

House Bill 2307

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care for Basic Rights Oregon)

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**.

Prohibits mental health care professionals and social health professionals from providing any service to person under 18 years of age for purpose of attempting to change person's sexual orientation or gender identity.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to efforts to change an individual's orientation; creating new provisions; amending ORS 675.070, 675.300, 675.336, 675.540 and 675.745; and declaring an emergency.

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

SECTION 1. (1) **A mental health care or social health professional may not engage in efforts to change a person's sexual orientation or gender identity if the recipient of those efforts is under 18 years of age.**

(2) **As used in this section:**

(a)(A) **"Efforts to change a person's sexual orientation or gender identity" means the provision of services for the purpose of attempting to change a person's sexual orientation or gender identity, including attempts to change behaviors or expressions of self or to reduce sexual or romantic attractions or feelings toward individuals of the same gender.**

(B) **"Efforts to change a person's sexual orientation or gender identity" does not mean:**

(i) **Counseling that assists a client who is seeking to undergo a gender transition or who is in the process of undergoing a gender transition; or**

(ii) **Counseling that provides a client with acceptance, support and understanding, or counseling that facilitates a client's coping, social support and identity exploration or development, including counseling in the form of sexual orientation-neutral or gender identity-neutral interventions provided for the purpose of preventing or addressing unlawful conduct or unsafe sexual practices, as long as the counseling is not provided for the purpose of attempting to change the client's sexual orientation or gender identity.**

(b)(A) **"Mental health care or social health professional" means:**

(i) **A licensed psychologist as defined in ORS 675.010;**

(ii) **A psychologist associate licensed under ORS 675.065;**

(iii) **An occupational therapist or occupational therapy assistant both as defined in ORS 675.210;**

(iv) **A regulated social worker as defined in ORS 675.510;**

(v) **A licensed marriage and family therapist or licensed professional counselor both as defined in ORS 675.705; and**

(vi) **An individual who provides counseling as part of an educational or training program**

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 **necessary to practice any of the professions described in sub-subparagraphs (i) to (v) of this**
 2 **subparagraph.**

3 **(B) “Mental health care or social health professional” includes any individual not de-**
 4 **scribed in this paragraph who is licensed in this state and whose license authorizes the in-**
 5 **dividual to provide mental health care or social health counseling services.**

6 **(3) Any state board that regulates licensees described in subsection (2)(b)(B) of this sec-**
 7 **tion may impose any form of discipline that the board may impose on a licensee under the**
 8 **laws of this state for violating a law of this state or a rule adopted by the board.**

9 **SECTION 2.** ORS 675.070 is amended to read:

10 675.070. (1) Where any of the grounds enumerated in subsection (2) of this section exist, the
 11 State Board of Psychologist Examiners may impose any of the following sanctions:

12 (a) Deny a license to any applicant;

13 (b) Refuse to renew the license of any psychologist or psychologist associate;

14 (c) Suspend the license of any psychologist or psychologist associate for a period of not less than
 15 one year;

16 (d) Issue a letter of reprimand;

17 (e) Impose probation with authority to restrict the scope of practice of a psychologist or psy-
 18 chologist associate or require practice under supervision;

19 (f) Revoke the license of any psychologist or psychologist associate; or

20 (g) Impose a civil penalty as set forth in subsection (3) of this section.

21 (2) Grounds exist for imposition of any of the sanctions enumerated in subsection (1) of this
 22 section against any psychologist or psychologist associate or applicant, or, where applicable, any
 23 unlicensed person found in violation of ORS 675.010 to 675.150, when, in the judgment of the board,
 24 the person:

25 (a) Has an impairment as defined in ORS 676.303;

26 (b) Has been convicted of violation of any law relating to controlled substances;

27 (c) Has been convicted of any felony or of any misdemeanor involving moral turpitude;

28 (d) Is guilty of immoral or unprofessional conduct or of gross negligence in the practice of psy-
 29 chology which includes but is not limited to:

30 (A) Any conduct or practice contrary to recognized standard of ethics of the psychological
 31 profession or any conduct or practice that constitutes a danger to the health or safety of a patient
 32 or the public, or any conduct, practice or condition that adversely affects a psychologist or psy-
 33 chologist associate’s ability to practice psychology safely and skillfully.

34 (B) Willful ordering or performing of unnecessary tests or studies, administration of unnecessary
 35 treatment, failure to obtain consultations or perform referrals when failing to do so is not consistent
 36 with the standard of care, or otherwise ordering or performing any psychological service or treat-
 37 ment which is contrary to recognized standards of practice of the psychological profession;

38 (e) Has practiced or attempted to practice medicine without being licensed to do so;

39 (f) Has obtained or attempted to obtain a license under ORS 675.010 to 675.150 by fraud or ma-
 40 terial misrepresentation;

41 (g) Has impersonated a licensed psychologist or psychologist associate or has allowed another
 42 person to use the license of the psychologist;

43 (h) Has violated any provision of ORS 675.010 to 675.150 **or section 1 of this 2015 Act** or any
 44 provision of the code of professional conduct formulated under ORS 675.110 (12); or

45 (i) Has obtained a fee or payment from a patient or third party payer through fraud or inten-

1 tional misrepresentation.

