (a) **Determine the subjects, scope and content of the examination;**

28 (b) **Ensure the examination is specific to Oregon law, administrative rules and best**

**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 **practices; and**

2 (c) **Determine a passing score.**

3 **SECTION 4. The Health Licensing Office shall adopt rules to:**

4 (1) **Require an applicant for licensure under section 2 of this 2018 Act to submit to the**  
5 **office sufficient proof that the applicant has completed a tuberculosis screening with a sat-**  
6 **isfactory result;**

7 (2) **Approve training and continuing education for residential care facility administrators;**  
8 **and**

9 (3) **Establish continuing education requirements for residential care facility administra-**  
10 **tors, including that a residential care facility administrator complete at least 20 hours each**  
11 **year of approved continuing education.**

12 **SECTION 5.** ORS 678.710 is amended to read:

13 678.710. As used in ORS 678.710 to 678.820, unless the context requires otherwise:

14 (1) "Dual facility" means a facility that operates both a hospital and a long term care facility  
15 on the same campus.

16 (2) "Nursing home" means any institution or facility defined as a long term care facility for li-  
17 censing purposes under state statute or the rules of the Department of Human Services, including  
18 a long term care facility operated as part of a dual facility.

19 (3) "Nursing home administrator" means an individual responsible for planning, organizing and  
20 managing the operation of a nursing home, whether or not [*such*] **the** individual has an ownership  
21 interest in [*such*] **the nursing** home and whether or not [*such*] **the** functions are shared by one or  
22 more other individuals, if:

23 (a) Final responsibility and authority are retained in the nursing home administrator; and

24 (b) In the case of a dual facility, the nursing home administrator may be subject to the authority  
25 of the administrator of the dual facility or the dual facility administrator may administer the nursing  
26 home if the **dual facility** administrator is licensed or otherwise qualified by statute to administer  
27 a nursing home.

28 (4) "Provisional license" means a temporary license issued to a provisional nursing home ad-  
29 ministrator under the rules of the Health Licensing Office.

30 (5) **"Residential care facility" has the meaning given that term in ORS 443.400.**

31 (6) **"Residential care facility administrator" means an individual who is responsible for**  
32 **planning, organizing and managing the operation of a residential care facility.**

33 **SECTION 6.** ORS 678.720 is amended to read:

34 678.720. (1)(a) Unless an individual holds an active license issued under the provisions of ORS  
35 678.710 to 678.820, an individual may not:

36 [(a)] (A) Practice or offer to practice as a nursing home administrator; or

37 [(b)] (B) Use in connection with the name of the individual the words or letters "nursing home  
38 administrator," "NHA" or any other words, letters or abbreviations or insignia tending to indicate  
39 that the individual is a licensed nursing home administrator.

40 [(2)] (b) A nursing home [*shall*] **must** be conducted or operated under the supervision of a  
41 nursing home administrator who holds an active license issued under the provisions of ORS 678.710  
42 to 678.820.

43 (2)(a) **Unless an individual holds an active license issued under the provisions of ORS**  
44 **678.710 to 678.820, an individual may not:**

45 (A) Practice or offer to practice as a residential care facility administrator; or

1       **(B) Use in connection with the name of the individual the words or letters “residential**  
 2 **care facility administrator,” “RCFA” or any other words, letters or abbreviations or insignia**  
 3 **tending to indicate that the individual is a licensed residential care facility administrator.**

4       **(b) A residential care facility must be conducted or operated under the supervision of a**  
 5 **residential care facility administrator who holds an active license issued under the provisions**  
 6 **of ORS 678.710 to 678.820.**

7       **SECTION 7.** ORS 678.740 is amended to read:

8       678.740. (1) Examinations for licensure as a nursing home administrator shall be conducted at  
 9 such times and places as the [*Nursing Home*] **Long Term Care** Administrators Board designates,  
 10 but not less than once a year.

11       (2) At the time of taking an examination for licensure as a nursing home administrator, an ap-  
 12 plicant shall pay an examination or reexamination fee established by the Health Licensing Office  
 13 under ORS 676.576.

14       (3) The board shall, consistent with the purposes for which the examination is given, determine  
 15 the subjects, scope, content and the minimum passing grade for examinations.

16       **SECTION 8.** ORS 678.770 is amended to read:

17       678.770. (1) The [*Nursing Home*] **Long Term Care** Administrators Board may establish by rule  
 18 standards for the issuance of a **nursing home administrator or residential care facility admin-**  
 19 **istrator** license by endorsement to an applicant who:

20       (a) Meets the requirements as established by the board; and

21       (b) On the date of making application, is a nursing home administrator **or residential care fa-**  
 22 **ility administrator** licensed under the laws of any other state or territory of the United States if  
 23 the requirements for licensing of nursing home administrators **or residential care facility admin-**  
 24 **istrators** in the state or territory in which the applicant is licensed are not less than those required  
 25 by ORS 678.710 to 678.820.

26       (2) [*Each*] **An** applicant under this section shall pay to the Health Licensing Office at the time  
 27 of filing the application the applicable fees established under ORS 676.576.

28       **SECTION 9.** ORS 678.800 is amended to read:

29       678.800. (1) The [*Nursing Home*] **Long Term Care** Administrators Board is established within  
 30 the Health Licensing Office.

31       (2) The board consists of nine members appointed by the Governor and subject to confirmation  
 32 by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must  
 33 be concerned with the care and treatment of the chronically ill or infirm elderly patients and must  
 34 be residents of this state. Of the members of the board:

35       (a) Three must be nursing home administrators licensed under ORS 678.710 to 678.820;

36       **(b) Three must be residential care facility administrators licensed under ORS 678.710 to**  
 37 **678.820, at least one of whom serves in a memory care community;**

38       [(b)] (c) One must be a physician licensed under ORS 677.100 to 677.228 [*actively engaged in*  
 39 *private practice and conversant with the care and treatment of the long-term patient;*] **who has ex-**  
 40 **pertise in geriatric care; and**

41       [(c) *One must be a licensed professional nurse actively engaged in caring for chronically ill and*  
 42 *infirm patients and licensed by the Oregon State Board of Nursing;*]

43       [(d) *One must be a pharmacist licensed by the State Board of Pharmacy; and*]

44       [(e)] (d) [*Three*] **Two** must be members of the public who are not:

45       (A) Otherwise eligible for appointment to the board; or

1 (B) A spouse, domestic partner, child, parent or sibling of a nursing home administrator **or**  
 2 **residential care facility administrator.**

3 (3)(a) Board members required to be nursing home administrators **and residential care facility**  
 4 **administrators** may be selected by the Governor from a list of three to five nominees submitted  
 5 by any professional organization representing [*nursing home administrators*] **those professions.**

6 (b) Except for those persons described in paragraph (a) of this subsection, [*no*] **a** member of the  
 7 board may **not** have a direct financial interest in a nursing home **or residential care facility.**

8 (c) No more than two of the members of the board may be officials or full-time employees of  
 9 state or local governments.

