

SENATE AMENDMENTS TO SENATE BILL 1549

By COMMITTEE ON LABOR AND BUSINESS

February 14

1 On page 1 of the printed bill, line 2, after “658.015” insert “, 676.565, 676.579, 676.613, 676.622
2 and 676.625”.

3 Delete lines 5 through 29 and delete pages 2 through 4 and insert:

4 **“SECTION 1. As used in sections 1 to 8 of this 2022 Act:**

5 **“(1) ‘Personnel’ means an individual, regardless of whether the individual is licensed or**
6 **otherwise authorized by the state to practice a health care occupation or profession, who**
7 **provides health care services or assistance with activities of daily living to clients, patients**
8 **or residents for or on behalf of an entity that engages the temporary staffing agency with**
9 **which the individual is associated.**

10 **“(2) ‘Rate’ means the total amount that a temporary staffing agency charges to or re-**
11 **ceives from an entity that engages the temporary staffing agency to assign personnel to the**
12 **entity on a temporary basis.**

13 **“(3)(a) ‘Temporary staffing agency’ means an entity that operates in this state for the**
14 **purpose of providing temporary work to personnel providing health care services or assist-**
15 **ance with activities of daily living for or on behalf of entities that engage the temporary**
16 **staffing agency.**

17 **“(b) ‘Temporary staffing agency’ does not include:**

18 **“(A) A staff arrangement established by an entity solely for use by the entity, or by any**
19 **entity associated with the entity, and in which the only costs are salaries paid to individuals**
20 **who perform work;**

21 **“(B) An individual who provides the individual’s services on a temporary basis;**

22 **“(C) An employment agency as defined in ORS 658.005;**

23 **“(D) Home health agencies licensed under ORS 443.015;**

24 **“(E) In-home care agencies licensed under ORS 443.315; or**

25 **“(F) Home care workers and personal support workers listed on the home care registry**
26 **as defined in ORS 410.600.**

27 **“SECTION 2. (1) Subject to subsection (4) of this section, the Health Licensing Office**
28 **shall issue a temporary staffing agency license to an applicant that submits to the office:**

29 **“(a) An application that includes the names and addresses of the applicant’s officers and**
30 **directors and any other person that has ownership, partnership or a similar interest in the**
31 **applicant;**

32 **“(b) For the purposes of conducting a state or nationwide criminal records check under**
33 **ORS 181A.195, the fingerprints of all individuals described in paragraph (a) of this subsection;**

34 **“(c) Copies of the applicant’s organizational documents, including but not limited to ar-**
35 **ticles of incorporation and other relevant filings;**

1 “(d) Any other information requested by the office; and
2 “(e) A licensure fee.
3 “(2) A license issued under this section is valid for one year and may be renewed. In or-
4 der to renew a license issued under this section, a temporary staffing agency shall submit
5 to the office a renewal application that includes:
6 “(a) Any changes to the information described in subsection (1)(a) or (c) of this section;
7 “(b) Any other information requested by the office; and
8 “(c) A renewal fee.
9 “(3) Every two years after the issuance of a license under subsection (1) of this section,
10 as a condition of license renewal, the office shall require a temporary staffing agency to
11 provide to the office the fingerprints described in subsection (1)(b) of this section for the
12 purpose of conducting updated state and national criminal records checks under ORS
13 181A.195.
14 “(4) The office may refuse to issue or renew a license under this section if the office is
15 not satisfied with the results of a state or nationwide criminal records check conducted un-
16 der ORS 181A.195 using the fingerprints described in subsection (1)(b) of this section.
17 “SECTION 3. The Health Licensing Office shall publish and maintain on a publicly avail-
18 able website operated by or on behalf of the office a list of temporary staffing agencies li-
19 censed under section 2 of this 2022 Act.
20 “SECTION 4. (1) A temporary staffing agency may not operate in this state without a
21 license issued or renewed under section 2 of this 2022 Act.
22 “(2) Each separate physical location of a temporary staffing agency must obtain a license
23 under section 2 of this 2022 Act.
24 “SECTION 5. (1) A temporary staffing agency licensed under section 2 of this 2022 Act
25 shall:
26 “(a) Ensure all personnel for which the temporary staffing agency procures or provides
27 temporary employment meet any professional authorization requirements established for the
28 practice or performance of the services provided by the personnel.
29 “(b) Assign personnel to settings for which the personnel have the appropriate work ex-
30 perience and background to provide the services required by the specific setting.
31 “(c) Retain records for at least 10 years in a manner that makes the records immediately
32 available to the Health Licensing Office upon request of the office.
33 “(d) Meet any other requirements established by the office by rule.
34 “(2) A temporary staffing agency licensed under section 2 of this 2022 Act may not charge
35 to or receive from an entity that engages the temporary staffing agency:
36 “(a) A rate greater than the applicable rate established by the office under section 6 of
37 this 2022 Act; or
38 “(b) Any fees or other amounts related to or associated with the subsequent hiring of
39 personnel by the entity if the entity has not directly solicited, or attempted to solicit, em-
40 ployment of the personnel.
41 “SECTION 6. (1)(a) The Health Licensing Office shall adopt rules to establish rates that
42 a temporary staffing agency licensed under section 2 of this 2022 Act may charge to or re-
43 ceive from an entity that engages the temporary staffing agency.
44 “(b) The office may establish more than one rate under this subsection. The differences
45 in rates may be based on factors including but not limited to geographic regions of this state,

1 personnel education and qualification and settings.

