

# Enrolled Senate Bill 29

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CHAPTER .....

AN ACT

Relating to public health; creating new provisions; amending ORS 109.610, 413.101, 418.325, 431A.055, 431A.070, 431A.183, 432.510, 432.520, 433.004, 433.045, 433.055, 433.075, 433.269, 433.847, 435.010, 442.315, 443.035, 448.011, 448.020, 448.030, 448.051, 448.060, 448.100, 475B.895, 676.150, 676.560, 676.565, 676.579, 676.590, 676.595, 676.608, 676.612, 676.613, 676.622, 676.669, 676.689, 677.370, 681.730, 681.743, 681.746, 681.749, 681.758, 682.025, 682.035, 682.039, 682.208, 688.815 and 700.035; repealing ORS 181A.330 and 181A.335 and section 2, chapter \_\_\_, Oregon Laws 2019 (Enrolled Senate Bill 142); and declaring an emergency.

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

## SEXUALLY TRANSMITTED INFECTIONS

**SECTION 1.** ORS 109.610 is amended to read:

109.610. (1) Notwithstanding any other provision of law, a minor who may have come into contact with any [*venereal disease*] **sexually transmitted infection**, including HIV, may give consent to the furnishing of hospital, medical or surgical care related to the diagnosis or treatment of [*such disease*] **the sexually transmitted infection**, if the [*disease or condition*] **sexually transmitted infection** is one [*which*] **that** is required by law or regulation adopted pursuant to law to be reported to a state or local health agency or officer. [*Such consent shall not be subject to disaffirmance because of minority*] **Consent given under this subsection may not be disaffirmed based on minority.**

[*(2) The consent of the parent, parents, or legal guardian of such minor shall not be necessary to authorize such hospital, medical or surgical care and without having given consent the parent, parents, or legal guardian shall not be liable for payment for any such care rendered.*]

**(2)(a) The consent of a parent or legal guardian of a minor described in subsection (1) of this section is not required to authorize the care described in subsection (1) of this section.**

**(b) A parent or legal guardian who does not consent to the care described in subsection (1) of this section is not liable for payment for the care provided under subsection (1) of this section.**

**SECTION 1a.** If Senate Bill 142 becomes law, section 2, chapter \_\_\_, Oregon Laws 2019 (Enrolled Senate Bill 142) (amending ORS 109.610), is repealed and ORS 109.610, as amended by section 1 of this 2019 Act, is amended to read:

109.610. (1) Notwithstanding any other provision of law, a minor who may have come into contact with any sexually transmitted infection[, including HIV,] may give consent to the furnishing of hospital, medical or surgical care related to the diagnosis or treatment of the sexually transmitted infection, if the sexually transmitted infection is one that is required by law or regulation adopted pursuant to law to be reported to a state or local health agency or officer. Consent given under this subsection may not be disaffirmed based on minority.

(2)(a) The consent of a parent or legal guardian of a minor described in subsection (1) of this section is not required to authorize the care described in subsection (1) of this section.

(b) A parent or legal guardian who does not consent to the care described in subsection (1) of this section is not liable for payment for the care provided under subsection (1) of this section.

**SECTION 1b. The amendments to ORS 109.610 by section 1a of this 2019 Act become operative on the effective date of chapter \_\_, Oregon Laws 2019 (Enrolled Senate Bill 142).**

**SECTION 2.** ORS 418.325 is amended to read:

418.325. (1) A child-caring agency that is subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 shall safeguard the health of each child, ward or other dependent or delinquent child to whom the agency provides care or services by providing for medical examinations of each child by a qualified physician or naturopathic physician at the following intervals:

- (a) Three examinations during the first year of the child's life;
- (b) One examination during the second year of the child's life;
- (c) One examination at the age of four;
- (d) One examination at the age of six;
- (e) One examination at the age of nine; and
- (f) One examination at the age of 14.

(2) If an examination under subsection (1) of this section has not occurred within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, a child-caring agency shall provide for a medical examination of such child within six months prior to such transfer.

(3) Any testing that occurs at intervals other than those specified in subsections (1) and (2) of this section shall not be considered to be in lieu of the required examinations. However, nothing in subsections (1) and (2) of this section is intended to limit more frequent examinations that are dictated by the general state of the child's health or by any particular condition.

(4) Within 90 days of obtaining custody of a child under six years of age, a child-caring agency shall provide for the child to be:

(a) Inoculated as determined appropriate by the local [health department] **public health authority**; and

(b) Tested for:

- (A) Phenylketonuria pursuant to ORS 433.285;
- (B) Visual and aural acuity consistent with the child's age;
- (C) Sickle-cell anemia;
- (D) Effects of rubella, if any;
- (E) Effects of parental [venereal disease] **sexually transmitted infection**, if any; and
- (F) The hereditary or congenital effects of parental use of drugs or controlled substances.

(5) Within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, the child-caring agency shall provide for such child to have a complete physical examination by a physician or naturopathic physician, including but not limited to inspection for evidence of child abuse in accordance with rules of the Department of Human Services, and be tested for visual and aural acuity consistent with the child's age.

(6) A child-caring agency shall record the results of tests provided a child pursuant to subsections (1) to (5) of this section in the child's health record. The child's health record shall be kept as a part of the agency's total records of that child. The child's health record shall be made available to both natural parents and to both prospective foster or adoptive parents of that child. A

qualified member of a child-caring agency under the supervision of a qualified physician or naturopathic physician shall explain to adoptive parents the medical factors possible as a result of a child's birth history, hereditary or congenital defects, or disease or disability experience.

**SECTION 3.** ORS 435.010 is amended to read:

435.010. (1) [No] Appliances, drugs or medicinal preparations intended or having special utility for the prevention of conception or [venereal diseases] **sexually transmitted infections**, or both, [shall] **may not** be manufactured or sold at wholesale in this state without a license issued by the State Board of Pharmacy, as provided in ORS 435.010 to 435.130, which licenses shall be in addition to other licenses required by law.

(2) The prohibitions of subsection (1) of this section do not apply to practitioners as defined in ORS 689.005.