10 (d) At least one public member must be at least 62 years of age.

11 (e) [*No*] Public members of the board may **not** hold any pecuniary interest in, or have any em-  
 12 ployment contract with, a [*long term care facility*] **nursing home or residential care facility.**

13 (f) In selecting the members of the board, the Governor shall strive to balance the represen-  
 14 tation on the board according to:

15 (A) Geographic areas of this state, **ensuring that at least one member is from a rural**  
 16 **area;** and

17 (B) [*Ethnic group*] **Ethnicity.**

18 (4)(a) The term of office of each member is three years but a member serves at the pleasure of  
 19 the Governor. The terms must be staggered so that no more than three terms end each year. Before  
 20 the expiration of the term of a member, the Governor shall appoint a successor whose term begins  
 21 on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause  
 22 the Governor shall make an appointment to become immediately effective for the unexpired term.

23 (b) A board member shall be removed immediately from the board if, during the member's term,  
 24 the member:

25 (A) Is not a resident of this state;

26 (B) Has been absent from three consecutive board meetings, unless at least one absence is ex-  
 27 cused; [*or*]

28 (C) Is not a licensed nursing home administrator or a retired nursing home administrator whose  
 29 license as a nursing home administrator was in good standing at the time of retirement, if the  
 30 member was appointed to serve on the board as a nursing home administrator; **or**

31 **(D) Is not a licensed residential care facility administrator or a retired residential care**  
 32 **facility administrator whose license as a residential care facility administrator was in good**  
 33 **standing at the time of retirement, if the member was appointed to serve on the board as a**  
 34 **residential care facility administrator.**

35 (5) The members of the board are entitled to compensation and expenses as provided in ORS  
 36 292.495. The board may provide by rule for compensation to board members for the performance of  
 37 official duties at a rate that is greater than the rate provided in ORS 292.495.

38 **SECTION 10.** ORS 678.810 is amended to read:

39 678.810. (1) The [*Nursing Home*] **Long Term Care** Administrators Board shall [*hold at least one*  
 40 *meeting*] **meet at least once** each year. A majority of the members of the board constitutes a quo-  
 41 rum for the transaction of business.

42 (2) The board shall select one of its members as chairperson and another as vice chairperson,  
 43 for a one-year term and with [*such*] **the** duties and powers necessary for the performance of the  
 44 functions of the offices as the board determines.

45 **SECTION 11.** ORS 678.820 is amended to read:

1 678.820. (1) The [Nursing Home] **Long Term Care** Administrators Board is responsible for ad-  
2 vising the Health Licensing Office in all matters relating to the administration of ORS 678.710 to  
3 678.820, including:

4 (a) Developing standards for education and training;

5 (b) Developing standards of practice and professional conduct;

6 (c) Establishing standards related to the issuance, denial, revocation, suspension or renewal of  
7 licenses to practice as a nursing home administrator **or residential care facility administrator**;

8 (d) Preparing or approving the examinations required under ORS 678.710 to 678.820, in accord-  
9 ance with standards provided by the office; and

10 (e) Assisting the office in administering the provisions of ORS 678.710 to 678.820.

11 (2) The office shall administer ORS 678.710 to 678.820 by:

12 (a) Determining the qualifications and fitness of applicants for licenses, renewed licenses, re-  
13 ciprocal licenses and provisional licenses under ORS 678.710 to 678.820.

14 (b) Examining, approving, issuing, denying, revoking, suspending and renewing licenses to prac-  
15 tice as a nursing home administrator **and residential care facility administrator**.

16 (c) Providing for waivers of examinations or provisional licenses.

17 (d) Establishing and carrying out procedures to ensure compliance with professional standards  
18 adopted by the board.

19 (e) Pursuant to ORS 676.608, receiving and investigating complaints filed regarding nursing  
20 home administrators **and residential care facility administrators**.

21 (f) Establishing and collecting fees and charges to carry out the office's duties under ORS  
22 678.710 to 678.820.

23 (g) In accordance with ORS 183.330 and 676.615, adopting, amending and repealing rules that  
24 are necessary to carry out the administration of ORS 678.710 to 678.820.

25 (h) Maintaining a register of all licensed nursing home administrators **and residential care**  
26 **facility administrators**.

27 (3) The office shall consider and be guided by the recommendations of the board in all matters  
28 relating to the administration of ORS 678.710 to 678.820.

29

30 **CONFORMING AMENDMENTS**

31

32 **SECTION 12.** ORS 192.556 is amended to read:

33 192.556. As used in ORS 192.553 to 192.581:

34 (1) "Authorization" means a document written in plain language that contains at least the fol-  
35 lowing:

36 (a) A description of the information to be used or disclosed that identifies the information in a  
37 specific and meaningful way;

38 (b) The name or other specific identification of the person or persons authorized to make the  
39 requested use or disclosure;

40 (c) The name or other specific identification of the person or persons to whom the covered entity  
41 may make the requested use or disclosure;

42 (d) A description of each purpose of the requested use or disclosure, including but not limited  
43 to a statement that the use or disclosure is at the request of the individual;

44 (e) An expiration date or an expiration event that relates to the individual or the purpose of the  
45 use or disclosure;

