

House Bill 2976

Sponsored by Representative SMITH WARNER

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**.

Requires Higher Education Coordinating Commission to adopt by rule additional minimum standards for licensing of career schools that receive \$10 million or more in annual revenue or that are subsidiary with parent company.

Establishes civil penalty for violation of standards.

A BILL FOR AN ACT

1
2 Relating to regulation of post-secondary institutions of education; creating new provisions; and
3 amending ORS 341.455, 345.015, 345.030, 345.330, 345.340 and 345.992.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 345.010 to**
6 **345.450.**

7 **SECTION 2. (1) The Higher Education Coordinating Commission shall adopt by rule**
8 **minimum standards for the licensing under ORS 345.010 to 345.450 of a career school that**
9 **receives \$10 million or more in annual revenue or that is a subsidiary with a parent company.**
10 **The standards adopted by this section apply in addition to the requirements of ORS 345.325**
11 **and shall be reasonably calculated to ensure that:**

12 (a) **At least 20 percent of the annual revenue received by the career school comes from**
13 **a source other than the federal government, state government or a loan that is guaranteed**
14 **by the career school; or**

15 (b) **At least 20 percent of the students enrolled at the career school pay their tuition at**
16 **the school without the use of moneys from the federal government, state government or a**
17 **loan that is guaranteed by the career school.**

18 (2) **At least half of the tuition dollars received by the career school are spent on providing**
19 **direct instruction to enrolled students. The use of tuition dollars in the manner required by**
20 **this subsection must be demonstrated by publicly available financial reports that are re-**
21 **quired either by the United States Department of Education or the commission under stan-**
22 **dards adopted by this section.**

23 (3) **The career school may not use moneys received from the federal government or state**
24 **government to engage in advertising or the recruitment of students. The commission shall**
25 **define "advertising" and "recruitment" as part of the standards adopted under this section.**

26 **SECTION 3. ORS 345.992 is amended to read:**

27 345.992. (1) In addition to any other penalty provided by law, any person who violates any pro-
28 vision of ORS 345.020, 345.030, 345.070, 345.115 or 345.117 **or section 2 of this 2019 Act**, or who
29 engages in an unlawful trade practice as defined by ORS 646.608 shall incur a civil penalty for each
30 violation in the amount prescribed by the schedule adopted under ORS 345.995.

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

2 **SECTION 4.** ORS 341.455 is amended to read:

3 341.455. (1) A community college may give credit for courses or programs taken in a career
4 school. The courses or programs for which credit may be given must meet the standards adopted
5 by the Higher Education Coordinating Commission under ORS 345.325 **and section 2 of this 2019**
6 **Act**, must be taken at a career school domiciled in this state and must be approved for credit by
7 the Director of the Office of Community Colleges and Workforce Development.

8 (2) A community college board may charge a transcribing fee to a student for courses taken
9 at a career school and accepted by the community college under subsection (1) of this section. Such
10 a fee is to be set by the board and is to be consistent with other student fees.

11 (3) Time spent by students on such courses shall not be considered as clock hours of instruction
12 in determining full-time equivalency for purposes of ORS 341.626.

13 **SECTION 5.** ORS 345.015 is amended to read:

14 345.015. ORS 345.010 to 345.450 do not apply to:

15 (1) Instruction or training solely avocational or recreational in nature or to institutions offering
16 such education exclusively.

17 (2) Instruction or training sponsored or offered by a bona fide trade, business, professional or
18 fraternal organization or by a business primarily for the organization's membership or the business's
19 employees.

20 (3) Instruction or training sponsored, offered or contracted by organizations, institutions or
21 agencies, if the instruction or training is advertised or promoted to be in the nature of professional
22 self-improvement or personal self-improvement and the instruction or training is not:

23 (a) Advertised or promoted as leading to or fulfilling the requirements for licensing, certifica-
24 tion, accreditation or education credentials; or

25 (b) Leading to an occupation, employment or other activity for which a person may reasonably
26 expect financial compensation.

27 (4) Courses offered in hospitals that meet standards prescribed by the American Medical Asso-
28 ciation or national accrediting associations for nursing.

29 (5) Courses, instruction or training offered for a limited number of hours, as defined by rule of
30 the Higher Education Coordinating Commission.

31 (6) Schools offering only courses of an advanced training or continuing educational nature when
32 offered solely to licensed practitioners and people previously qualified or employed in the profession
33 for which a course is being offered.

34 (7) Courses, instruction or training offered to prepare a student to become certified as a nursing
35 assistant or a medication aide in compliance with standards prescribed by the Oregon State Board
36 of Nursing.

37 (8) Schools that the Higher Education Coordinating Commission:

38 (a) Determines are adequately regulated by other means that guarantee the school meets the
39 standards described in ORS 345.325 **and section 2 of this 2019 Act**; and

40 (b) As a result of the determination described in paragraph (a) of this subsection, grants an ex-
41emption from the licensure requirements of ORS 345.010 to 345.450.

42 (9) Schools offering only review instruction to prepare a student to take an examination to enter
43 a profession, where the student has completed prior training related to the profession.

44 (10) Schools described in ORS 348.597 and, except as provided in ORS 345.017, schools approved
45 by the Higher Education Coordinating Commission to confer or offer to confer academic degrees

1 under ORS 348.606.

2 (11) Any parochial or denominational institution providing instruction or training relating solely
3 to religion and that does not grant degrees.