**SECTION 4.** ORS 677.370 is amended to read:

677.370. [No] Semen [shall] **may not** be donated for use in artificial insemination by any person who:

(1) Has any disease or defect known by [him] **the person** to be transmissible by genes; or

(2) Knows or has reason to know [he has a venereal disease] **that the person has a sexually transmitted infection.**

## HOSPITALS AND HOME HEALTH AGENCIES

**SECTION 5.** ORS 442.315, as amended by section 23, chapter 608, Oregon Laws 2013, and section 10, chapter 718, Oregon Laws 2017, is amended to read:

442.315. (1) Any new hospital or new skilled nursing or intermediate care service or facility not excluded pursuant to ORS 441.065 shall obtain a certificate of need from the Oregon Health Authority prior to an offering or development.

(2) The authority shall adopt rules specifying criteria and procedures for making decisions as to the need for the new services or facilities.

(3)(a) An applicant for a certificate of need shall apply to the authority on forms provided for this purpose by authority rule.

(b) An applicant shall pay a fee prescribed as provided in this section. Subject to the approval of the Oregon Department of Administrative Services, the authority shall prescribe application fees, based on the complexity and scope of the proposed project.

(4)(a) The authority shall [be the decision-making authority for the purpose of certificates of need] **issue a draft recommendation in response to an application for a certificate of need.**

(b) The authority may establish an expedited review process for an application for a certificate of need to rebuild a long term care facility, relocate buildings that are part of a long term care facility or relocate long term care facility bed capacity from one long term care facility to another. The authority shall issue a [proposed order] **draft recommendation** not later than 120 days after the date a complete application [for] **subject to** expedited review is received by the authority.

(5)(a) An applicant or any affected person who is dissatisfied with the [proposed decision] **draft recommendation** of the authority is entitled to an informal hearing **before the authority** in the course of review and before a [final] **proposed** decision is rendered. **Following an informal hearing, or if no applicant or affected person requests an informal hearing within a period of time prescribed by the authority by rule, the authority shall issue a proposed decision.**

[b) Following a final decision being rendered by the authority, an applicant or any affected person may request a reconsideration hearing pursuant to ORS chapter 183.]

[c) In any proceeding brought by an affected person or an applicant challenging an authority decision under this subsection, the authority shall follow procedures consistent with the provisions of ORS chapter 183 relating to a contested case.]

(b) **An applicant or affected person is entitled to a contested case hearing in accordance with ORS chapter 183 to challenge the proposed decision of the authority. Following a contested case hearing, or if no applicant or affected person requests a contested case hearing**

**within a period of time prescribed by the authority by rule, the authority shall issue a final order granting, with or without limitations, or denying the certificate of need.**

(6) Once a certificate of need has been *issued* **granted**, it may not be revoked or rescinded unless it was acquired by fraud or deceit. However, if the authority finds that a person is offering or developing a project that is not within the scope of the certificate of need, the authority may limit the project as specified in the *issued* **granted** certificate of need or reconsider the application. A certificate of need is not transferable.

(7) Nothing in this section applies to any hospital, skilled nursing or intermediate care service or facility that seeks to replace equipment with equipment of similar basic technological function or an upgrade that improves the quality or cost-effectiveness of the service provided. Any person acquiring such replacement or upgrade shall file a letter of intent for the project in accordance with the rules of the authority if the price of the replacement equipment or upgrade exceeds \$1 million.

(8) Except as required in subsection (1) of this section for a new hospital or new skilled nursing or intermediate care service or facility not operating as a Medicare swing bed program, nothing in this section requires a rural hospital as defined in ORS 442.470 (6)(a)(A) and (B) to obtain a certificate of need.

(9) Nothing in this section applies to basic health services, but basic health services do not include:

- (a) Magnetic resonance imaging scanners;
- (b) Positron emission tomography scanners;
- (c) Cardiac catheterization equipment;
- (d) Megavoltage radiation therapy equipment;
- (e) Extracorporeal shock wave lithotriptors;
- (f) Neonatal intensive care;
- (g) Burn care;
- (h) Trauma care;
- (i) Inpatient psychiatric services;
- (j) Inpatient chemical dependency services;
- (k) Inpatient rehabilitation services;
- (L) Open heart surgery; or
- (m) Organ transplant services.

(10) In addition to any other remedy provided by law, whenever it appears that any person is engaged in, or is about to engage in, any acts that constitute a violation of this section, or any rule or order issued by the authority under this section, the authority may institute proceedings in the circuit courts to enforce obedience to such statute, rule or order by injunction or by other processes, mandatory or otherwise.

(11) As used in this section, "basic health services" means health services offered in or through a hospital licensed under ORS chapter 441, except skilled nursing or intermediate care nursing facilities or services and those services specified in subsection (9) of this section.

**SECTION 6.** ORS 443.035 is amended to read:

443.035. (1) The Oregon Health Authority may grant a license to a home health agency or caregiver registry for a calendar year, may annually renew a license and may allow for a change of ownership, upon payment of a fee as follows:

*[(a) For a new home health agency:]*

*[(A) \$1,600; and]*

*[(B) An additional \$1,600 for each subunit of a parent home health agency.]*

*[(b) For renewal of a home health agency license:]*

*[(A) \$850; and]*

*[(B) An additional \$850 for each subunit of a parent home health agency.]*

*[(c) For a change of ownership of a home health agency at a time other than the annual renewal date:]*

*[(A) \$500; and]*

- [(B) An additional \$500 for each subunit of a parent home health agency.]
- [(d) For a new caregiver registry:]
- [(A) \$1,500; and]
- [(B) An additional \$750 for each subunit of a caregiver registry.]
- [(e) For renewal of a caregiver registry license:]
- [(A) \$750; and]
- [(B) An additional \$750 for each subunit of a caregiver registry.]
- [(f) For a change of ownership of a caregiver registry at a time other than the annual renewal date:]
- [(A) \$350; and]
- [(B) An additional \$350 for each subunit of a caregiver registry.]
- (a) \$1,600 for a new home health agency license.**
- (b) \$850 for a renewal of a home health agency license.**
- (c) \$500 for a change of ownership of a home health agency at a time other than the annual renewal date.**
- (d)(A) \$1,500 for a new caregiver registry license; and**
- (B) \$750 for each subunit of a newly licensed caregiver registry.**
- (e)(A) \$750 for a renewal of a caregiver registry license; and**
- (B) \$750 for each subunit of a caregiver registry described in subparagraph (A) of this paragraph.**
- (f)(A) \$350 for a change of ownership of a caregiver registry at a time other than the annual renewal date; and**
- (B) \$350 for each subunit of a caregiver registry described in subparagraph (A) of this paragraph.**

(2) Notwithstanding subsection (1)(c) or (f) of this section, the fee for a change in ownership shall be \$100 if a change in ownership does not involve:

- (a) The majority owner or partner; or
- (b) The administrator operating the agency or registry.