- 1 (f) The signature of the individual or personal representative of the individual and the date;
- 2 (g) A description of the authority of the personal representative, if applicable; and
- 3 (h) Statements adequate to place the individual on notice of the following:
- 4 (A) The individual's right to revoke the authorization in writing;
- 5 (B) The exceptions to the right to revoke the authorization;
- 6 (C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits
- 7 on whether the individual signs the authorization; and
- 8 (D) The potential for information disclosed pursuant to the authorization to be subject to
- 9 redisclosure by the recipient and no longer protected.
- 10 (2) "Covered entity" means:
- 11 (a) A state health plan;
- 12 (b) A health insurer;
- 13 (c) A health care provider that transmits any health information in electronic form to carry out
- 14 financial or administrative activities in connection with a transaction covered by ORS 192.553 to
- 15 192.581; or
- 16 (d) A health care clearinghouse.
- 17 (3) "Health care" means care, services or supplies related to the health of an individual.
- 18 (4) "Health care operations" includes but is not limited to:
- 19 (a) Quality assessment, accreditation, auditing and improvement activities;
- 20 (b) Case management and care coordination;
- 21 (c) Reviewing the competence, qualifications or performance of health care providers or health
- 22 insurers;
- 23 (d) Underwriting activities;
- 24 (e) Arranging for legal services;
- 25 (f) Business planning;
- 26 (g) Customer services;
- 27 (h) Resolving internal grievances;
- 28 (i) Creating deidentified information; and
- 29 (j) Fundraising.
- 30 (5) "Health care provider" includes but is not limited to:
- 31 (a) A psychologist, occupational therapist, regulated social worker, professional counselor or
- 32 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
- 33 or an employee of the psychologist, occupational therapist, regulated social worker, professional
- 34 counselor or marriage and family therapist;
- 35 (b) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist licensed
- 36 under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;
- 37 (c) A nurse, [or] nursing home administrator **or residential care facility administrator** li-
- 38 censed under ORS chapter 678 or an employee of the nurse, [or] nursing home administrator **or**
- 39 **residential care facility administrator**;
- 40 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 41 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
- 42 hygienist or denturist;
- 43 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
- 44 of the speech-language pathologist or audiologist;
- 45 (g) An emergency medical services provider licensed under ORS chapter 682;

- 1 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 2 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic  
3 physician;
- 4 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic  
5 physician;
- 6 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage  
7 therapist;
- 8 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct  
9 entry midwife;
- 10 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical  
11 therapist;
- 12 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical  
13 imaging licensee;
- 14 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory  
15 care practitioner;
- 16 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-  
17 somnographic technologist;
- 18 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 19 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 20 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral  
21 service practitioner;
- 22 (t) A health care facility as defined in ORS 442.015;
- 23 (u) A home health agency as defined in ORS 443.014;
- 24 (v) A hospice program as defined in ORS 443.850;
- 25 (w) A clinical laboratory as defined in ORS 438.010;
- 26 (x) A pharmacy as defined in ORS 689.005; and
- 27 (y) Any other person or entity that furnishes, bills for or is paid for health care in the normal  
28 course of business.
- 29 (6) "Health information" means any oral or written information in any form or medium that:
- 30 (a) Is created or received by a covered entity, a public health authority, an employer, a life  
31 insurer, a school, a university or a health care provider that is not a covered entity; and
- 32 (b) Relates to:
- 33 (A) The past, present or future physical or mental health or condition of an individual;
- 34 (B) The provision of health care to an individual; or
- 35 (C) The past, present or future payment for the provision of health care to an individual.
- 36 (7) "Health insurer" means an insurer as defined in ORS 731.106 who offers:
- 37 (a) A health benefit plan as defined in ORS 743B.005;
- 38 (b) A short term health insurance policy, the duration of which does not exceed three months  
39 including renewals;
- 40 (c) A student health insurance policy;
- 41 (d) A Medicare supplemental policy; or
- 42 (e) A dental only policy.
- 43 (8) "Individually identifiable health information" means any oral or written health information  
44 in any form or medium that is:
- 45 (a) Created or received by a covered entity, an employer or a health care provider that is not

1 a covered entity; and

2 (b) Identifiable to an individual, including demographic information that identifies the individual,  
 3 or for which there is a reasonable basis to believe the information can be used to identify an indi-  
 4 vidual, and that relates to:

5 (A) The past, present or future physical or mental health or condition of an individual;

6 (B) The provision of health care to an individual; or

7 (C) The past, present or future payment for the provision of health care to an individual.

8 (9) "Payment" includes but is not limited to:

9 (a) Efforts to obtain premiums or reimbursement;

10 (b) Determining eligibility or coverage;

11 (c) Billing activities;

12 (d) Claims management;

13 (e) Reviewing health care to determine medical necessity;

14 (f) Utilization review; and

15 (g) Disclosures to consumer reporting agencies.

16 (10) "Personal representative" includes but is not limited to:

17 (a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with  
 18 authority to make medical and health care decisions;

19 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-  
 20 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment  
 21 decisions;

22 (c) A person appointed as a personal representative under ORS chapter 113; and

23 (d) A person described in ORS 192.573.

24 (11)(a) "Protected health information" means individually identifiable health information that is  
 25 maintained or transmitted in any form of electronic or other medium by a covered entity.

26 (b) "Protected health information" does not mean individually identifiable health information in:

27 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20  
 28 U.S.C. 1232g);

29 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

30 (C) Employment records held by a covered entity in its role as employer.

31 (12) "State health plan" means:

32 (a) Medical assistance as defined in ORS 414.025;

33 (b) The Health Care for All Oregon Children program; or

34 (c) Any medical assistance or premium assistance program operated by the Oregon Health Au-  
 35 thority.

36 (13) "Treatment" includes but is not limited to:

37 (a) The provision, coordination or management of health care; and

38 (b) Consultations and referrals between health care providers.

39 **SECTION 13.** ORS 401.651 is amended to read:

40 401.651. As used in ORS 401.651 to 401.670:

41 (1) "Health care facility" means a health care facility as defined in ORS 442.015 that has been  
 42 licensed under ORS chapter 441.

43 (2) "Health care provider" means:

44 (a) An individual licensed, certified or otherwise authorized or permitted by the laws of this  
 45 state or another state to administer health care services in the ordinary course of business or



1 practice of a profession; and

2 (b) A person entered in the emergency health care provider registry under ORS 401.658.

3 (3) “Health professional regulatory board” means a health professional regulatory board, as de-  
4 fined in ORS 676.160, the [*Nursing Home*] **Long Term Care** Administrators Board, the Board of Li-  
5 censed Dietitians and the Behavior Analysis Regulatory Board.