2 (3) The board may impose a civil penalty under subsection (1) of this section:

3 (a) In an amount not to exceed \$5,000; or

4 (b) In an amount not to exceed \$10,000, if any of the following conditions exist:

5 (A) The conduct giving rise to the penalty had a serious detrimental effect on the health or
6 safety of another person;

7 (B) The person subject to the penalty has a history of discipline for the same or similar conduct;

8 (C) The conduct giving rise to the penalty involves a willful or reckless disregard of the law;

9 (D) The conduct giving rise to the penalty was perpetrated against a minor, an elderly person
10 or a person with a disability; or

11 (E) The person subject to the penalty violated ORS 675.020 by practicing psychology or repre-
12 senting that the person is a psychologist without having a license.

13 (4) In case of any conviction required under subsection (2) of this section as grounds for denial,
14 refusal, suspension, revocation, reprimand, probation or imposition of a civil penalty, a certified copy
15 of the record of the conviction shall be conclusive evidence.

16 (5) The board may license an applicant or renew or restore any license suspended or revoked
17 under subsection (2)(a) of this section due to a mental health condition if the board determines that
18 the applicant or former licensed psychologist or former psychologist associate no longer has an
19 impairment due to a mental health condition.

20 (6) License suspension or revocation in another state is grounds for license denial or discipli-
21 nary action by the board.

22 **SECTION 3.** ORS 675.300 is amended to read:

23 675.300. (1) The Occupational Therapy Licensing Board may deny, suspend, revoke or refuse to
24 renew a license or may impose probationary conditions where the licensee or applicant has:

25 (a) Committed unprofessional conduct as defined by the standards established by the board;

26 (b) Obtained or attempted to obtain a license by means of fraud, misrepresentation or
27 concealment of material facts;

28 (c) Violated any provision of ORS 675.210 to 675.340 **or section 1 of this 2015 Act** or any order
29 or rule adopted by the board; or

30 (d) Committed gross negligence or incompetence in the performance of professional duties.

31 (2) The board may suspend or revoke the license of any person licensed under ORS 675.210 to
32 675.340 if the licensee has an impairment as defined in ORS 676.303.

33 (3) When the board proposes to refuse to issue or renew a license or proposes to revoke or
34 suspend a license, opportunity for hearing shall be accorded as provided in ORS chapter 183.

35 (4) Judicial review of orders under subsection (3) of this section shall be conducted in accord-
36 ance with ORS chapter 183.

37 (5) Information that the board obtains as part of an investigation into licensee or applicant
38 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
39 licensee or applicant conduct is confidential as provided under ORS 676.175.

40 **SECTION 4.** ORS 675.336 is amended to read:

41 675.336. (1) In addition to any other liability or penalty provided by law, the Occupational
42 Therapy Licensing Board may impose a civil penalty on a person who violates *[the provisions]* **any**
43 **provision** of ORS 675.210 to 675.340 **or section 1 of this 2015 Act** in an amount not to exceed
44 \$1,000 for each violation.

45 (2) The board shall impose civil penalties under this section in the manner provided by ORS

1 183.745.

2 (3) All penalties recovered under this section shall be paid into the Occupational Therapy Li-
3 censing Board Account established in ORS 675.330 and shall be used only for the administration and
4 enforcement of ORS 675.210 to 675.340.

5 **SECTION 5.** ORS 675.540, as amended by section 3, chapter 60, Oregon Laws 2013, is amended
6 to read:

7 675.540. (1) The State Board of Licensed Social Workers may impose any or all of the sanctions
8 specified in subsection (2) of this section, upon proof, after a hearing pursuant to the provisions of
9 ORS chapter 183 relating to a contested case, that a regulated social worker:

10 (a) Has been convicted in this or any other state of a crime that is a felony in this state;

11 (b) Has been convicted of a felony in a federal court;

12 (c) Is unable to perform the practice of social work by reason of physical illness;

13 (d) Has an impairment as defined in ORS 676.303;

14 (e) Has been grossly negligent or has engaged in unprofessional conduct in the practice of social
15 work; or

16 (f) Has violated any provision of ORS 675.510 to 675.600 **or section 1 of this 2015 Act** or any
17 rule adopted under ORS 675.600.

18 (2) Pursuant to the provisions of subsection (1) of this section, the board may:

19 (a) Deny, suspend, revoke or refuse to renew any authorization to practice regulated social work
20 issued under ORS 675.510 to 675.600.

21 (b) Place a regulated social worker on probation and impose conditions or limits on the scope
22 of practice of a regulated social worker.

