

Requested by Representative REYNOLDS

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2421**

1 On page 1 of the printed bill, line 3, after “676.150,” insert “676.595,  
2 676.802, 676.815.”

3 Delete lines 6 and 7 and insert:

4 **“SECTION 1.** ORS 676.802 is amended to read:

5 “676.802. As used in [*this section, ORS 676.806 and 676.810 to 676.820*] **ORS**  
6 **676.802 to 676.830:**

7 “(1)(a) ‘Applied behavior analysis’ means the design, implementation and  
8 evaluation of environmental modifications, using behavioral stimuli and  
9 consequences, to produce significant improvement in human social behavior,  
10 including the use of direct observation, measurement and functional analysis  
11 of the relationship between environment and behavior.

12 “(b) ‘Applied behavior analysis’ does not mean psychological testing,  
13 neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanal-  
14 ysis, hypnotherapy or long-term counseling as treatment modalities.

15 “(2) ‘Licensed health care professional’ means an individual whose scope  
16 of practice includes applied behavior analysis and who is licensed by:

17 “(a) The Occupational Therapy Licensing Board;

18 “(b) The Oregon Board of Licensed Professional Counselors and Thera-  
19 pists;

20 “(c) The Oregon Medical Board;

21 “(d) The Oregon State Board of Nursing;

- 1 “(e) The Oregon Board of Physical Therapy;  
2 “(f) The State Board of Examiners for Speech-Language Pathology and  
3 Audiology;  
4 “(g) The State Board of Licensed Social Workers; or  
5 “(h) The Oregon Board of Psychology.

6 **“SECTION 2.** ORS 676.815 is amended to read:

7 “676.815. (1) The Health Licensing Office, **in consultation with the**  
8 **Behavior Analysis Regulatory Board**, shall establish by rule criteria for  
9 the registration of behavior analysis interventionists. The criteria must in-  
10 clude, but are not limited to, the requirement that the applicant:

11 “[1] (a) Have a high school diploma, a modified diploma, a certificate  
12 for passing an approved high school equivalency test such as the General  
13 Educational Development (GED) test or a degree from a post-secondary in-  
14 stitution;

15 “[2] (b) Be at least 18 years of age;

16 “[3] (c) Have successfully completed a state and nationwide criminal  
17 records check that requires fingerprinting;

18 “[4] (d) Have completed at least 40 hours of professional training in  
19 applied behavior analysis approved by the office by rule; and

20 “[5] (e) Receive ongoing training and supervision by a licensed behavior  
21 analyst, by a licensed assistant behavior analyst or by another licensed  
22 health care professional.

23 **“(2) The office shall adopt rules to establish guidelines for the pro-**  
24 **fessional methods and procedures to be used by behavior analysis**  
25 **interventionists registered under this section.”.**

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

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

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

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

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

1 In line 31, delete “7” and insert “8”.  
2 On page 8, line 14, delete “8” and insert “9”.  
3 On page 10, line 42, delete “9” and insert “10”.  
4 On page 11, line 32, delete “10” and insert “11”.  
5 On page 13, delete lines 12 through 23 and insert:  
6 **“SECTION 12.** ORS 676.595 is amended to read:  
7 “676.595. (1) As used in this section, ‘board’ means the:  
8 “(a) Sexual Offense Treatment Board established under ORS 675.395.  
9 “(b) Behavior Analysis Regulatory Board created under ORS 676.806.  
10 “(c) Long Term Care Administrators Board established under ORS 678.800.  
11 “(d) State Board of Denture Technology established under ORS 680.556.  
12 “(e) State Board of Direct Entry Midwifery established under ORS  
13 687.470.  
14 “(f) Board of Athletic Trainers established under ORS 688.705.  
15 “(g) Respiratory Therapist and Polysomnographic Technologist Licensing  
16 Board established under ORS 688.820.  
17 “(h) Board of Licensed Dietitians established under ORS 691.485.  
18 “(i) Environmental Health Registration Board established under ORS  
19 700.210.  
20 “(2) Except to the extent that disclosure is necessary to conduct a full  
21 and proper investigation, the Health Licensing Office may not disclose in-  
22 formation, including complaints and information identifying complainants,  
23 obtained by the office as part of an investigation conducted under:  
24 “(a) ORS 675.365 to 675.410, [676.810 to 676.820, 676.825, 676.830] **676.802**  
25 **to 676.830**, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 688.701  
26 to 688.734, 688.800 to 688.840 or 691.405 to 691.485 or ORS chapter 700.  
27 “(b) ORS 676.560 to 676.625 if the investigation is related to the regulation  
28 of:  
29 “(A) Sexual abuse specific treatment under ORS 675.365 to 675.410;  
30 “(B) Applied behavior analysis under ORS [676.810 to 676.820, 676.825 and