6 **SECTION 14.** ORS 431A.850 is amended to read:

7 431A.850. As used in ORS 431A.855 to 431A.900:

8 (1) “Dispense” and “dispensing” have the meanings given those terms in ORS 689.005.

9 (2) “Drug outlet” has the meaning given that term in ORS 689.005.

10 (3) “Health professional regulatory board” means a health professional regulatory board, as de-  
11 fined in ORS 676.160, the [*Nursing Home*] **Long Term Care** Administrators Board, the Board of Li-  
12 censed Dietitians and the Behavior Analysis Regulatory Board.

13 (4) “Medical director” means a physician employed by a hospital, health care clinic or system  
14 of hospitals or health care clinics for the purposes of overseeing the operations of the hospital,  
15 clinic or system and ensuring the delivery of quality health care within the hospital, clinic or sys-  
16 tem.

17 (5) “Pharmacist” means:

18 (a) A pharmacist as defined in ORS 689.005; or

19 (b) An individual licensed to practice pharmacy in another state, if the requirements for  
20 licensure are similar, as determined by the Oregon Health Authority, to the requirements for being  
21 licensed as a pharmacist as defined in ORS 689.005.

22 (6) “Pharmacy director” means a pharmacist employed by a pharmacy or system of pharmacies  
23 for the purposes of overseeing the operations of the pharmacy or system and ensuring the delivery  
24 of quality pharmaceutical care within the pharmacy or system.

25 (7) “Practitioner” means:

26 (a) A practitioner as defined in ORS 689.005; or

27 (b) An individual licensed to practice a profession in another state, if the requirements for  
28 licensure are similar, as determined by the authority, to the requirements for being licensed as a  
29 practitioner as defined in ORS 689.005.

30 (8) “Prescription” has the meaning given that term in ORS 475.005.

31 (9) “Prescription drug” has the meaning given that term in ORS 689.005.

32 **SECTION 15.** ORS 433.045 is amended to read:

33 433.045. (1) As used in this section:

34 (a) “Health care provider” means an individual licensed by a health professional regulatory  
35 board, as defined in ORS 676.160, the [*Nursing Home*] **Long Term Care** Administrators Board, the  
36 Board of Licensed Dietitians or the Behavior Analysis Regulatory Board.

37 (b) “HIV test” means a test of an individual for the presence of HIV, or for antibodies or  
38 antigens that result from HIV infection, or for any other substance specifically indicating infection  
39 with HIV.

40 (c) “Insurance producer” has the meaning given that term in ORS 746.600.

41 (d) “Insurance-support organization” has the meaning given that term in ORS 746.600.

42 (e) “Insurer” has the meaning given that term in ORS 731.106.

43 (2) Except as provided in ORS 433.017, 433.055 (3) and 433.080, a health care provider or the  
44 provider’s designee shall, before subjecting an individual to an HIV test:

45 (a) Notify the individual being tested; and

1 (b) Allow the individual being tested the opportunity to decline the test.

2 (3) The notification and opportunity to decline testing required under subsection (2) of this sec-  
 3 tion may be verbal or in writing, and may be contained in a general medical consent form.

4 (4)(a) Regardless of the manner of receipt or the source of the information, including information  
 5 received from the tested individual, a person may not disclose or be compelled to disclose the iden-  
 6 tity of any individual upon whom an HIV-related test is performed, or the results of such a test in  
 7 a manner that permits identification of the subject of the test, except as required or permitted by  
 8 federal law, the law of this state or any rule, including any authority rule considered necessary for  
 9 public health or health care purposes, or as authorized by the individual whose blood is tested.

10 (b) This subsection does not apply to an individual acting in a private capacity and not in an  
 11 employment, occupational or professional capacity.

12 (5) A person who complies with the requirements of this section is not subject to an action for  
 13 civil damages.

14 (6) Whenever an insurer, insurance producer or insurance-support organization asks an appli-  
 15 cant for insurance to take an HIV test in connection with an application for insurance, the insurer,  
 16 insurance producer or insurance-support organization must reveal the use of the test to the appli-  
 17 cant and obtain the written consent of the applicant. The consent form must disclose the purpose  
 18 of the test and the persons to whom the results may be disclosed.

19 **SECTION 16.** ORS 441.057 is amended to read:

20 441.057. (1) Rules adopted pursuant to ORS 441.025 shall include procedures for the filing of  
 21 complaints as to the standard of care in any health care facility and provide for the confidentiality  
 22 of the identity of any complainant.

23 (2) A health care facility, or person acting in the interest of the facility, may not take any dis-  
 24 disciplinary or other adverse action against any employee who in good faith brings evidence of inap-  
 25 propriate care or any other violation of law or rules to the attention of the proper authority solely  
 26 because of the employee's action as described in this subsection.

27 (3) Any employee who has knowledge of inappropriate care or any other violation of law or  
 28 rules shall utilize established reporting procedures of the health care facility administration before  
 29 notifying the Department of Human Services, Oregon Health Authority or other state agency of the  
 30 alleged violation, unless the employee believes that patient health or safety is in immediate jeopardy  
 31 or the employee makes the report to the department or the authority under the confidentiality pro-  
 32 visions of subsection (1) of this section.

33 (4) The protection of health care facility employees under subsection (2) of this section shall  
 34 commence with the reporting of the alleged violation by the employee to the administration of the  
 35 health care facility or to the department, authority or other state agency pursuant to subsection (3)  
 36 of this section.

37 (5) Any person suffering loss or damage due to any violation of subsection (2) of this section has  
 38 a right of action for damages in addition to other appropriate remedy.

39 (6) The provisions of this section do not apply to a nursing staff, as defined in ORS 441.179, who  
 40 claims to be aggrieved by a violation of ORS 441.181 committed by a hospital.

