

House Bill 2493

Sponsored by Representative SALINAS (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 establish and maintain voluntary alternative practitioner registry of individuals who provide alternative well-being care. Defines "alternative well-being care." Allows office to impose discipline for certain violations. Directs office to provide administrative and regulatory oversight to alternative well-being care program. Imposes civil penalty for violation of registry listing requirements.

Becomes operative January 1, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to alternative well-being care; creating new provisions; amending ORS 676.565, 676.579,
3 676.590, 676.612, 676.613, 676.622 and 676.992; and declaring an emergency.

4 Whereas unlicensed alternative therapy practitioners of diverse specialties and certifications
5 have been serving Oregonians to encourage greater well-being for many decades, even prior to the
6 creation of state licensure for licensed professional counselors and other licensed mental health care
7 providers; and

8 Whereas unlicensed alternative therapy practitioners' training is not offered through higher
9 education courses that are required by state agencies for licensure or other state-issued authori-
10 zation as a mental health care provider; and

11 Whereas life coaching and other similar disciplines that address well-being have become popular
12 services to Oregonians; and

13 Whereas Oregonians continue to use alternative well-being care services and some unlicensed
14 alternative therapy practitioners offer trainings for state-authorized mental health care providers;
15 and

16 Whereas unlicensed alternative therapy practitioners working in Oregon provide valuable ser-
17 vices to Oregonians and are an essential part of the mental health workforce in this state; and

18 Whereas consumers of alternative well-being care services should be provided with professional
19 disclosure information relating to the training and qualification of unlicensed alternative therapy
20 practitioners to enable the consumers to make informed decisions concerning their choice of prac-
21 titioner; and

22 Whereas clients of state-authorized mental health care providers have the right to recourse
23 through health professional regulatory boards if the clients are harmed by a licensed mental health
24 care provider, but no oversight entity exists for unlicensed alternative therapy practitioners; and

25 Whereas unlicensed alternative therapy practitioners should be accountable to an oversight en-
26 tity, practice according to established standards of professional conduct and be subject to discipli-
27 nary procedures for failure to meet those standards; and

28 Whereas this 2021 Act establishes a voluntary oversight registry for unlicensed alternative

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 therapy practitioners so that consumers of the services they provide will have an entity to which
2 the consumers can make complaints and have recourse if the consumers are harmed through inter-
3 actions with unlicensed alternative therapy practitioners; now, therefore,

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

5
6 **REGISTERED ALTERNATIVE PRACTITIONERS**

7
8 **SECTION 1. As used in sections 1 to 8 of this 2021 Act:**

9 (1) **“Alternative practitioner registry” means the registry established and maintained**
10 **under section 2 of this 2021 Act.**

11 (2)(a) **“Alternative well-being care” means:**

12 (A) **Helping services that are relevant to the alternative therapy or care provided to an**
13 **individual or group of individuals for the purpose of addressing personal growth or to allevi-**
14 **ate emotional suffering; and**

15 (B) **The application of techniques and intervention such as energy work, hypnotherapy,**
16 **life coaching, philosophically based disciplines and spiritually based disciplines relevant to the**
17 **particular approach of the registered alternative provider to support change in emotional,**
18 **relationship or attitudinal conflicts or to modify behavior that interferes with effective**
19 **emotional, social, relationship, health, work or spiritual functioning of the individual or**
20 **group of individuals to whom the alternative therapy or care is provided.**

21 (b) **“Alternative well-being care” does not include the provision of life skills training or**
22 **instruction, such as learning to make friends, handle social situations or do laundry.**

23 (3) **“Mental health care provider” means a person who is authorized to practice an oc-**
24 **cupation or profession regulated by:**

25 (a) **The Oregon Board of Licensed Professional Counselors and Therapists;**

26 (b) **The Oregon Board of Psychology; or**

27 (c) **The State Board of Licensed Social Workers.**

28 (4) **“Registered alternative practitioner” means a person who is listed on the alternative**
29 **practitioner registry and provides alternative well-being care.**

30 **SECTION 2. (1) The Health Licensing Office shall establish and maintain an alternative**
31 **practitioner registry. The office shall list on the alternative practitioner registry, and may**
32 **issue a written registration to, an individual who:**

33 (a) **Submits an application to the office in the manner provided by the office by rule;**

34 (b) **Pays an application fee;**

35 (c) **Completes a tutorial and passes an examination regarding Oregon laws and rules re-**
36 **lated to mandatory reporting, scope of practice for registered alternative practitioners and**
37 **other matters determined by the office; and**

38 (d) **Meets any other requirements established by the office by rule.**

39 (2) **The office shall request a nationwide criminal records check under ORS 181A.195 of**
40 **each applicant.**

41 (3) **A listing on the alternative practitioner registry under this section is valid for two**
42 **years from the date of listing and may be renewed. In order to have a listing renewed, a**
43 **registered alternative practitioner shall:**

44 (a) **Apply to the office in the manner provided by the office by rule;**

45 (b) **Pay a renewal fee; and**

1 (c) Meet any other requirements established by the office by rule.