2 “(c) The office shall annually evaluate the rates established under this subsection and,
3 based on changes in the market, average industry wages and other factors the office con-
4 sidered relevant, adjust the rates established under this subsection.

5 “(2)(a) The office shall adopt by rule lists of provisions that an agreement between a
6 temporary staffing agency licensed under section 2 of this 2022 Act and an entity that en-
7 gages the temporary staffing agency:

8 “(A) Must include; and

9 “(B) May not include.

10 “(b) An agreement described in this subsection may include provisions in addition to
11 those required under this subsection.

12 “(c) The office may adopt a template agreement that a temporary staffing agency may,
13 but is not required to, use.

14 “(3) The office may adopt other rules as necessary to carry out sections 1 to 8 of this 2022
15 Act.

16 “SECTION 7. In the manner prescribed in ORS chapter 183 for contested cases, the
17 Health Licensing Office may impose a form of discipline against a temporary staffing agency
18 licensed under section 2 of this 2022 Act for a violation of sections 2, 4, 5 or 6 of this 2022
19 Act or a rule adopted under sections 1 to 8 of this 2022 Act.

20 “SECTION 8. (1) The Health Licensing Office may impose on a temporary staffing agency
21 a civil penalty not to exceed \$500 per day per violation of section 2, 4, 5 or 6 of this 2022 Act
22 or rules adopted under section 6 of this 2022 Act. The office shall consider as a separate vi-
23 olation each assignment of an individual personnel member in violation of section 5 (1) of this
24 2022 Act.

25 “(2) Moneys from civil penalties imposed under this section shall be deposited in the
26 Health Licensing Office Account established under ORS 676.625 for the administration of
27 sections 1 to 8 of this 2022 Act.

28 “SECTION 9. ORS 658.015 is amended to read:

29 “658.015. (1) ORS 658.005 to 658.245 do not apply to:

30 “(a) Labor contractors subject to ORS 658.405 to 658.511; or

31 “(b) A temporary staffing agency as defined in section 1 of this 2022 Act.

32 “(2) ORS 658.005 to 658.245 do not apply to any nonprofit organization or corporation organized
33 for the purpose of economic adjustment, civic betterment and the giving of professional guidance and
34 placement to its members, when all of the following requirements are met:

35 “(a) None of its directors, officers or employees are deriving any profit beyond a nominal salary
36 for services performed on its behalf.

37 “(b) Membership dues and fees are used solely for the maintenance of the organization or cor-
38 poration.

39 “(c) No fee is charged for employment services.

40 “(d) On request of the Commissioner of the Bureau of Labor and Industries, the organization or
41 corporation files with the commissioner, on or before the first day of April of each year, a copy of
42 its constitution or articles of incorporation and its bylaws, together with a sworn statement setting
43 forth its place of business; the names and addresses of its officers, directors and employees, the
44 salaries they receive and the services they actually perform; and the various benefits furnished to
45 its members.

1 “(3) As used in subsection (2) of this section:

2 “(a) ‘Civic betterment’ means the promotion of the common good and general welfare of the
3 people of this state or any political subdivision therein.

4 “(b) ‘Economic adjustment’ means the promotion of a program by which individuals are helped
5 to acquire new professional skills, add to their existing professional skills or change their type of
6 profession.

7 “(4) ORS 658.005 to 658.245 do not apply to a bona fide labor organization of workers or a
8 nonprofit organization or corporation that has been formed in good faith for the regulation, pro-
9 motion and advancement of the general professional interests of its members and that incidentally
10 maintains a placement service principally engaged in securing employment for such members.

11 “**SECTION 10.** ORS 676.565 is amended to read:

12 “676.565. Pursuant to ORS 676.568, the Health Licensing Office shall provide administrative and
13 regulatory oversight and centralized service for the following boards, councils and programs:

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

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

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

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

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

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

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

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

23 “(9) Sexual Offense Treatment Board, as provided in ORS 675.365 to 675.410;

24 “(10) Long Term Care Administrators Board, as provided in ORS 678.710 to 678.820;

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

26 “(12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;

27 “(13) Board of Certified Advanced Estheticians, as provided in ORS 676.630 to 676.660;

28 “(14) Art therapy, as provided in ORS 681.740 to 681.758;

29 “(15) Lactation consultation, as provided in ORS 676.665 to 676.689;

30 “(16) Music therapy, as provided in ORS 681.700 to 681.730; [and]

31 “(17) Genetic counseling, as provided in ORS 676.730 to 676.748; and

32 “**(18) Temporary staffing agencies, as provided in sections 1 to 8 of this 2022 Act.**

33 “**SECTION 11.** ORS 676.579 is amended to read:

34 “676.579. (1)(a) The Health Licensing Office is under the supervision and control of a director,
35 who is responsible for the performance of the duties, functions and powers and for the organization
36 of the office.