41 (7) Information obtained by the department or the authority during an investigation of a com-  
 42 plaint or reported violation under this section is confidential and not subject to public disclosure  
 43 under ORS 192.311 to 192.478. Upon the conclusion of the investigation, the department or the au-  
 44 thority may publicly release a report of the department's or the authority's findings but may not  
 45 include information in the report that could be used to identify the complainant or any patient at

1 the health care facility. The department or the authority may use any information obtained during  
 2 an investigation in an administrative or judicial proceeding concerning the licensing of a health care  
 3 facility, and may report information obtained during an investigation to a health professional regu-  
 4 latory board as defined in ORS 676.160, the [*Nursing Home*] **Long Term Care** Administrators Board,  
 5 the Board of Licensed Dietitians or the Behavior Analysis Regulatory Board as that information  
 6 pertains to a licensee of the board.

7 **SECTION 17.** ORS 441.406 is amended to read:

8 441.406. (1) The Long Term Care Ombudsman shall carry out the following duties:

9 (a) Investigate and resolve complaints made by or for residents of long term care facilities about  
 10 administrative actions that may adversely affect their health, safety, welfare or rights, including  
 11 subpoenaing any person to appear, to give sworn testimony or to produce documentary or other  
 12 evidence that is reasonably material to any matter under investigation.

13 (b) Undertake, participate in or cooperate with persons and agencies in such conferences, in-  
 14 quiries, meetings or studies as may lead to improvements in the functioning of long term care fa-  
 15 cilities.

16 (c) Monitor the development and implementation of federal, state and local laws, regulations and  
 17 policies that relate to long term care facilities in this state.

18 (d) Provide information to public agencies about the problems of residents of long term care  
 19 facilities.

20 (e) Work closely with cooperative associations and citizen groups in this state and the state  
 21 protection and advocacy system under ORS 192.517.

22 (f) Widely publicize the Long Term Care Ombudsman's services, purpose and mode of operation.

23 (g) Collaborate with the Oregon Health Authority, the Department of Human Services, the  
 24 [*Nursing Home*] **Long Term Care** Administrators Board and any other appropriate agencies and  
 25 organizations to establish a statewide system to collect and analyze information on complaints and  
 26 conditions in long term care facilities for the purpose of publicizing improvements and resolving  
 27 significant problems.

28 (h) Contract with the state protection and advocacy system described in ORS 192.517 (1) to  
 29 provide services and assistance to persons who are prospective or current residents of a mental  
 30 health treatment facility or of a residential facility for individuals with developmental disabilities  
 31 when the system has received a notice regarding the person pursuant to ORS 125.060 (7)(c) or (8)(c).

32 (i) Appoint designees to serve as local representatives of the office of the Long Term Care  
 33 Ombudsman in various districts of the state and regularly monitor their functions.

34 (j) Specify qualifications and duties of designees.

35 (k) Adopt rules necessary for carrying out ORS 441.402 to 441.414, after consultation with the  
 36 Residential Ombudsman and Public Guardianship Advisory Board.

37 (L) Provide periodically, or at least annually, a report to the Governor, authority, department  
 38 and Legislative Assembly.

39 (m) Prepare necessary reports with the assistance of the authority and the department.

40 (n) Advise and support the Oregon Public Guardian and Conservator appointed under ORS  
 41 125.678.

42 (o) Supervise, monitor, advise and support the Residential Facilities Ombudsman appointed un-  
 43 der ORS 443.382.

44 (2) At least quarterly, the Department of Human Services shall provide the Long Term Care  
 45 Ombudsman with a list of the number of licensed or certified beds in each long term care facility

1 for which the ombudsman has responsibilities under this section.

2 **SECTION 18.** ORS 676.108 is amended to read:

3 676.108. For purposes of ORS 676.110, 676.115, 676.120 and 676.130, “health professional regula-  
4 tory board” means a health professional regulatory board, as defined in ORS 676.160, the [*Nursing*  
5 *Home*] **Long Term Care** Administrators Board, the Board of Licensed Dietitians and the Behavior  
6 Analysis Regulatory Board.

7 **SECTION 19.** ORS 676.150 is amended to read:

8 676.150. (1) As used in this section:

9 (a) “Board” means the:

10 (A) State Board of Examiners for Speech-Language Pathology and Audiology;

11 (B) State Board of Chiropractic Examiners;

12 (C) State Board of Licensed Social Workers;

13 (D) Oregon Board of Licensed Professional Counselors and Therapists;

14 (E) Oregon Board of Dentistry;

15 (F) Board of Licensed Dietitians;

16 (G) State Board of Massage Therapists;

17 (H) Oregon Board of Naturopathic Medicine;

18 (I) Oregon State Board of Nursing;

19 (J) [*Nursing Home*] **Long Term Care** Administrators Board;

20 (K) Oregon Board of Optometry;

21 (L) State Board of Pharmacy;

22 (M) Oregon Medical Board;

23 (N) Occupational Therapy Licensing Board;

24 (O) Physical Therapist Licensing Board;

25 (P) Oregon Board of Psychology;

26 (Q) Board of Medical Imaging;

27 (R) State Board of Direct Entry Midwifery;

28 (S) State Board of Denture Technology;

29 (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

30 (U) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-  
31 vices providers;

32 (V) Oregon State Veterinary Medical Examining Board; or

33 (W) State Mortuary and Cemetery Board.

34 (b) “Licensee” means a health professional licensed or certified by or registered with a board.

35 (c) “Prohibited conduct” means conduct by a licensee that:

36 (A) Constitutes a criminal act against a patient or client; or

37 (B) Constitutes a criminal act that creates a risk of harm to a patient or client.

38 (d) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best  
39 interests of the public, including conduct contrary to recognized standards of ethics of the licensee’s  
40 profession or conduct that endangers the health, safety or welfare of a patient or client.

41 (2) Unless state or federal laws relating to confidentiality or the protection of health information  
42 prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has en-  
43 gaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for  
44 the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the  
45 conduct without undue delay, but in no event later than 10 working days after the reporting licensee

1 learns of the conduct.

2 (3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime  
3 shall report the conviction or arrest to the licensee's board within 10 days after the conviction or  
4 arrest.

5 (4) The board responsible for a licensee who is reported to have engaged in prohibited or un-  
6 professional conduct shall investigate in accordance with the board's rules. If the board has rea-  
7 sonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present  
8 the facts to an appropriate law enforcement agency without undue delay, but in no event later than  
9 10 working days after the board finds reasonable cause to believe that the licensee engaged in pro-  
10 hibited conduct.

11 (5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection  
12 (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section  
13 is subject to discipline by the board responsible for the licensee.

