

## HOUSE AMENDMENTS TO HOUSE BILL 2421

By COMMITTEE ON BEHAVIORAL HEALTH AND HEALTH CARE

April 6

- 1 On page 1 of the printed bill, line 3, after “676.150,” insert “676.595, 676.802, 676.815,”.
- 2 Delete lines 6 and 7 and insert:
- 3 “**SECTION 1.** ORS 676.802 is amended to read:
- 4 “676.802. As used in [*this section, ORS 676.806 and 676.810 to 676.820*] **ORS 676.802 to 676.830:**
- 5 “(1)(a) ‘Applied behavior analysis’ means the design, implementation and evaluation of environ-
- 6 mental modifications, using behavioral stimuli and consequences, to produce significant improvement
- 7 in human social behavior, including the use of direct observation, measurement and functional
- 8 analysis of the relationship between environment and behavior.
- 9 “(b) ‘Applied behavior analysis’ does not mean psychological testing, neuropsychology,
- 10 psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy or long-term counseling
- 11 as treatment modalities.
- 12 “(2) ‘Licensed health care professional’ means an individual whose scope of practice includes
- 13 applied behavior analysis and who is licensed by:
- 14 “(a) The Occupational Therapy Licensing Board;
- 15 “(b) The Oregon Board of Licensed Professional Counselors and Therapists;
- 16 “(c) The Oregon Medical Board;
- 17 “(d) The Oregon State Board of Nursing;
- 18 “(e) The Oregon Board of Physical Therapy;
- 19 “(f) The State Board of Examiners for Speech-Language Pathology and Audiology;
- 20 “(g) The State Board of Licensed Social Workers; or
- 21 “(h) The Oregon Board of Psychology.
- 22 “**SECTION 2.** ORS 676.815 is amended to read:
- 23 “676.815. **(1)** The Health Licensing Office, **in consultation with the Behavior Analysis Reg-**
- 24 **ulatory Board**, shall establish by rule criteria for the registration of behavior analysis
- 25 interventionists. The criteria must include, but are not limited to, the requirement that the appli-
- 26 cant:
- 27 “[1] **(a)** Have a high school diploma, a modified diploma, a certificate for passing an approved
- 28 high school equivalency test such as the General Educational Development (GED) test or a degree
- 29 from a post-secondary institution;
- 30 “[2] **(b)** Be at least 18 years of age;
- 31 “[3] **(c)** Have successfully completed a state and nationwide criminal records check that re-
- 32 quires fingerprinting;
- 33 “[4] **(d)** Have completed at least 40 hours of professional training in applied behavior analysis
- 34 approved by the office by rule; and
- 35 “[5] **(e)** Receive ongoing training and supervision by a licensed behavior analyst, by a licensed

1 assistant behavior analyst or by another licensed health care professional.

2 **“(2) The office shall adopt rules to establish guidelines for the professional methods and**  
3 **procedures to be used by behavior analysis interventionists registered under this section.”.**

4 In line 8, delete “2” and insert “3”.

5 In line 14, delete “3” and insert “4”.

6 In line 20, delete “4” and insert “5”.

7 On page 2, line 33, delete “5” and insert “6”.

8 On page 5, line 4, delete “6” and insert “7”.

9 In line 31, delete “7” and insert “8”.

10 On page 8, line 14, delete “8” and insert “9”.

11 On page 10, line 42, delete “9” and insert “10”.

12 On page 11, line 32, delete “10” and insert “11”.

13 On page 13, delete lines 12 through 23 and insert:

14 **“SECTION 12.** ORS 676.595 is amended to read:

15 “676.595. (1) As used in this section, ‘board’ means the:

16 “(a) Sexual Offense Treatment Board established under ORS 675.395.

17 “(b) Behavior Analysis Regulatory Board created under ORS 676.806.

18 “(c) Long Term Care Administrators Board established under ORS 678.800.

19 “(d) State Board of Denture Technology established under ORS 680.556.

20 “(e) State Board of Direct Entry Midwifery established under ORS 687.470.

21 “(f) Board of Athletic Trainers established under ORS 688.705.

22 “(g) Respiratory Therapist and Polysomnographic Technologist Licensing Board established un-  
23 der ORS 688.820.

24 “(h) Board of Licensed Dietitians established under ORS 691.485.

25 “(i) Environmental Health Registration Board established under ORS 700.210.