(3) All fees received pursuant to subsection (1) of this section shall be paid over to the State Treasurer and credited to the Public Health Account. Such moneys are appropriated continuously to the Oregon Health Authority for the administration of ORS 443.014 to 443.105.

**SECTION 7. (1) The amendments to ORS 442.315 and 443.035 by sections 5 and 6 of this 2019 Act become operative on January 1, 2020.**

**(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 442.315 and 443.035 by sections 5 and 6 of this 2019 Act.**

## TOBACCO AND INHALANT DELIVERY SYSTEMS

**SECTION 8.** ORS 431A.183 is amended to read:

431A.183. (1)(a) The Oregon Health Authority [shall:]

**[(a) Coordinate with law enforcement agencies] may enter into an agreement with federal agencies to assist the authority in monitoring and enforcing federal laws and regulations related to tobacco products or inhalant delivery systems.**

**(b) The authority may commission employees of the authority as federal officers for the purpose of carrying out the duties prescribed under an agreement entered into under paragraph (a) of this subsection.**

**(c) The authority may adopt rules and take any action necessary to carry out the authority's duties as established under an agreement entered into under paragraph (a) of this subsection.**

(2) **The authority may enter into an agreement with federal, state and local government agencies, including federal, state and local law enforcement agencies, to assist the authority in carrying out the authority's duties under ORS 431A.175 and to conduct random, unannounced inspections of wholesalers and retailers of tobacco products or inhalant delivery systems to ensure compliance with the laws of this state designed to discourage the use of tobacco products and inhalant delivery systems by persons under 21 years of age, including ORS 167.750, 167.755, 167.760, 167.765, 167.775, 167.780 and 431A.175[; and].**

(3)(a) **If the authority enters into an agreement with the Department of State Police under subsection (2) of this section, the department may employ retired state police officers who are active reserve officers. Service by a retired state police officer under this paragraph is subject to ORS 238.082.**

(b) **The department may not use the services of a retired state police officer to displace an active state police member.**

(4)(a) **The authority may apply for and accept moneys from the federal government or other public or private sources and, in accordance with any federal restrictions or other funding source restrictions, use those moneys to carry out the duties and functions related to preventing the use of tobacco products or inhalant delivery systems by persons who are not of the minimum age to purchase tobacco products or inhalant delivery systems.**

(b) **Moneys received by the authority under paragraph (a) of this subsection shall be deposited in the Oregon Health Authority Fund established under ORS 413.101. Moneys subject to a federal restriction or other funding source restriction must be accounted for separately from other fund moneys.**

(5)(a) **The authority shall submit a written report each biennium to the Governor and to the appropriate committee or interim committee of the Legislative Assembly to which matters of public health are assigned.**

(b) **The report submitted under this subsection must contain information [Submit a report] describing:**

(A) **The activities carried out to enforce the laws listed in [paragraph (a)] subsection (2) of this [subsection] section during the previous [fiscal year] biennium;**

(B) **The extent of success achieved in reducing the availability of tobacco products and inhalant delivery systems to persons under 21 years of age; and**

(C) **The strategies to be utilized for enforcing the laws listed in [paragraph (a)] subsection (2) of this [subsection] section during the [year] biennium following the report.**

[(2)] (6) **The authority shall adopt rules for conducting random inspections of establishments that distribute or sell tobacco products or inhalant delivery systems. The rules shall provide that inspections may take place:**

(a) **Only in areas open to the public;**

(b) **Only during the hours that tobacco products or inhalant delivery systems are distributed or sold; and**

(c) **No more frequently than once a month in any single establishment unless a compliance problem exists or is suspected.**

[(3) *The Oregon Liquor Control Commission, pursuant to an agreement or otherwise, may assist the authority with the authority's duties under subsection (1)(a) of this section and the enforcement of ORS 431A.175.*]

**SECTION 9.** ORS 433.847 is amended to read:

433.847. (1) **The Oregon Health Authority shall adopt rules establishing a certification system for smoke shops and any rules necessary for the implementation, administration and enforcement of ORS 433.835 to 433.875. In adopting [such] rules under this section, the authority shall prohibit the smoking, aerosolizing or vaporizing of inhalants that are not tobacco products in smoke shops.**

(2) **The authority shall issue a smoke shop certification to a business that:**

(a)(A) Is primarily engaged in the sale, for off-premises consumption or use, of tobacco products and smoking instruments used to smoke tobacco products, with at least 75 percent of the gross revenues of the business resulting from such sales;

(B) Prohibits persons under 21 years of age from entering the premises;

(C) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting on the premises;

(D) Does not:

(i) Sell or offer food or beverages [*and does not sell, offer or allow on-premises consumption of alcoholic beverages*], **including alcoholic beverages, for on-premises consumption; or**

**(ii) Allow on-premises consumption of alcoholic beverages;**

(E) Is a stand-alone business with no other businesses or residential property attached to the premises;

(F) Has a maximum seating capacity of four persons; and

(G) Allows the smoking of tobacco product samples only for the purpose of making retail purchase decisions;

(b) On December 31, 2008:

(A) Met the requirements of paragraph (a)(A) to (D) of this subsection; and

(B)(i) Was a stand-alone business with no other businesses or residential property attached; or

(ii) Had a ventilation system that exhausted smoke from the business and was designed and terminated in accordance with the state building code standards for the occupancy classification in use; or

(c)(A) Was certified as a smoke shop under ORS 433.835, as in effect immediately before June 30, 2011, by the authority on or before December 31, 2012; [*and*]

(B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes[.];

**(C) Does not:**

**(i) Sell or offer alcoholic beverages for on-premises consumption; or**

**(ii) Allow on-premises consumption of alcoholic beverages; and**

**(D) Prohibits persons under 21 years of age from entering the premises.**

(3) A smoke shop certified under subsection (2)(b) of this section must renew the smoke shop certification every five years by demonstrating to the satisfaction of the authority that the smoke shop:

(a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section; and

(B)(i) Is a stand-alone business with no other businesses or residential property attached; or

(ii) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(4) A smoke shop certified under subsection (2)(c) of this section must renew the smoke shop certification every five years by demonstrating to the satisfaction of the authority that the smoke shop:

(a) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; [*and*]

(b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes[.];

**(c) Does not:**

**(i) Sell or offer alcoholic beverages for on-premises consumption; or**

**(ii) Allow on-premises consumption of alcoholic beverages; and**

**(d) Prohibits persons under 21 years of age from entering the premises.**

(5) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may transfer the certification with ownership of the smoke shop if the transfer is made in accordance with rules adopted by the authority.