14 (6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section  
15 commits a Class A violation.

16 (7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this sec-  
17 tion is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

18 (8) Except as part of an application for a license or for renewal of a license and except as pro-  
19 vided in subsection (3) of this section, a board may not require a licensee to report the licensee's  
20 criminal conduct.

21 (9) The obligations imposed by this section are in addition to and not in lieu of other obligations  
22 to report unprofessional conduct as provided by statute.

23 (10) A licensee who reports to a board in good faith as required by subsection (2) of this section  
24 is immune from civil liability for making the report.

25 (11) A board and the members, employees and contractors of the board are immune from civil  
26 liability for actions taken in good faith as a result of a report received under subsection (2) or (3)  
27 of this section.

28 **SECTION 20.** ORS 676.350 is amended to read:

29 676.350. (1) As used in this section:

30 (a) "Expedited partner therapy" means the practice of prescribing or dispensing antibiotic drugs  
31 for the treatment of a sexually transmitted disease to the partner of a patient without first exam-  
32 ining the partner of the patient.

33 (b) "Partner of a patient" means a person whom a patient diagnosed with a sexually transmitted  
34 disease identifies as a sexual partner of the patient.

35 (c) "Practitioner" has the meaning given that term in ORS 475.005.

36 (2) A health professional regulatory board, as defined in ORS 676.160, the [*Nursing Home*] **Long**  
37 **Term Care** Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis  
38 Regulatory Board may adopt rules permitting practitioners to practice expedited partner therapy.  
39 If a board adopts rules permitting practitioners to practice expedited partner therapy, the board  
40 shall consult with the Oregon Health Authority to determine which sexually transmitted diseases  
41 are appropriately addressed with expedited partner therapy.

42 (3) A prescription issued in the practice of expedited partner therapy authorized by the rules  
43 of a board is valid even if the name of the patient for whom the prescription is intended is not on  
44 the prescription.

45 (4) The authority shall make available informational material about expedited partner therapy

1 that a practitioner may distribute to patients.

2 **SECTION 21.** ORS 676.400 is amended to read:

3 676.400. (1) It is the intention of the Legislative Assembly to achieve the goal of universal access  
4 to adequate levels of high quality health care at an affordable cost for all Oregonians, regardless  
5 of ethnic or cultural background.

6 (2) The Legislative Assembly finds that:

7 (a) Access to health care is of value when it leads to treatment that substantially improves  
8 health outcomes;

9 (b) Health care is most effective when it accounts for the contribution of culture to health status  
10 and health outcomes;

11 (c) Ethnic and racial minorities experience more than their statistically fair share of undesirable  
12 health outcomes;

13 (d) The lack of licensed health care professionals from ethnic and racial minorities or who are  
14 bilingual contributes to the inadequacy of health outcomes in communities of color in this state; and

15 (e) The development of a partnership between health professional regulatory boards and com-  
16 munities of color to increase the representation of people of color and bilingual people in health  
17 care professions has significant potential to improve the health outcomes of people of color and bi-  
18 lingual citizens of this state.

19 (3) Health professional regulatory boards shall establish programs to increase the representation  
20 of people of color and bilingual people on the boards and in the professions that they regulate. Such  
21 programs must include activities to promote the education, recruitment and professional practice  
22 of members of these targeted populations in Oregon.

23 (4) Each health professional regulatory board shall maintain records of the racial and ethnic  
24 makeup of applicants and professionals regulated by the board. Such information shall be requested  
25 from applicants and the professionals regulated who shall be informed in writing that the provision  
26 of such information is voluntary and not required.

27 (5) Each health professional regulatory board shall report biennially to the Legislative Assembly  
28 in the manner required by ORS 192.245. The report shall contain:

29 (a) Data detailing the efforts of the board to comply with the requirements of subsection (3) of  
30 this section; and

31 (b) Data collected under subsection (4) of this section documenting the ethnic and racial makeup  
32 of the applicants and of the professionals regulated by the board.

33 (6) For purposes of this section, "health professional regulatory board" means a health profes-  
34 sional regulatory board, as defined in ORS 676.160, the [*Nursing Home*] **Long Term Care Adminis-**  
35 **trators Board**, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board.

36 **SECTION 22.** ORS 676.565 is amended to read:

37 676.565. Pursuant to ORS 676.568, the Health Licensing Office shall provide administrative and  
38 regulatory oversight and centralized service for the following boards, councils and programs:

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

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

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

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

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

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

- 1 (7) Board of Electrologists and Body Art Practitioners, as provided in ORS 690.350 to 690.410;
- 2 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;
- 3 (9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;
- 4 (10) [*Nursing Home*] **Long Term Care** Administrators Board, as provided in ORS 678.710 to
- 5 678.820;
- 6 (11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;
- 7 (12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;
- 8 (13) Board of Certified Advanced Estheticians, as provided in ORS 676.630 to 676.660;
- 9 (14) Art therapy, as provided in ORS 681.740 to 681.758; and
- 10 (15) Lactation consultation, as provided in ORS 676.665 to 676.689.

11 **SECTION 23.** ORS 676.595 is amended to read:

12 676.595. (1) As used in this section, "board" means the:

- 13 (a) Sex Offender Treatment Board established under ORS 675.395.
- 14 (b) Behavior Analysis Regulatory Board created under ORS 676.806.
- 15 (c) [*Nursing Home*] **Long Term Care** Administrators Board established under ORS 678.800.
- 16 (d) State Board of Denture Technology established under ORS 680.556.
- 17 (e) State Board of Direct Entry Midwifery established under ORS 687.470.
- 18 (f) Board of Athletic Trainers established under ORS 688.705.
- 19 (g) Respiratory Therapist and Polysomnographic Technologist Licensing Board established under
- 20 ORS 688.820.

- 21 (h) Board of Licensed Dietitians established under ORS 691.485.
- 22 (i) Environmental Health Registration Board established under ORS 700.210.

23 (2) Except to the extent that disclosure is necessary to conduct a full and proper investigation,

24 the Health Licensing Office may not disclose information, including complaints and information

25 identifying complainants, obtained by the office as part of an investigation conducted under:

26 (a) ORS 675.360 to 675.410, 676.810 to 676.820, 678.710 to 678.820, 680.500 to 680.565, 687.405 to

27 687.495, 688.701 to 688.734, 688.800 to 688.840 or 691.405 to 691.485 or ORS chapter 700.