2 (4) The office may contract with a third party to set up and maintain the alternative
3 practitioner registry.

4 **SECTION 3.** (1) Alternative well-being care must be provided to a client during a
5 timeframe agreed to by the registered alternative practitioner and the client.

6 (2) A registered alternative practitioner may use a title or words or abbreviations in
7 professional and promotional materials that accurately indicate the registered alternative
8 practitioner's training and experience and listing on the alternative practitioner registry.

9 (3) An individual who provides alternative well-being care is not required to apply for
10 listing, or be listed, on the alternative practitioner registry.

11 (4)(a) A mental health care provider who also provides alternative well-being care may
12 apply to the Health Licensing Office for listing under section 2 of this 2021 Act.

13 (b) A mental health care provider whose authorization issued by the health professional
14 regulatory board in Oregon or any other jurisdiction that oversees the occupation or pro-
15 fession that the mental health care provider is authorized to practice has been suspended
16 or revoked may not be listed on the alternative practitioner registry.

17 **SECTION 4.** (1) A registered alternative practitioner shall provide to each client a pro-
18 fessional disclosure statement prior to providing alternative well-being care to the client. A
19 professional disclosure statement must include:

20 (a) A description of the registered alternative practitioner's professional experience,
21 qualifications and training; and

22 (b) The following statements provided by the Health Licensing Office:

23 (A) If the registered alternative practitioner is not a mental health care provider, a
24 statement that the registered alternative practitioner is not a mental health care provider;

25 (B) Unless the registered alternative practitioner is a mental health care provider who
26 is authorized to diagnose mental disorders set forth in the fifth edition of the Diagnostic and
27 Statistical Manual of Mental Disorders (DSM-5), a statement that the registered alternative
28 practitioner is not authorized to diagnose mental disorders set forth in the DSM-5;

29 (C) A statement that describes unprofessional conduct of a registered alternative prac-
30 titioner; and

31 (D) A statement that specifies the manner in which a client may make a complaint to
32 the office regarding the registered alternative practitioner.

33 (2) The office shall establish requirements regarding:

34 (a) The manner in which the information described in subsection (1) of this section must
35 be displayed in a professional disclosure statement; and

36 (b) The acknowledgement and signing of a professional disclosure statement by a regis-
37 tered alternative practitioner and the client to whom the registered alternative practitioner
38 will provide alternative well-being care.

39 **SECTION 5.** (1) A registered alternative practitioner shall comply with the standards of
40 professional conduct adopted by the Health Licensing Office by rule under section 8 of this
41 2021 Act.

42 (2) The office shall define unprofessional conduct to include:

43 (a) Providing fraudulent or deceptive information in an application for listing or renewal
44 of listing on the alternative practitioner registry;

45 (b) Failing to provide a client with the professional disclosure statement required under

1 section 4 of this 2021 Act;

2 (c) Engaging in sexual conduct with a client at any time;

3 (d) Engaging in sexual conduct with an immediate family member of a client within two
4 years of the date from the last professional contact between the registered alternative
5 practitioner and the client;

6 (e) Harassing, intimidating or abusing a client;

7 (f) Entering into an additional relationship with a client that could impair the registered
8 alternative practitioner's objectivity, or otherwise interfere with the registered alternative
9 practitioner's professional obligations according to best practice standards for the alterna-
10 tive well-being care that the registered alternative practitioner provides; or

11 (g) Practicing outside of the registered alternative practitioner's training, experience or
12 competence without appropriate supervision.

13 **SECTION 6.** (1) A registered alternative practitioner may not assume or use any titles,
14 words or abbreviations, including but not limited to "state certified," "state licensed," "clin-
15 ical" or "state approved" that indicate that the person is authorized by the state to provide
16 alternative well-being care, or that the alternative well-being care the person provides is
17 recommended or approved by the state.