4 **SECTION 6.** ORS 345.030 is amended to read:

5 345.030. (1) A person may not open, conduct or do business as a career school in this state
6 without obtaining a license under ORS 345.010 to 345.450.

7 (2) Except as provided in subsection (8) of this section, the Higher Education Coordinating
8 Commission may issue a license to conduct a career school only after the applicant has presented
9 proof satisfactory to the commission that the applicant complies with applicable standards adopted
10 under ORS 345.325 and 670.280 **and section 2 of this 2019 Act.** For the purpose of this subsection,
11 ORS 670.280 applies to individuals who hold positions of authority or control in the operation of the
12 school and to its faculty members and agents.

13 (3) A career school licensed in any other state must be licensed in this state before establishing
14 a physical presence in this state such as offices or agents, or both, for the purpose of solicitation
15 of students.

16 (4) In determining whether to issue a license to a career school, the commission may consider
17 the prior history of the applicant in operating other career schools. The prior history of operating
18 other career schools includes, but is not limited to:

19 (a) Conduct by the applicant that is cause for a notice of corrective action or for suspension
20 or revocation of a license as provided in ORS 345.120 (3);

21 (b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to
22 345.450; and

23 (c) The history of the applicant in operating career schools in other states.

24 (5) The commission may not issue a license to or renew the license of a career school until the
25 applicant provides all of the following to the commission:

26 (a) A financial statement, certified true and accurate and signed by the owner of the school;

27 (b) Proof of compliance with the tuition protection policy established by the commission pursu-
28 ant to ORS 345.110; and

29 (c) Fingerprints of individuals as described in subsection (6) of this section.

30 (6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance
31 of a license or a renewal of a license must provide to the commission the fingerprints of faculty
32 members and agents of the school and individuals who hold positions of authority or control in the
33 operation of the school if the career school will be enrolling or does enroll persons under 18 years
34 of age.

35 (b) In addition to requirements provided under paragraph (a) of this subsection, the commission
36 may require a career school to provide the fingerprints of any agents of the school who will have
37 contact with persons under 18 years of age on behalf of the career school.

38 (c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this sub-
39 section if the commission has conducted a state or nationwide criminal records check on the person
40 within the three years preceding the date of the application.

41 (d) Fingerprints acquired under this subsection may be used only for the purpose of requesting
42 a state or nationwide criminal records check under ORS 181A.195.

43 (7) Notwithstanding ORS 345.325 (10), the commission may issue a notice for corrective action
44 or deny, suspend or revoke a license if the commission finds that an individual who holds a position
45 of authority or control in the operation of the school was convicted of a crime listed in ORS 342.143.

1 (8) The commission may issue a conditional license to a career school that meets the require-
 2 ments of subsection (5) of this section but that does not comply with the applicable standards
 3 adopted by rule under ORS 345.325 **and section 2 of this 2019 Act**. A conditional license issued
 4 under this subsection is effective for a period prescribed by the commission, which may not exceed
 5 90 days.

6 (9)(a) Except as provided in paragraph (b) of this subsection, a career school license is
 7 nontransferable. The licensee must give 30 days of notice to the commission when transferring
 8 ownership of a career school.

9 (b) The commission may transfer a career school license or allow the ownership of a career
 10 school to transfer with less than 30 days of notice if:

11 (A) The owner of the school dies, is incapacitated or is incarcerated; or

12 (B) Other circumstances render the owner unable to operate the career school.

13 (10) Each career school shall display its license in a prominent place.

14 **SECTION 7.** ORS 345.330 is amended to read:

15 345.330. (1) The Higher Education Coordinating Commission shall appoint a representative ad-
 16 visory committee consisting of 11 members who shall serve for terms of three years ending June 30.
 17 Of the membership of the committee:

18 (a) Seven members shall be persons affiliated with career schools as owners, directors, admin-
 19 istrators, instructors or representatives, but not more than one member shall represent an out-of-
 20 state career school.

21 (b) Four members shall be persons who are not eligible under paragraph (a) of this subsection.
 22 At least one of these members shall have graduated from a career school.

23 (2) The advisory committee appointed under subsection (1) of this section shall:

24 (a) Make recommendations to the commission concerning the need for professional and technical
 25 instructional and training facilities, the types of instruction and training needed and by whom these
 26 can best be provided.

27 (b) Recommend standards for career schools as provided in ORS 345.325 [*which*] **and section 2**
 28 **of this 2019 Act that** are consistent with the purposes of such schools.

29 (c) Investigate and present findings to the commission on the administration and operation of
 30 laws relating to career schools. However, the investigations and findings of the advisory committee
 31 do not affect the authority of the commission to issue, deny, suspend or revoke the license of any
 32 career school.

33 (d) Consult with the commission in determining the refund schedule under ORS 345.115.

34 (e) Make recommendations to the commission concerning rules to be adopted by the commission
 35 for ORS 345.010 to 345.450 and 345.992 to 345.997.

36 (3) Members of the advisory committee are entitled to compensation and expenses as provided
 37 in ORS 292.495 from funds appropriated to the commission for purposes of administering ORS 345.010
 38 to 345.450.

39 **SECTION 8.** ORS 345.340 is amended to read:

40 345.340. Consistent with the requirements of ORS 345.325 **and section 2 of this 2019 Act**, the
 41 advisory committee shall recommend to the Higher Education Coordinating Commission minimum
 42 standards for the operation of career schools. In making its recommendations, the committee shall
 43 consider changes in technological, economic and social conditions which affect employment needs,
 44 opportunities and skills.