28 (b) ORS 676.560 to 676.625 if the investigation is related to the regulation of:

- 29 (A) Sex offender therapy under ORS 675.360 to 675.410;
- 30 (B) Applied behavior analysis under ORS 676.810 to 676.820;
- 31 (C) Nursing home administration **and residential care facility administration** under ORS
- 32 678.710 to 678.820;

- 33 (D) The practice of denture technology under ORS 680.500 to 680.565;
- 34 (E) Direct entry midwifery under ORS 687.405 to 687.495;
- 35 (F) Athletic training under ORS 688.701 to 688.734;
- 36 (G) Respiratory care and polysomnography under ORS 688.800 to 688.840;
- 37 (H) Dietetics under ORS 691.405 to 691.485; or
- 38 (I) Environmental or waste water sanitation under ORS chapter 700.

39 (3) Notwithstanding subsection (2) of this section, if the office decides not to impose a discipli-

40 nary sanction after conducting an investigation described in subsection (2) of this section:

41 (a) The office shall disclose information obtained as part of the investigation if the person re-

42 questing the information demonstrates by clear and convincing evidence that the public interest in

43 disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

44 (b) The office may disclose to a complainant who made a complaint related to the investigation

45 a written summary of information obtained as part of the investigation to the extent that disclosure

1 is necessary to explain the office’s decision. The person who is the subject of the investigation may  
 2 review and obtain a copy of a written summary disclosed under this paragraph after the office has  
 3 redacted any information identifying the complainant.

4 (4) Notwithstanding subsection (2) of this section, if a decision is made to impose a disciplinary  
 5 sanction and to issue a notice of intent to impose a disciplinary sanction after conducting an in-  
 6 vestigation described in subsection (2) of this section, upon written request by the person who is the  
 7 subject of the investigation, the office shall disclose to the person all information obtained by the  
 8 office during the investigation, except that the office may not disclose:

9 (a) Information that is otherwise privileged or confidential under state or federal law.

10 (b) Information identifying a person who provided information that led to the investigation, un-  
 11 less the person will provide testimony at a hearing arising out of the investigation.

12 (c) Information identifying a complainant.

13 (d) Reports of expert witnesses.

14 (5) Information disclosed to a person under subsection (4) of this section may be further dis-  
 15 closed by the person only to the extent that disclosure is necessary to prepare for a hearing arising  
 16 out of the investigation.

17 (6) The office shall disclose:

18 (a) Any notice related to the imposition of a disciplinary sanction.

19 (b) A final order related to the imposition of a disciplinary sanction.

20 (c) An emergency suspension order.

21 (d) A consent order or stipulated agreement that involves the conduct of a person against whom  
 22 discipline is sought.

23 (e) Information to further an investigation into board conduct under ORS 192.685.

24 (7) The office must summarize the factual basis for the office’s disposition of:

25 (a) A final order related to the imposition of a disciplinary sanction;

26 (b) An emergency suspension order; or

27 (c) A consent order or stipulated agreement that involves the conduct of a person against whom  
 28 discipline is sought.

29 (8)(a) An office record or order, or any part of an office record or order, that is obtained during  
 30 an investigation described in subsection (2) of this section, during a contested case proceeding or  
 31 as a result of entering into a consent order or stipulated agreement is not admissible as evidence  
 32 and may not preclude an issue or claim in a civil proceeding.

33 (b) This subsection does not apply to a proceeding between the office and a person against whom  
 34 discipline is sought as otherwise authorized by law.

35 (9)(a) Notwithstanding subsection (2) of this section, the office is not publicly disclosing infor-  
 36 mation when the office permits other public officials and members of the press to attend executive  
 37 sessions where information obtained as part of an investigation is discussed. Public officials and  
 38 members of the press attending such executive sessions may not disclose information obtained as  
 39 part of an investigation to any other member of the public.

40 (b) For purposes of this subsection, “public official” means a member, member-elect or employee  
 41 of a public entity as defined in ORS 676.177.

42 (10) The office may establish fees reasonably calculated to reimburse the actual cost of disclos-  
 43 ing information to a person against whom discipline is sought as required by subsection (4) of this  
 44 section.

45 **SECTION 24.** ORS 676.850 is amended to read:



- 1 676.850. (1) As used in this section, “board” means the:
- 2 (a) State Board of Examiners for Speech-Language Pathology and Audiology;
- 3 (b) State Board of Chiropractic Examiners;
- 4 (c) State Board of Licensed Social Workers;
- 5 (d) Oregon Board of Licensed Professional Counselors and Therapists;
- 6 (e) Oregon Board of Dentistry;
- 7 (f) Board of Licensed Dietitians;
- 8 (g) State Board of Massage Therapists;
- 9 (h) Oregon Board of Naturopathic Medicine;
- 10 (i) Oregon State Board of Nursing;
- 11 (j) *[Nursing Home]* **Long Term Care** Administrators Board;
- 12 (k) Oregon Board of Optometry;
- 13 (L) State Board of Pharmacy;
- 14 (m) Oregon Medical Board;
- 15 (n) Occupational Therapy Licensing Board;
- 16 (o) Physical Therapist Licensing Board;
- 17 (p) Oregon Board of Psychology;
- 18 (q) Board of Medical Imaging;
- 19 (r) State Board of Direct Entry Midwifery;
- 20 (s) State Board of Denture Technology;
- 21 (t) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
- 22 (u) Home Care Commission;
- 23 (v) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-
- 24 vice providers; and
- 25 (w) Health Licensing Office, to the extent that the office licenses lactation consultants.
- 26 (2)(a) In collaboration with the Oregon Health Authority, a board may adopt rules under which
- 27 the board may require a person authorized to practice the profession regulated by the board to re-
- 28 ceive cultural competency continuing education approved by the authority under ORS 413.450.
- 29 (b) Cultural competency continuing education courses may be taken in addition to or, if a board
- 30 determines that the cultural competency continuing education fulfills existing continuing education
- 31 requirements, instead of any other continuing education requirement imposed by the board.
- 32 (3)(a) A board, or the Health Licensing Office for those boards for which the office issues and
- 33 renews authorizations to practice the profession regulated by the board, shall document partic-
- 34 ipation in cultural competency continuing education by persons authorized to practice a profession
- 35 regulated by the board.
- 36 (b) For purposes of documenting participation under this subsection, a board may adopt rules
- 37 requiring persons authorized to practice the profession regulated by the board to submit documen-
- 38 tation to the board, or to the office for those boards for which the office issues and renews author-
- 39 izations to practice the profession regulated by the board, of participation in cultural competency
- 40 continuing education.
- 41 (4) A board shall report biennially to the authority on the participation documented under sub-
- 42 section (3) of this section.
- 43 (5) The authority, on or before August 1 of each even-numbered year, shall report to the interim
- 44 committees of the Legislative Assembly related to health care on the information submitted to the
- 45 authority under subsection (4) of this section.