1 676.830] **676.802 to 676.830;**

2 “(C) Nursing home administration and residential care facility adminis-  
3 tration under ORS 678.710 to 678.820;

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

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

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

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

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

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

10 “(3) Notwithstanding subsection (2) of this section, if the office or board  
11 decides not to impose a disciplinary sanction after conducting an investi-  
12 gation described in subsection (2) of this section:

13 “(a) The office shall disclose information obtained as part of the investi-  
14 gation if the person requesting the information demonstrates by clear and  
15 convincing evidence that the public interest in disclosure outweighs other  
16 interests in nondisclosure, including the public interest in nondisclosure.

17 “(b) The office may disclose to a complainant who made a complaint re-  
18 lated to the investigation a written summary of information obtained as part  
19 of the investigation to the extent that disclosure is necessary to explain the  
20 office’s or board’s decision. The person who is the subject of the investi-  
21 gation may review and obtain a copy of a written summary disclosed under  
22 this paragraph after the office has redacted any information identifying the  
23 complainant.

24 “(4) Notwithstanding subsection (2) of this section, if a decision is made  
25 to impose a disciplinary sanction and to issue a notice of intent to impose  
26 a disciplinary sanction after conducting an investigation described in sub-  
27 section (2) of this section, upon written request by the person who is the  
28 subject of the investigation, the office shall disclose to the person all infor-  
29 mation obtained by the office or board during the investigation, except that  
30 the office may not disclose:

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

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

6 “(c) Information identifying a complainant.

7 “(d) Reports of expert witnesses.

8 “(5) Information disclosed to a person under subsection (4) of this section  
9 may be further disclosed by the person only to the extent that disclosure is  
10 necessary to prepare for a hearing arising out of the investigation.

11 “(6) The office shall disclose:

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

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

14 “(c) An emergency suspension order.

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

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

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

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

22 “(b) An emergency suspension order; or

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

25 “(8)(a) An office or board record or order, or any part of an office or  
26 board record or order, that is obtained during an investigation described in  
27 subsection (2) of this section, during a contested case proceeding or as a re-  
28 sult of entering into a consent order or stipulated agreement is not admis-  
29 sible as evidence and may not preclude an issue or claim in a civil  
30 proceeding.

1 “(b) This subsection does not apply to a proceeding between the office or  
2 board and a person against whom discipline is sought as otherwise author-  
3 ized by law.

4 “(9)(a) Notwithstanding subsection (2) of this section, the office is not  
5 publicly disclosing information when the office permits other public officials  
6 and members of the press to attend executive sessions where information  
7 obtained as part of an investigation is discussed. Public officials and mem-  
8 bers of the press attending such executive sessions may not disclose infor-  
9 mation obtained as part of an investigation to any other member of the  
10 public.

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

13 “(10) The office may establish fees reasonably calculated to reimburse the  
14 actual cost of disclosing information to a person against whom discipline is  
15 sought as required by subsection (4) of this section.

16 **“SECTION 13. (1) The amendments to ORS 109.675, 419B.005, 675.850,  
17 676.150, 676.595, 676.802, 676.815, 676.825, 676.830 and 676.992 and section  
18 2, chapter 771, Oregon Laws 2013, by sections 1 to 12 of this 2023 Act  
19 become operative on January 1, 2024.**

20 **“(2) The Behavior Analysis Regulatory Board and the Health Li-  
21 censing Office may take any action before the operative date specified  
22 in subsection (1) of this section that is necessary to enable the board  
23 and the office to exercise, on and after the operative date specified in  
24 subsection (1) of this section, all of the duties, functions and powers  
25 conferred on the board and the office by the amendments to ORS  
26 109.675, 419B.005, 675.850, 676.150, 676.595, 676.802, 676.815, 676.825, 676.830  
27 and 676.992 and section 2, chapter 771, Oregon Laws 2013, by sections  
28 1 to 12 of this 2023 Act.**

29 **“SECTION 14. This 2023 Act takes effect on the 91st day after the  
30 date on which the 2023 regular session of the Eighty-second Legislative**

1 **Assembly adjourns sine die.”.**

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