37 “(b) The Director of the Oregon Health Authority shall establish the qualifications for and ap-
38 point the Director of the Health Licensing Office, who holds office at the pleasure of the Director
39 of the Oregon Health Authority.

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

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

43 “(2) The Director of the Health Licensing Office shall provide the boards, councils and programs
44 administered by the office with any services and employees as the office requires to carry out the
45 office’s duties. Subject to any applicable provisions of the State Personnel Relations Law, the Di-

1 rector of the Health Licensing Office shall appoint all subordinate officers and employees of the of-
2 fice, prescribe their duties and fix their compensation.

3 “(3) The Director of the Health Licensing Office is responsible for carrying out the duties,
4 functions and powers under ORS 675.365 to 675.410, 676.560 to 676.625, 676.630 to 676.660, 676.665
5 to 676.689, 676.730 to 676.748, 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565,
6 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to
7 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS
8 chapter 700 **and sections 1 to 8 of this 2022 Act.**

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

12 “**SECTION 12.** ORS 676.613 is amended to read:

13 “676.613. (1) In addition to all other remedies, when it appears to the Health Licensing Office
14 that a person is engaged in, has engaged in or is about to engage in any act, practice or transaction
15 that violates any provision of ORS 675.365 to 675.410, 676.630 to 676.660, 676.665 to 676.689, 676.730
16 to 676.748, 676.810, 676.815, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to
17 681.758, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to
18 690.410, 691.405 to 691.485 or 694.015 to 694.170 or ORS chapter 700 **or sections 1 to 8 of this 2022**
19 **Act**, the office may, through the Attorney General or the district attorney of the county in which
20 the act, practice or transaction occurs or will occur, apply to the court for an injunction restraining
21 the person from the act, practice or transaction.

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

25 “**SECTION 13.** ORS 676.622 is amended to read:

26 “676.622. (1) A transaction conducted through a state or local system or network that provides
27 electronic access to the Health Licensing Office information and services is exempt from any re-
28 quirement under ORS 675.365 to 675.410, 676.560 to 676.625, 676.630 to 676.660, 676.665 to 676.689,
29 676.730 to 676.748, 676.810, 676.815, 676.992, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758,
30 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410,
31 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700 **and sections 1 to 8 of this 2022**
32 **Act**, and rules adopted thereunder, requiring an original signature or the submission of handwritten
33 materials.

34 “(2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are accepta-
35 ble and have the same force as original signatures.

36 “**SECTION 14.** ORS 676.625 is amended to read:

37 “676.625. (1) The Health Licensing Office shall establish by rule and shall collect fees and
38 charges to carry out the office’s responsibilities under ORS 676.560 to 676.625, 676.850 and 676.992
39 and any responsibility imposed on the office pertaining to the boards, councils and programs ad-
40 ministered and regulated by the office pursuant to ORS 676.565.

41 “(2) The Health Licensing Office Account is established separate and distinct from the General
42 Fund. The account shall consist of the moneys credited to the account by the Legislative Assembly.
43 All moneys in the account are continuously appropriated to and shall be used by the office for
44 payment of expenses of the office in carrying out the duties, functions and obligations of the office,
45 and for payment of the expenses of the boards, councils and programs administered and regulated

1 by the office pursuant to ORS 676.565. The office shall keep a record of all moneys credited to the
2 account and report the source from which the moneys are derived and the activity of each board,
3 council or program that generated the moneys.

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

9 “(4) All moneys credited to the account pursuant to ORS 676.576 and 676.806, and moneys
10 credited to the account from other office and program fees established by the office by rule, are
11 continuously appropriated to the office for carrying out the duties, functions and powers of the office
12 under ORS 676.560 to 676.625, 676.806, 676.850 and 676.992.

13 “(5) The moneys received from civil penalties assessed under ORS 676.992 **and section 8 of this**
14 **2022 Act** shall be deposited and accounted for as are other moneys received by the office and shall
15 be for the administration and enforcement of the statutes governing the boards, councils and pro-
16 grams administered by the office.

17 “**SECTION 15. (1) Sections 1 to 8 of this 2022 Act and the amendments to ORS 658.015,**
18 **676.565, 676.579, 676.613, 676.622 and 676.625 by sections 9 to 14 of this 2022 Act become oper-**
19 **ative on July 1, 2023.**

20 “(2) **The Health Licensing Office may take any action before the operative date specified**
21 **in subsection (1) of this section that is necessary to enable the office to exercise, on and**
22 **after the operative date specified in subsection (1) of this section, all of the duties, functions**
23 **and powers conferred on the office by sections 1 to 8 of this 2022 Act and the amendments**
24 **to ORS 658.015, 676.565, 676.579, 676.613, 676.622 and 676.625 by sections 9 to 14 of this 2022**
25 **Act.**

26 “**SECTION 16. This 2022 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**
28 **on its passage.”**

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