18 (2) A registered alternative practitioner who is not a mental health care provider may
19 not assess, diagnose or treat a mental, emotional or behavioral disorder.

20 **SECTION 7.** In the manner prescribed in ORS chapter 183 for contested cases, the Health
21 Licensing Office may impose a form of discipline listed in ORS 676.612 against an individual
22 listed on the alternative practitioner registry for any of the prohibited acts listed in section
23 6 of this 2021 Act and for any violation of a rule adopted under sections 1 to 8 of this 2021
24 Act.

25 **SECTION 8.** (1) The Health Licensing Office shall adopt rules to:

26 (a) Establish a process for application for listing on the alternative practitioner registry;

27 (b) Establish a process for listing and renewing a listing, of an alternative practitioner
28 on the alternative practitioner registry;

29 (c) Establish application and renewal fees;

30 (d) Develop a tutorial and examination as described in section 2 of this 2021 Act;

31 (e) Develop and maintain a publicly available online version of the alternative practitioner
32 registry that includes the location of a registered alternative practitioner and the alternative
33 well-being care provided by the registered alternative practitioner;

34 (f) Establish standards of practice for registered alternative practitioners;

35 (g) Define unprofessional conduct; and

36 (h) Develop and disseminate public education materials regarding registered alternative
37 practitioners, alternative well-being care and client rights in receiving alternative well-being
38 care from registered alternative practitioners.

39 (2) The office may adopt other rules as necessary to carry out sections 1 to 8 of this 2021
40 Act.

41 (3) The office may not adopt rules to approve any alternative well-being care or to es-
42 tablish any educational requirements for registered alternative practitioners.

43
44 HEALTH LICENSING OFFICE
45

SECTION 9. ORS 676.565 is amended to read:

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

- (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;
- (2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;
- (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;
- (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;
- (5) Respiratory Therapist and Polysomnographic Technologist Licensing Board, as provided in ORS 688.800 to 688.840;
- (6) Environmental Health Registration Board, as provided in ORS chapter 700;
- (7) Board of Electrologists and Body Art Practitioners, as provided in ORS 690.350 to 690.410;
- (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;
- (9) Sexual Offense Treatment Board, as provided in ORS 675.365 to 675.410;
- (10) Long Term Care Administrators Board, as provided in ORS 678.710 to 678.820;
- (11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;
- (12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;
- (13) Board of Certified Advanced Estheticians, as provided in ORS 676.630 to 676.660;
- (14) Art therapy, as provided in ORS 681.740 to 681.758;
- (15) Lactation consultation, as provided in ORS 676.665 to 676.689; *[and]*
- (16) Music therapy, as provided in ORS 681.700 to 681.730; **and**
- (17) Alternative well-being care, as provided in sections 1 to 8 of this 2021 Act.**

SECTION 10. ORS 676.579 is amended to read:

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

(b) The Director of the Oregon Health Authority shall establish the qualifications for and appoint the Director of the Health Licensing Office, who holds office at the pleasure of the Director of the Oregon Health Authority.

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

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

(2) The Director of the Health Licensing Office shall provide the boards, councils and programs administered by the office with any services and employees as the office requires to carry out the office's duties. Subject to any applicable provisions of the State Personnel Relations Law, the Director of the Health Licensing Office shall appoint all subordinate officers and employees of the office, prescribe their duties and fix their compensation.

(3) The Director of the Health Licensing Office is responsible for carrying out the duties, functions and powers under ORS 675.365 to 675.410, 676.560 to 676.625, 676.665 to 676.689, 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700 **and sections 1 to 8 of this 2021 Act.**

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

SECTION 11. ORS 676.590 is amended to read:

676.590. (1) Information obtained by the Health Licensing Office as part of an investigation conducted under the following laws and any reports issued by an investigator are exempt from public disclosure:

(a) ORS 676.630 to 676.660, 676.665 to 676.689, 681.700 to 681.730, 681.740 to 681.758, 690.005 to 690.225, 690.350 to 690.410 or 694.015 to 694.170.

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

(A) Advanced nonablative esthetics under ORS 676.630 to 676.660;

(B) Lactation consultation under ORS 676.665 to 676.689;

(C) Music therapy under ORS 681.700 to 681.730;

(D) Art therapy under ORS 681.740 to 681.758;

(E) Barbering, hair design, esthetics, nail technology or natural hair care under ORS 690.005 to 690.225;

(F) Electrologists and body art practitioners under ORS 690.350 to 690.410; [*or*]

(G) Dealing in hearing aids under ORS 694.015 to 694.170; **or**

(H) Alternative well-being care under sections 1 to 8 of this 2021 Act.