23 (c) Impose a civil penalty not to exceed \$3,000 for each violation.

24 (3) The expiration, or voluntary surrender by a regulated social worker, of an authorization to
25 practice regulated social work does not deprive the board of jurisdiction to proceed with any in-
26 vestigation of, or any action or disciplinary proceedings against, the regulated social worker.

27 (4) Information that the board obtains as part of an investigation into the conduct of a regulated
28 social worker or an applicant for an authorization to practice regulated social work or as part of
29 a contested case proceeding, consent order or stipulated agreement involving the conduct of a reg-
30 ulated social worker or applicant, is confidential as provided under ORS 676.175.

31 (5) Subject to the provisions of ORS chapter 183 relating to a contested case, the board may
32 impose a civil penalty in an amount up to \$5,000 upon proof that, after a person's authorization to
33 practice regulated social work has been revoked by the board, the person has:

34 (a) Engaged in the practice of clinical social work; or

35 (b) Represented that the person is a regulated social worker.

36 (6) Subject to the provisions of ORS chapter 183 relating to a contested case, the board may
37 impose a civil penalty of up to \$3,000 upon proof that a person who is not a regulated social worker
38 has:

39 (a) Represented that the person is a regulated social worker; or

40 (b) Used the title "social worker" or any title, words or abbreviations that indicate that the
41 person has an authorization to practice regulated social work in violation of ORS 675.520.

42 (7) Subject to the provisions of ORS chapter 183 relating to a contested case, the board may
43 impose a civil penalty of up to \$5,000 upon proof that a person who is not a clinical social worker
44 licensed under ORS 675.530 or a clinical social work associate certified under ORS 675.537 has:

45 (a) Engaged in the practice of clinical social work, unless the person is permitted to practice

1 clinical social work under ORS 675.523; or

2 (b) Represented that the person is a clinical social worker or clinical social work associate.

3 **SECTION 6.** ORS 675.745 is amended to read:

4 675.745. (1) The Oregon Board of Licensed Professional Counselors and Therapists may deny,
5 suspend, revoke or refuse to issue or to renew any license issued under ORS 675.715 to 675.835 upon
6 proof that the applicant for licensure or the licensee:

7 (a) Has been convicted of violating ORS 675.825 or of a crime in this or any other state or ter-
8 ritory or against the federal government that brings into question the competence of the licensee
9 in the role of a counselor or a therapist;

10 (b) Is unable to perform the practice of professional counseling or marriage and family therapy
11 by reason of physical illness;

12 (c) Has an impairment as defined in ORS 676.303;

13 (d) Has been grossly negligent in the practice of professional counseling or marriage and family
14 therapy;

15 **(e) Has violated any provision of ORS 675.715 to 675.835 or section 1 of this 2015 Act;**

16 [(e)] **(f)** Has violated [*one or more of the rules*] **any rule** of the board pertaining to the licensure
17 of professional counselors or licensed marriage and family therapists;

18 [(f)] **(g)** Has failed to file a professional disclosure statement or has filed a false, incomplete or
19 misleading professional disclosure statement;

20 [(g)] **(h)** Has practiced outside the scope of activities, including administering, constructing or
21 interpreting tests or diagnosing or treating mental disorders, for which the licensee has individual
22 training and qualification; or

23 [(h)] **(i)** Has been disciplined by a state mental health licensing board or program in this or any
24 other state for violation of competency or conduct standards.

25 (2)(a) The board may reprimand or impose probation on a licensee or a registered intern upon
26 proof of any of the grounds for discipline provided in subsection (1) of this section.

27 (b) If the board elects to place a licensee or a registered intern on probation, the board may
28 impose:

29 (A) Restrictions on the scope of practice of the licensee or intern;

30 (B) Requirements for specific training;

31 (C) Supervision of the practice of the licensee or intern; or

32 (D) Other conditions the board finds necessary for the protection of the public.

33 (3) The board may initiate [*action*] **injunctive proceedings in any circuit court** against persons
34 violating any provision of ORS 675.715 to 675.835 or any rules adopted by the board.

35 (4) Pursuant to ORS 183.745, the board may impose a civil penalty of not more than \$2,500 for
36 each ground for discipline listed in subsection (1) of this section found by the board.

37 (5) Pursuant to ORS 183.745, the board may impose a civil penalty of not more than \$2,500 for
38 each violation of or failure to observe any limitation or condition imposed by the board on the
39 licensee's or registered intern's practice under subsection (2) of this section.

40 (6) Information that the board obtains as part of an investigation into licensee or applicant
41 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
42 licensee or applicant conduct is confidential as provided under ORS 676.175.

43 (7) In addition to the actions authorized by subsections (1) and (2) of this section, the board may
44 take such disciplinary action as the board in its discretion finds proper, including but not limited
45 to the assessment of the costs of the disciplinary process.

1 **SECTION 7. This 2015 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
3 **on its passage.**

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