26 “(2) Except to the extent that disclosure is necessary to conduct a full and proper investigation,  
27 the Health Licensing Office may not disclose information, including complaints and information  
28 identifying complainants, obtained by the office as part of an investigation conducted under:

29 “(a) ORS 675.365 to 675.410, [676.810 to 676.820, 676.825, 676.830] **676.802 to 676.830**, 678.710 to  
30 678.820, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840 or 691.405 to  
31 691.485 or ORS chapter 700.

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

33 “(A) Sexual abuse specific treatment under ORS 675.365 to 675.410;

34 “(B) Applied behavior analysis under ORS [676.810 to 676.820, 676.825 and 676.830] **676.802 to**  
35 **676.830**;

36 “(C) Nursing home administration and residential care facility administration under ORS 678.710  
37 to 678.820;

38 “(D) The practice of denture technology under ORS 680.500 to 680.565;

39 “(E) Direct entry midwifery under ORS 687.405 to 687.495;

40 “(F) Athletic training under ORS 688.701 to 688.734;

41 “(G) Respiratory care and polysomnography under ORS 688.800 to 688.840;

42 “(H) Dietetics under ORS 691.405 to 691.485; or

43 “(I) Environmental or waste water sanitation under ORS chapter 700.

44 “(3) Notwithstanding subsection (2) of this section, if the office or board decides not to impose  
45 a disciplinary sanction after conducting an investigation described in subsection (2) of this section:

1 “(a) The office shall disclose information obtained as part of the investigation if the person re-  
2 questing the information demonstrates by clear and convincing evidence that the public interest in  
3 disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

4 “(b) The office may disclose to a complainant who made a complaint related to the investigation  
5 a written summary of information obtained as part of the investigation to the extent that disclosure  
6 is necessary to explain the office’s or board’s decision. The person who is the subject of the inves-  
7 tigation may review and obtain a copy of a written summary disclosed under this paragraph after  
8 the office has redacted any information identifying the complainant.

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

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

15 “(b) Information identifying a person who provided information that led to the investigation,  
16 unless the person will provide testimony at a hearing arising out of the investigation.

17 “(c) Information identifying a complainant.

18 “(d) Reports of expert witnesses.

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

22 “(6) The office shall disclose:

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

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

25 “(c) An emergency suspension order.

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

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

29 “(7) The office or board must summarize the factual basis for the office’s or board’s disposition  
30 of:

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

32 “(b) An emergency suspension order; or

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

35 “(8)(a) An office or board record or order, or any part of an office or board record or order, that  
36 is obtained during an investigation described in subsection (2) of this section, during a contested  
37 case proceeding or as a result of entering into a consent order or stipulated agreement is not ad-  
38 missible as evidence and may not preclude an issue or claim in a civil proceeding.

39 “(b) This subsection does not apply to a proceeding between the office or board and a person  
40 against whom discipline is sought as otherwise authorized by law.

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

1           “(b) For purposes of this subsection, ‘public official’ means a member, member-elect or employee  
2 of a public entity as defined in ORS 676.177.

3           “(10) The office may establish fees reasonably calculated to reimburse the actual cost of dis-  
4 closing information to a person against whom discipline is sought as required by subsection (4) of  
5 this section.

6           “**SECTION 13.** (1) The amendments to ORS 109.675, 419B.005, 675.850, 676.150, 676.595,  
7 676.802, 676.815, 676.825, 676.830 and 676.992 and section 2, chapter 771, Oregon Laws 2013, by  
8 sections 1 to 12 of this 2023 Act become operative on January 1, 2024.

9           “(2) The Behavior Analysis Regulatory Board and the Health Licensing Office may take  
10 any action before the operative date specified in subsection (1) of this section that is neces-  
11 sary to enable the board and the office to exercise, on and after the operative date specified  
12 in subsection (1) of this section, all of the duties, functions and powers conferred on the  
13 board and the office by the amendments to ORS 109.675, 419B.005, 675.850, 676.150, 676.595,  
14 676.802, 676.815, 676.825, 676.830 and 676.992 and section 2, chapter 771, Oregon Laws 2013, by  
15 sections 1 to 12 of this 2023 Act.

16           “**SECTION 14.** This 2023 Act takes effect on the 91st day after the date on which the 2023  
17 regular session of the Eighty-second Legislative Assembly adjourns sine die.”