(2) The office shall disclose information obtained as part of an investigation described in subsection (1) of this section to a person who demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

(3) A complaint that forms the basis for an investigation described in subsection (1) of this section shall not be considered information obtained as part of an investigation and is not exempt from public disclosure.

(4) Upon request, the office shall disclose to a person against whom disciplinary action is sought any information obtained as part of an investigation described in section (1) of this section, if the information is not otherwise privileged or confidential under state or federal law.

SECTION 12. ORS 676.612 is amended to read:

676.612. (1) **As used in this section:**

(a) "Authorization" includes a listing on the alternative practitioner registry under section 2 of this 2021 Act.

(b) "Authorization holder" includes a registered alternative practitioner as defined in section 1 of this 2021 Act.

[(1)] (2) Subject to ORS 676.616 and 687.445, and in the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 676.685, 676.825, 678.780, 680.535, 681.733, 681.755, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111 **and section 7 of this 2021 Act**, the Health Licensing Office may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit an authorization or may discipline or place on probation an authorization holder for commission of the prohibited acts listed in subsection [(2)] (3) of this section.

(2) A person subject to the authority of a board, council or program listed in ORS 676.565 commits a prohibited act if the person engages in:

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

(b) Using, causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, insignia or any other representation, however disseminated or

1 published, that is false, misleading or deceptive.

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

5 (d) Practicing under a false, misleading or deceptive name, or impersonating another authori-
6 zation holder.

7 (e) Permitting a person other than the authorization holder to use the authorization.

8 (f) Practicing with a physical or mental condition that presents an unreasonable risk of harm
9 to the authorization holder or to the person or property of others in the course of performing the
10 authorization holder's duties.

11 (g) Practicing while under the influence of alcohol, cannabis, controlled substances or other
12 skill-impairing substances, or engaging in the illegal use of controlled substances or other skill-
13 impairing substances so as to create a risk of harm to the person or property of others in the course
14 of performing the duties of an authorization holder.

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

16 (i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered per-
17 son to practice a regulated occupation or profession subject to the authority of the boards, councils
18 and programs listed in ORS 676.565.

19 (j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from
20 or failure to conform to standards of practice in performing services or practicing in a regulated
21 occupation or profession subject to the authority of the boards, councils and programs listed under
22 ORS 676.565.

23 (k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of con-
24 viction, certified by the clerk of the court entering the conviction, is conclusive evidence of the
25 conviction. A plea of no contest or an admission of guilt is a conviction for purposes of this para-
26 graph.

27 (L) Failing to report any adverse action, as required by statute or rule, taken against the au-
28 thorization holder by another regulatory jurisdiction or any peer review body, health care institu-
29 tion, professional association, governmental agency, law enforcement agency or court for acts or
30 conduct similar to acts or conduct that would constitute grounds for disciplinary action as described
31 in this section.

32 (m) Violation of a statute regulating an occupation or profession subject to the authority of the
33 boards, councils and programs listed in ORS 676.565.

34 (n) Violation of any rule regulating an occupation or profession subject to the authority of the
35 boards, councils and programs listed in ORS 676.565.

36 (o) Failing to cooperate with the office in any investigation, inspection or request for informa-
37 tion.

38 (p) Selling or fraudulently obtaining or furnishing an authorization to practice in a regulated
39 occupation or profession subject to the authority of the boards, councils and programs listed in ORS
40 676.565, or aiding or abetting such an act.

41 (q) Selling or fraudulently obtaining or furnishing any record related to practice in a regulated
42 occupation or profession subject to the authority of the boards, councils and programs listed in ORS
43 676.565, or aiding or abetting such an act.

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

1 (3) For the purpose of requesting a state or nationwide criminal records check under ORS
2 181A.195, the office may require the fingerprints of a person who is:

- 3 (a) Applying for an authorization;
- 4 (b) Applying for renewal of an authorization; or
- 5 (c) Under investigation by the office.

6 (4) If the office places an authorization holder on probation under subsection [(1)] (2) of this
7 section, the office, in consultation with the appropriate board, council or program, may determine
8 and at any time modify the conditions of the probation.