**SECTION 25.** 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 (sexual abuse specific treatment);
- (j) ORS 678.710 to 678.820 (nursing home administrators **and residential care facility 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);
- (o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure);
- (p) ORS 681.740 to 681.758 (art therapy); and
- (q) ORS 676.665 to 676.689 (lactation consultation).

(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 26.** ORS 743B.454 is amended to read:

743B.454. (1) As used in this section:

(a) "Complete application" means a provider's application to a health insurer to become a credentialed provider that includes:

1 (A) Information required by the health insurer;

2 (B) Proof that the provider is licensed by a health professional regulatory board as defined in  
3 ORS 676.160, the [Nursing Home] **Long Term Care** Administrators Board, the Board of Licensed  
4 Dietitians or the Behavior Analysis Regulatory Board;

5 (C) Proof of current registration with the Drug Enforcement Administration of the United States  
6 Department of Justice, if applicable to the provider's practice; and

7 (D) Proof that the provider is covered by a professional liability insurance policy or certification  
8 meeting the health insurer's requirements.

9 (b) "Credentialing period" means the period beginning on the date a health insurer receives a  
10 complete application and ending on the date the health insurer approves or rejects the complete  
11 application or 90 days after the health insurer receives the complete application, whichever is ear-  
12 lier.

13 (c) "Health insurer" means an insurer that offers managed health insurance or preferred pro-  
14 vider organization insurance, other than a health maintenance organization as defined in ORS  
15 750.005.

16 (2) A health insurer shall approve or reject a complete application within 90 days of receiving  
17 the application.

18 (3)(a) A health insurer shall pay all claims for medical services covered by the health insurer  
19 that are provided by a provider during the credentialing period.

20 (b) A provider may submit claims for medical services provided during the credentialing period  
21 during or after the credentialing period.

22 (c) A health insurer may pay claims for medical services provided during the credentialing pe-  
23 riod:

24 (A) During or after the credentialing period.

25 (B) At the rate paid to nonparticipating providers.

26 (d) If a provider submits a claim for medical services provided during the credentialing period  
27 within six months after the end of the credentialing period, the health insurer may not deny payment  
28 of the claim on the basis of the health insurer's rules relating to timely claims submission.

29 (4) Subsection (3) of this section does not require a health insurer to pay claims for medical  
30 services provided during the credentialing period if:

31 (a) The provider was previously rejected or terminated as a participating provider in any health  
32 benefit plan underwritten or administered by the health insurer;

33 (b) The rejection or termination was due to the objectively verifiable failure of the provider to  
34 provide medical services within the recognized standards of the provider's profession; and

35 (c) The provider was given the opportunity to contest the rejection or termination before a panel  
36 of peers in a proceeding conducted in conformity with the Health Care Quality Improvement Act  
37 of 1986, 42 U.S.C. 11101 et seq.

38  
39 **TEMPORARY PROVISIONS**

40  
41 **SECTION 27. (1) Not later than July 1, 2018, an individual who is employed as a residen-**  
42 **tial care facility administrator, as defined in ORS 678.710, shall apply to the Health Licensing**  
43 **Office on a form created by the office for a provisional residential care facility administrator**  
44 **license.**

45 **(2) An individual licensed under this section must earn a passing score on the examina-**

1 tion described in section 3 of this 2018 Act on or before December 31, 2020.

2 (3) The office may adopt rules to carry out the requirements of this section. The rules  
3 adopted under this section may include:

4 (a) The passing score that an individual licensed under this section must earn on the  
5 examination described in section 3 of this 2018 Act;

6 (b) A provisional licensure fee; and

7 (c) The number of attempts to earn a passing score allowed to an individual licensed  
8 under this section.

9 SECTION 28. Section 27 of this 2018 Act is repealed on January 1, 2021.

10  
11 CAPTIONS

12  
13 SECTION 29. The unit captions used in this 2018 Act are provided only for the conven-  
14 ience of the reader and do not become part of the statutory law of this state or express any  
15 legislative intent in the enactment of this 2018 Act.

16  
17 OPERATIVE DATE AND EMERGENCY CLAUSE

18  
19 SECTION 30. (1) Sections 2 to 4 of this 2018 Act and the amendments to ORS 192.556,  
20 401.651, 431A.850, 433.045, 441.057, 441.406, 676.108, 676.150, 676.350, 676.400, 676.565, 676.595,  
21 676.850, 676.992, 678.710, 678.720, 678.740, 678.770, 678.800, 678.810, 678.820 and 743B.454 by  
22 sections 5 to 26 of this 2018 Act become operative on January 1, 2019.

23 (2) The Health Licensing Office and the Long Term Care Administrators Board may take  
24 any action before the operative date specified in subsection (1) of this section that is neces-  
25 sary to enable the office and the board to exercise, on and after the operative date specified  
26 in subsection (1) of this section, all of the duties, functions and powers conferred on the of-  
27 fice and the board by sections 2 to 4 of this 2018 Act and the amendments to ORS 192.556,  
28 401.651, 431A.850, 433.045, 441.057, 441.406, 676.108, 676.150, 676.350, 676.400, 676.565, 676.595,  
29 676.850, 676.992, 678.710, 678.720, 678.740, 678.770, 678.800, 678.810, 678.820 and 743B.454 by  
30 sections 5 to 26 of this 2018 Act.

31 SECTION 31. This 2018 Act being necessary for the immediate preservation of the public  
32 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect  
33 on its passage.