(6) A smoke shop certified under subsection (2)(b) of this section may continue to be certified in a new location under subsection (2)(b) of this section if:

(a)(A) The new location occupies no more than 3,500 square feet; or

(B) If the old location occupied more than 3,500 square feet, the new location occupies no more than 110 percent of the space occupied by the old location; and

(b) The smoke shop as operated in the new location:

(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section;

(B)(i) Is a stand-alone business with no other businesses or residential property attached; or

(ii) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(C) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(7) A smoke shop certified under subsection (2)(c) of this section may continue to be certified in a new location under subsection (2)(c) of this section if:

(a)(A) The new location occupies no more than 3,500 square feet; or

(B) If the old location occupied more than 3,500 square feet, the new location occupies no more than 110 percent of the space occupied by the old location; and

(b) The smoke shop as operated in the new location:

(A) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; [and]

(B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes[.];

(C) **Does not:**

(i) **Sell or offer alcoholic beverages for on-premises consumption; or**

(ii) **Allow on-premises consumption of alcoholic beverages; and**

(D) **Prohibits persons under 21 years of age from entering the premises.**

(8) Rules adopted under this section must provide that, in order to obtain a smoke shop certification, a business must agree to allow the authority to make unannounced inspections of the business to determine compliance with ORS 433.835 to 433.875.

**(9)(a) Subject to ORS chapter 183, the authority may revoke or refuse to issue or renew a certification to a smoke shop for a violation of any provision of ORS 433.835 to 433.875 or a violation of any rule adopted under ORS 433.835 to 433.875.**

**(b) If the authority revokes the certification or denies the renewal of the certification of a smoke shop that was certified under subsection (2)(b) or (c) of this section, the authority may not issue a new certification to the smoke shop under subsection (2)(b) or (c) of this section.**

**SECTION 10.** ORS 413.101 is amended to read:

413.101. The Oregon Health Authority Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Health Authority Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority for carrying out the duties, functions and powers of the authority under ORS 413.032 **and 431A.183.**

**SECTION 11.** The State Police Tobacco Law Enforcement Fund established under ORS 181A.330 is abolished. Any unexpended balances of amounts authorized to be expended by the Department of State Police, from moneys continuously appropriated, appropriated or otherwise made available to the fund for the purpose of carrying out the duties, functions and powers of the program described in ORS 181A.335, remaining in the fund on the operative date specified in section 12 of this 2019 Act are transferred to the Oregon Health Authority Fund established under ORS 413.101. The moneys transferred are available for expenditure by the Oregon Health Authority for the purpose of administering and enforcing the duties of the authority under ORS 431A.183.

**SECTION 12.** (1) Section 11 of this 2019 Act and the amendments to ORS 413.101, 431A.183 and 433.847 by sections 8, 9 and 10 of this 2019 Act become operative on January 1, 2020.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by section 11 of this 2019 Act and the amendments to ORS 413.101, 431A.183 and 433.847 by sections 8, 9 and 10 of this 2019 Act.

#### HEALTH LICENSING OFFICE

**SECTION 13.** ORS 676.150, as amended by section 19, chapter 61, Oregon Laws 2018, is amended to read:

676.150. (1) As used in this section:

(a) "Board" means the:

- (A) State Board of Examiners for Speech-Language Pathology and Audiology;
- (B) State Board of Chiropractic Examiners;
- (C) State Board of Licensed Social Workers;
- (D) Oregon Board of Licensed Professional Counselors and Therapists;
- (E) Oregon Board of Dentistry;
- (F) Board of Licensed Dietitians;
- (G) State Board of Massage Therapists;
- (H) Oregon Board of Naturopathic Medicine;
- (I) Oregon State Board of Nursing;
- (J) Long Term Care Administrators Board;
- (K) Oregon Board of Optometry;
- (L) State Board of Pharmacy;
- (M) Oregon Medical Board;
- (N) Occupational Therapy Licensing Board;
- (O) Physical Therapist Licensing Board;
- (P) Oregon Board of Psychology;
- (Q) Board of Medical Imaging;
- (R) State Board of Direct Entry Midwifery;
- (S) State Board of Denture Technology;
- (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
- (U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;
- (V) Oregon State Veterinary Medical Examining Board; or
- (W) State Mortuary and Cemetery Board.

(b) "Licensee" means a health professional licensed or certified by or registered with a board.

(c) "Prohibited conduct" means conduct by a licensee that:

- (A) Constitutes a criminal act against a patient or client; or
- (B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board's rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7)(a) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175.

(b) A board may disclose a report as provided in ORS 676.177.

**(c) If the Health Licensing Office receives a report described in this subsection, the report is confidential and the office may only disclose the report pursuant to ORS 676.595 and 676.599.**

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section.

**SECTION 14.** ORS 676.560 is amended to read:

676.560. (1) To provide for the more effective coordination of administrative and regulatory functions of certain health boards, [and] councils **and programs** involved in protecting the public through the licensing and regulation of health-related professions and occupations practiced in this state under a uniform mission and uniform goals, the Health Licensing Office is created within the Oregon Health Authority.

(2) The mission of the office is to serve the public by providing a uniform structure and accountability for the boards, [and] councils **and programs** under its administration to protect the public from harm. The office's focus is to:

(a) Promote effective health policy that protects the public from incompetent or unauthorized individuals and allows consumers to select a provider from a range of safe options.

(b) Provide outreach and training to stakeholders to improve compliance with public health and safety standards, and to involve stakeholders in the regulation of the various disciplines and fields of practice.

(c) Form partnerships and work in collaboration with each constituency, local and state governmental agencies, educators, organizations and other affected entities to encourage diverse opinions and perspectives.