9 (5) If an authorization is suspended, the authorization holder may not practice during the term
10 of suspension. Upon the expiration of the term of suspension, the authorization may be reinstated
11 by the office if the conditions of suspension no longer exist and the authorization holder has satis-
12 fied all requirements in the relevant statutes or administrative rules for issuance, renewal or rein-
13 statement.

14 **SECTION 13.** ORS 676.613 is amended to read:

15 676.613. (1) In addition to all other remedies, when it appears to the Health Licensing Office that
16 a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that
17 violates any provision of ORS 675.365 to 675.410, 676.665 to 676.689, 676.810, 676.815, 678.710 to
18 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 688.701 to
19 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 or 694.015 to
20 694.170 or ORS chapter 700 **or sections 1 to 8 of this 2021 Act**, the office may, through the At-
21 torney General or the district attorney of the county in which the act, practice or transaction oc-
22 curs or will occur, apply to the court for an injunction restraining the person from the act, practice
23 or transaction.

24 (2) A court may issue an injunction under this section without proof of actual damages. An in-
25 junction issued under this section does not relieve a person from any other prosecution or enforce-
26 ment action taken for violation of statutes listed in subsection (1) of this section.

27 **SECTION 14.** ORS 676.622 is amended to read:

28 676.622. (1) A transaction conducted through a state or local system or network that provides
29 electronic access to the Health Licensing Office information and services is exempt from any re-
30 quirement under ORS 675.365 to 675.410, 676.560 to 676.625, 676.665 to 676.689, 676.810, 676.815,
31 676.992, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 688.701 to
32 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to
33 694.170 and ORS chapter 700 **and sections 1 to 8 of this 2021 Act**, and rules adopted thereunder,
34 requiring an original signature or the submission of handwritten materials.

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

37 **SECTION 15.** ORS 676.992 is amended to read:

38 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other
39 penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to
40 exceed \$5,000 for each violation of the following statutes and any rule adopted under the following
41 statutes:

- 42 (a) ORS 688.701 to 688.734 (athletic training);
- 43 (b) ORS 690.005 to 690.225 (cosmetology);
- 44 (c) ORS 680.500 to 680.565 (denture technology);
- 45 (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);

1 (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal im-
2 planting and scarification);

3 (f) ORS 694.015 to 694.170 (dealing in hearing aids);

4 (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);

5 (h) ORS chapter 700 (environmental sanitation);

6 (i) ORS 675.365 to 675.410 (sexual abuse specific treatment);

7 (j) ORS 678.710 to 678.820 (nursing home administrators and residential care facility adminis-
8 trators);

9 (k) ORS 691.405 to 691.485 (dietitians);

10 (L) ORS 676.612 (prohibited acts);

11 (m) ORS 676.810 and 676.815 (applied behavior analysis);

12 (n) ORS 681.700 to 681.730 (music therapy);

13 (o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure);

14 (p) ORS 681.740 to 681.758 (art therapy); [and]

15 (q) ORS 676.665 to 676.689 (lactation consultation); and

16 (r) **Sections 1 to 8 of this 2021 Act (alternative well-being care).**

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

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

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

24 (a) The immediacy and extent to which the violation threatens the public health or safety;

25 (b) Any prior violations of statutes, rules or orders;

26 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-
27 lation; and

28 (d) Any other aggravating or mitigating factors.

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

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

34
35 **CAPTIONS**

36
37 **SECTION 16. The unit captions used in this 2021 Act are provided only for the conven-**
38 **ience of the reader and do not become part of the statutory law of this state or express any**
39 **legislative intent in the enactment of this 2021 Act.**

40
41 **OPERATIVE AND EFFECTIVE DATES**

42
43 **SECTION 17. (1) Sections 1 to 8 of this 2021 Act and the amendments to ORS 676.565,**
44 **676.579, 676.590, 676.612, 676.613, 676.622 and 676.992 by sections 9 to 15 of this 2021 Act become**
45 **operative on January 1, 2022.**

1 **(2) The Health Licensing Office may take any action before the operative date specified**
2 **in subsection (1) of this section that is necessary to enable the authority to exercise, on and**
3 **after the operative date specified in subsection (1) of this section, all of the duties, functions**
4 **and powers conferred on the office by sections 1 to 8 of this 2021 Act and the amendments**
5 **to ORS 676.565, 676.579, 676.590, 676.612, 676.613, 676.622 and 676.992 by sections 9 to 15 of this**
6 **2021 Act.**

7 **SECTION 18.** **This 2021 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
9 **on its passage.**

10