(d) Provide the boards, [and] councils **and programs** with a standardized administrative forum and procedures for operation, fiscal services, licensing, enforcement and complaint resolution.

(e) Resolve disputes between regulatory entities regarding the scope of practice of persons with authorization by those entities in the professions and occupations overseen by those boards, [and] councils **and programs**.

**SECTION 15.** ORS 676.565, as amended by section 22, chapter 61, Oregon Laws 2018, 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) Sex Offender Treatment Board, as provided in ORS 675.360 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; *[and]*
- (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.**

**SECTION 16.** 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 675.360 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.

(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 17.** ORS 676.590 is amended to read:

676.590. (1) *[Upon request, the Health Licensing Office shall disclose to a person against whom disciplinary action is sought information, including complaints and information identifying complainants, but not including information that is otherwise privileged or confidential under state or federal law,]* **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;**

[(B)] (C) Music therapy under ORS 681.700 to 681.730;

**(D) Art therapy under ORS 681.740 to 681.758;**

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

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

[(E)] (G) Dealing in hearing aids under ORS 694.015 to 694.170.

(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 18.** ORS 676.595, as amended by section 23, chapter 61, Oregon Laws 2018, is amended to read:

676.595. (1) As used in this section, "board" means the:

(a) Sex Offender Treatment Board established under ORS 675.395.

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

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

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

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

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

(g) Respiratory Therapist and Polysomnographic Technologist Licensing Board established under ORS 688.820.

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

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

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

(a) ORS 675.360 to 675.410, 676.810 to 676.820, **676.825, 676.830**, 678.710 to 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 691.485 or ORS chapter 700.

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

(A) Sex offender therapy under ORS 675.360 to 675.410;

**(B) Applied behavior analysis under ORS 676.810 to 676.820, 676.825 and 676.830;**

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

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

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

(F) Athletic training under ORS 688.701 to 688.734;

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

(H) Dietetics under ORS 691.405 to 691.485; or

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

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

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

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

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

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

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

(c) Information identifying a complainant.

(d) Reports of expert witnesses.

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

(6) The office shall disclose:

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

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

(c) An emergency suspension order.

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

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

(7) The office **or board** must summarize the factual basis for the office's **or board's** disposition of:

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

(b) An emergency suspension order; or

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

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

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

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

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

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

**SECTION 19.** ORS 676.608 is amended to read:

676.608. (1) As used in this section, "public entity" has the meaning given that term in ORS 676.177.

(2)(a) The Health Licensing Office shall carry out the investigatory duties necessary to enforce the provisions of ORS 676.560 to 676.625 and 676.992.

(b) Subject to subsection (12) of this section, the office, upon its own motion, may initiate and conduct investigations of matters relating to the practice of occupations or professions subject to the authority of the boards, councils and programs listed in ORS 676.565.

**(c) Subject to subsection (12) of this section, the office shall investigate all complaints received by the office relating to the practice of occupations or professions subject to the authority of the boards, councils and programs listed in ORS 676.565.**

(3) While conducting an investigation authorized under subsection (2) of this section or a hearing related to an investigation, the office may:

(a) Take evidence;

(b) Administer oaths;

(c) Take the depositions of witnesses, including the person charged;

(d) Compel the appearance of witnesses, including the person charged;

(e) Require answers to interrogatories;

(f) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation; and

(g) Conduct criminal and civil background checks to determine conviction of a crime that bears a demonstrable relationship to the field of practice.

(4) In exercising its authority under this section, the office may issue subpoenas over the signature of the Director of the Health Licensing Office or designated employee of the director and in the name of the State of Oregon.

(5) If a person fails to comply with a subpoena issued under this section, the judge of the Circuit Court for Marion County may compel obedience by initiating proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court.

(6) If necessary, the director, or an employee designated by the director, may appear before a magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer, to enter the described property, to remove any person or obstacle, to defend any threatened violence to the director or a designee of the director or an officer, upon entering private property, or to assist the director in enforcing the office's authority in any way.

(7) In all investigations and hearings, the office and any person affected by the investigation or hearing may have the benefit of counsel.

(8) If an authorization holder who is the subject of a complaint or an investigation is to appear before the office, the office shall provide the authorization holder with a current summary of the complaint or the matter being investigated not less than 10 days before the date that the authorization holder is to appear. At the time the summary of the complaint or the matter being investigated is provided, the office shall provide the authorization holder with a current summary of documents or alleged facts that the office has acquired as a result of the investigation. The name of the complainant may be withheld from the authorization holder.

(9) An authorization holder who is the subject of an investigation, and any person acting on behalf of the authorization holder, may not contact the complainant until the authorization holder has requested a contested case hearing and the office has authorized the taking of the complainant's deposition pursuant to ORS 183.425.

(10) Except in an investigation or proceeding conducted by the office or another public entity, or in an action, suit or proceeding in which a public entity is a party, an authorization holder may not be questioned or examined regarding any communication with the office made in an appearance before the office as part of an investigation.

(11) This section does not prohibit examination or questioning of an authorization holder regarding records about the authorization holder's care and treatment of a patient or affect the admissibility of those records.

(12) In conducting an investigation related to the practice of direct entry midwifery, as defined in ORS 687.405, the office shall:

(a) Allow the State Board of Direct Entry Midwifery to review the motion or complaint before beginning the investigation;

(b) Allow the board to prioritize the investigation with respect to other investigations related to the practice of direct entry midwifery; and

(c) Consult with the board during and after the investigation for the purpose of determining whether to pursue disciplinary action.

**SECTION 20.** ORS 676.612 is amended to read:

676.612. (1) 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, 681.755, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111 **and section 42 of this 2019 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) 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 published, that is false, misleading or deceptive.

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

(d) Practicing under a false, misleading or deceptive name, or impersonating another authorization holder.

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

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

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

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

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

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

(k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of the conviction. A plea of no contest or an admission of guilt is a conviction for purposes of this paragraph.

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

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

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

(o) Failing to cooperate with the office in any investigation, inspection or request for information.

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

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

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

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

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

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

(5) If an authorization is suspended, the authorization holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the authorization may be reinstated by the office if the conditions of suspension no longer exist and the authorization holder has satisfied all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement.

**SECTION 21.** ORS 676.613 is amended to read:

676.613. (1) In addition to all other remedies, when it appears to the Health Licensing Office that a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that violates any provision of ORS 675.360 to 675.410, 676.665 to 676.689, 676.810, 676.815, 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, 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 or 694.015 to 694.170 or ORS chapter 700, the office may, through the Attorney General or the district attorney of the county in which the act, practice or transaction occurs or will occur, apply to the court for an injunction restraining the person from the act, practice or transaction.

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

**SECTION 22.** ORS 676.622 is amended to read:

676.622. (1) A transaction conducted through a state or local system or network that provides electronic access to the Health Licensing Office information and services is exempt from any requirement under ORS 675.360 to 675.410, 676.560 to 676.625, 676.665 to 676.689, 676.810, 676.815, 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 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 rules adopted thereunder, requiring an original signature or the submission of handwritten materials.

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

**SECTION 23.** The amendments to ORS 676.150, 676.560, 676.565, 676.579, 676.590, 676.595, 676.608, 676.612, 676.613 and 676.622 by sections 13 to 22 of this 2019 Act apply to complaints and reports received on or after the operative date specified in section 24 of this 2019 Act.

**SECTION 24.** (1) The amendments to ORS 676.150, 676.560, 676.565, 676.579, 676.590, 676.595, 676.608, 676.612, 676.613 and 676.622 by sections 13 to 22 of this 2019 Act become operative on January 1, 2020.

(2) The Health Licensing Office may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the office to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the office by the amendments to ORS 676.150, 676.560, 676.565, 676.579, 676.590, 676.595, 676.608, 676.612, 676.613 and 676.622 by sections 13 to 22 of this 2019 Act.

## TRAUMA ADVISORY BOARDS

**SECTION 25.** ORS 431A.055 is amended to read:

431A.055. (1) The State Trauma Advisory Board is established within the Oregon Health Authority. The board must have at least 18 members. The Director of the Oregon Health Authority shall appoint at least 17 voting members as described in subsection (2) of this section. The chairperson of the State Emergency Medical Service Committee established under ORS 682.039, or the chairperson's designee, shall be a nonvoting member.

(2) The director shall, subject to subsection (3) of this section, appoint members to serve on the State Trauma Advisory Board, including:

(a) At least one member from each area trauma advisory board described in ORS 431A.070.

(b) At least two physicians who are trauma surgeons from each trauma center designated by the authority as a Level I trauma center.

(c) From trauma centers designated by the authority as Level I or Level II trauma centers[.]

[(A)], at least one physician who is a neurosurgeon[; and]

[(B) At least one physician who is an] **or** orthopedic surgeon.

(d) From trauma centers designated by the authority as Level I trauma centers:

(A) At least one physician who practices emergency medicine; and

(B) At least one nurse who is a trauma program manager.

(e) From trauma centers designated by the authority as Level II trauma centers:

(A) At least one physician who is a trauma surgeon; and

(B) At least one nurse who is a trauma coordinator.

(f) From trauma centers designated by the authority as Level III trauma centers:

(A) At least one physician who is a trauma surgeon or who practices emergency medicine; and

(B) At least one nurse who is a trauma coordinator.

(g) At least one nurse who is a trauma coordinator from a trauma center designated by the authority as a Level IV trauma center.

(h) From a predominately urban area:

(A) At least one trauma hospital administration representative; and

(B) At least one emergency medical services provider.

(i) From a predominately rural area:

(A) At least one trauma hospital administration representative; and

(B) At least one emergency medical services provider.

(j) At least two public members.

**(k) At least one representative from a public safety answering point.**

(3) In appointing members under subsection (2)(j) of this section, the director may not appoint a member who has an economic interest in the provision of emergency medical services or trauma care.

(4)(a) The State Trauma Advisory Board shall:

(A) Advise the authority with respect to the authority's duties and responsibilities under ORS 431A.050 to 431A.080, 431A.085, 431A.090, 431A.095, 431A.100 and 431A.105;

(B) Advise the authority with respect to the adoption of rules under ORS 431A.050 to 431A.080, 431A.085, 431A.095 and 431A.105;

(C) Analyze data related to the emergency medical services and trauma system developed pursuant to ORS 431A.050; and

(D) Suggest improvements to the emergency medical services and trauma system developed pursuant to ORS 431A.050.

(b) In fulfilling the duties, functions and powers described in this subsection, the board shall:

(A) Make evidence-based decisions that emphasize the standard of care attainable throughout this state and by individual communities located in this state; and

(B) Seek the advice and input of coordinated care organizations.

(5)(a) The State Trauma Advisory Board may establish a Quality Assurance Subcommittee for the purposes of providing peer review support to and discussing evidence-based guidelines and protocols with the members of area trauma advisory boards and trauma care providers located in this state.

(b) Notwithstanding ORS 414.227, meetings of the subcommittee are not subject to ORS 192.610 to 192.690.

(c) Personally identifiable information provided by the State Trauma Advisory Board to individuals described in paragraph (a) of this subsection is not subject to ORS 192.311 to 192.478.

(6) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(7) Official action taken by the board requires the approval of a majority of the voting members of the board.

(8) The board shall nominate and elect a chairperson from among its voting members.

(9) The board shall meet at the call of the chairperson or of a majority of the voting members of the board.

(10) The board may adopt rules necessary for the operation of the board.

(11) The term of office of each voting member of the board is four years, but a voting member serves at the pleasure of the director. Before the expiration of the term of a voting member, the director shall appoint a successor whose term begins January 1 next following. A voting member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(12) Members of the board are not entitled to compensation, but may be reimbursed from funds available to the Oregon Health Authority, for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495.

**SECTION 26.** ORS 431A.070 is amended to read:

431A.070. (1)(a) Area trauma advisory boards shall meet as often as necessary to:

(A) Identify specific trauma area needs and problems; and

(B) Propose to the Oregon Health Authority area trauma system plans and changes that meet state standards and objectives.

(b) The authority, acting with the advice of the State Trauma Advisory Board established under ORS 431A.055, has the authority to implement plans and changes proposed under paragraph (a) of this subsection.

(2) In concurrence with the Governor, the authority shall select members for each trauma area from lists submitted by local associations of emergency medical services providers, emergency nurses, emergency physicians, surgeons, hospital administrators, emergency medical services agen-

cies and citizens at large. The members of an area trauma advisory board must be broadly representative of the trauma area as a whole. An area trauma advisory board must consist of at least [15] 16 members and must include:

- (a) [Three] **Two** surgeons;
  - (b) Two physicians serving as emergency physicians;
  - (c) Two hospital administrators from different hospitals;
  - (d) Two nurses serving as emergency nurses;
  - (e) Two emergency medical services providers serving different emergency medical services;
  - (f) One emergency medical services medical director;
  - (g) Two representatives of the public at large selected from among those submitting letters of application in response to public notice by the authority;
  - (h) One representative of any bordering state that is included within the patient referral area;
- [and]
- (i) One ambulance service owner or operator or both; **and**
  - (j) **One representative from a public safety answering point.**

(3) Members of an area trauma advisory board described in subsection (2)(g) of this section may not have an economic interest in health care services provided in the trauma area for which the area trauma advisory board makes proposals under subsection (1)(a)(B) of this section.

**SECTION 27. The amendments to ORS 431A.055 and 431A.070 by sections 25 and 26 of this 2019 Act apply to individuals who are members of the State Trauma Advisory Board and area trauma advisory boards on or after the operative date specified in section 28 of this 2019 Act.**

**SECTION 28. (1) The amendments to ORS 431A.055 and 431A.070 by sections 25 and 26 of this 2019 Act become operative on January 1, 2020.**

**(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 431A.055 and 431A.070 by sections 25 and 26 of this 2019 Act.**

## DISEASES AND INFECTIONS

**SECTION 29.** ORS 432.510, as amended by section 13, chapter 98, Oregon Laws 2018, is amended to read:

432.510. (1) The Oregon Health Authority[, or *designee*,] shall establish a uniform, statewide, population-based registry system for the collection of information determining the incidence of cancer and benign or borderline tumors of the brain and central nervous system and related data. The purpose of the registry [shall be] **is** to provide information to design, target, monitor, facilitate and evaluate efforts to determine the causes or sources of cancer and benign or borderline tumors among the residents of this state and to reduce the burden of cancer and benign or borderline tumors in this state. Such efforts may include but are not limited to:

- (a) Targeting populations in need of cancer screening services or evaluating screening or other cancer control services;
- (b) Supporting the operation of hospital registries in monitoring and upgrading the care and the end results of treatment for cancer and benign or borderline tumors;
- (c) Investigating suspected clusters or excesses of cancer and benign or borderline tumors both in occupational settings and in the state's environment generally;
- (d) Conducting studies to identify cancer hazards to the public health and cancer hazard remedies; and
- (e) Projecting the benefits or costs of alternative policies regarding the prevention or treatment of cancer and benign or borderline tumors.

(2) The authority shall adopt rules necessary to carry out the purposes of ORS 432.510 to 432.550 and 432.900, including but not limited to designating which types of cancer and benign or

borderline tumors of the brain and central nervous system are reportable to the statewide registry, the data to be reported, the data reporting standards and format and the effective date after which reporting by health care facilities, clinical laboratories and practitioners shall be required. When adopting rules under this subsection, the authority shall, to the greatest extent practicable, conform the rules to the standards and procedures established by the American College of Surgeons Commission on Cancer, with the goal of achieving uniformity in the collection and reporting of data.

(3) The authority [or designee] shall:

(a) Conduct a program of epidemiologic analyses of registry data collected under subsection (1) of this section to assess control, prevention, treatment and causation of cancer and benign or borderline tumors in this state; and

(b) Utilize the data to promote, facilitate and evaluate programs designed to reduce the burden of cancer and benign or borderline tumors among the residents of Oregon.

(4) The authority [or designee] shall:

(a) Collaborate in studies of cancer and benign or borderline tumors with clinicians and epidemiologists and publish reports on the results of such studies; and

(b) Cooperate with the National Institutes of Health and the Centers for Disease Control and Prevention in providing incidence data for cancer and benign or borderline tumors.

(5) The authority [or designee] shall establish a training program for the personnel of participating health care facilities and a quality control program for data for cancer and benign or borderline tumors reported to the state registry.

**(6) The authority may contract with a public or private third party to:**

**(a) Operate or maintain the statewide registry; and**

**(b) Fulfill the authority's duties under subsections (3) to (5) of this section.**

**SECTION 30.** ORS 432.520 is amended to read:

432.520. (1) Except as provided in subsection (2) of this section, any health care facility in which patients are diagnosed or provided treatment for cancer or benign or borderline tumors of the brain and central nervous system shall report each case of cancer or benign or borderline tumors of the brain and central nervous system to the Oregon Health Authority **or its authorized representative** within a time period and in a format prescribed by the authority. The authority may provide, at cost, reporting services to health care facilities. Health care facilities may also purchase reporting services from another facility or commercial vendor. If a health care facility is unable to report in conformance with the format and standards prescribed by the authority, the authority may, after consultation with the health care facility, elect to activate its reporting service for the facility. When activated, the authority may enter the facility, obtain the information and report it in conformance with the appropriate format and standards. In these instances, the facility shall reimburse the authority or its authorized representative for the cost of obtaining and reporting the information.

(2) Upon application to the authority by a health care facility, the authority shall grant to the health care facility an extension of time in which to meet the reporting requirements of this section. In no event shall the extension of time exceed one year from the date of application.

(3) Any **licensed health care** practitioner diagnosing or providing treatment to patients with cancer or benign or borderline tumors of the brain and central nervous system shall report each case to the authority or its authorized representative within a time period and in a format prescribed by the authority. Those cases diagnosed or treated at an Oregon health care facility or previously admitted to an Oregon health care facility for diagnosis or treatment of that instance of cancer or benign or borderline tumors of the brain and central nervous system shall be considered by the authority to have been reported by the **licensed** health care practitioner.

(4) Any clinical laboratory diagnosing cases of cancer or benign or borderline tumors of the brain and central nervous system shall report each case to the authority or its authorized representative within a time period and in a format prescribed by the authority.

(5) For the purpose of assuring the accuracy and completeness of reported data, the authority shall have the right to periodically review all records that would:

(a) Identify cases of cancer and benign or borderline tumors, the treatment of the cancer or benign or borderline tumors or the medical status of any patient identified as being treated for cancer or benign or borderline tumors; or

(b) Establish characteristics of the cancer or benign or borderline tumors.

(6) The authority may conduct special studies of cancer morbidity and mortality. As part of such studies, registry personnel may obtain additional information that applies to a patient's cancer or benign or borderline tumors and that may be in the medical record of the patient. The record holder may either provide the requested information to the registry personnel or provide the registry personnel access to the relevant portions of the patient's medical record. Neither the authority nor the record holder shall bill the other for the cost of providing or obtaining this information.

**SECTION 31.** ORS 433.004 is amended to read:

433.004. (1) The Oregon Health Authority shall by rule:

(a) Specify reportable diseases;

(b) Identify those categories of persons who must report reportable diseases and the circumstances under which the reports must be made;

(c) Prescribe the procedures and forms for making such reports and transmitting the reports to the authority; and

(d) Prescribe measures and methods for investigating the source and controlling reportable diseases.

(2) Persons required under the rules to report reportable diseases shall [*do so by reporting*] **report** to the **authority or the** local public health administrator **as specified by the authority by rule**. [*The*] **A** local public health administrator **that receives a report under this subsection** shall transmit [*such reports*] **the report** to the authority **as specified by the authority by rule**.

(3) The authority or local public health administrator may investigate a case of a reportable disease, disease outbreak or epidemic. The investigation may include, but is not limited to:

(a) Interviews of:

(A) The subject of a reportable disease report;

(B) Controls;

(C) Health care providers; or

(D) Employees of a health care facility.

(b) Requiring a health care provider, any public or private entity, or an individual who has information necessary for the investigation to:

(A) Permit inspection of the information by the authority or local public health administrator; and

(B) Release the information to the authority or local public health administrator.

(c) Inspection, sampling and testing of real or personal property with consent of the owner or custodian of the property or with an administrative warrant.

(4)(a) The authority shall establish by rule the manner in which information may be requested and obtained under subsection (3) of this section.

(b) Information requested may include, but is not limited to, individually identifiable health information related to:

(A) The case;

(B) An individual who may be the potential source of exposure or infection;

(C) An individual who has been or may have been exposed to or affected by the disease;

(D) Policies, practices, systems or structures that may have affected the likelihood of disease transmission; and

(E) Factors that may influence an individual's susceptibility to the disease or likelihood of being diagnosed with the disease.

(5) In addition to other grounds for which a state agency may exercise disciplinary action against its licensees or certificate holders, the substantial or repeated failure of a licensee or certificate holder to report when required to do so under subsection (2) or (3) of this section shall be cause for the exercise of any of the agency's disciplinary powers.

(6) Any person making a report or providing information under this section is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the making of a report or providing information under this section.

**SECTION 32.** ORS 433.045, as amended by section 15, chapter 61, Oregon Laws 2018, is amended to read:

433.045. (1) As used in this section:

(a) "Health care provider" means an individual licensed by a health professional regulatory board, as defined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed Dietitians or the Behavior Analysis Regulatory Board.

(b) "HIV test" means a test of an individual for the presence of HIV, or for antibodies or antigens that result from HIV infection, or for any other substance specifically indicating infection with HIV.

(c) "Insurance producer" has the meaning given that term in ORS 746.600.

(d) "Insurance-support organization" has the meaning given that term in ORS 746.600.

(e) "Insurer" has the meaning given that term in ORS 731.106.

(2) Except as provided in ORS 433.017, 433.055 [(3)] (2) and 433.080, a health care provider or the provider's designee shall, before subjecting an individual to an HIV test:

(a) Notify the individual being tested; and

(b) Allow the individual being tested the opportunity to decline the test.

(3) The notification and opportunity to decline testing required under subsection (2) of this section may be verbal or in writing, and may be contained in a general medical consent form.

(4)(a) Regardless of the manner of receipt or the source of the information, including information received from the tested individual, a person may not disclose or be compelled to disclose the identity of any individual upon whom an HIV-related test is performed, or the results of such a test in a manner that permits identification of the subject of the test, except as required or permitted by federal law, the law of this state or any rule, including any authority rule considered necessary for public health or health care purposes, or as authorized by the individual whose blood is tested.

(b) This subsection does not apply to an individual acting in a private capacity and not in an employment, occupational or professional capacity.

(5) A person who complies with the requirements of this section is not subject to an action for civil damages.

(6) Whenever an insurer, insurance producer or insurance-support organization asks an applicant for insurance to take an HIV test in connection with an application for insurance, the insurer, insurance producer or insurance-support organization must reveal the use of the test to the applicant and obtain the written consent of the applicant. The consent form must disclose the purpose of the test and the persons to whom the results may be disclosed.

**SECTION 33.** ORS 433.055 is amended to read:

433.055. (1) The Oregon Health Authority shall conduct studies of the prevalence of the HIV infection in this state. *[Its findings shall be reported]* **The authority shall report findings** to the Oregon Public Health Advisory Board, the Conference of Local Health Officials, the Emergency Board and other interested bodies at regular intervals, commencing in January 1988. The authority may cause the prevalence study of persons sentenced to the Department of Corrections of this state, as defined in ORS 421.005, to be made.

*[(2) The authority shall contract with an appropriate education agency to prepare a curriculum regarding HIV infection, acquired immune deficiency syndrome (AIDS) and prevention of the spread of AIDS for all school districts and offer workshops to prepare teachers and parents to implement the curriculum. The authority shall award incentive grants from funds available therefor to school districts to encourage use of the curriculum in the schools.]*

*[(3)]* (2) Prior consent to HIV antibody testing need not be obtained from an individual if the test is for the purpose of research as authorized by the authority and if the testing is performed in a manner by which the identity of the test subject is not known, and may not be retrieved by the researcher.

**SECTION 34.** ORS 433.075 is amended to read:

433.075. (1) When an HIV test is performed pursuant to ORS 433.080 or rules adopted under ORS 433.065, the exposed person requesting the test, or the exposed person's employer in the case of an occupational exposure, shall be responsible for the cost of the testing.

(2) If an employer provides a program of prevention, education and testing for HIV exposures for its employees, an employee to be tested under ORS 433.060 to 433.080 shall comply with the procedures provided by the program. [*The program must be approved by the Oregon Health Authority.*]

(3) When an HIV test is performed pursuant to ORS 433.080 or rules adopted under ORS 433.065, the results shall be reported confidentially to the person who suffered the substantial exposure giving rise to the test.

(4) The confidentiality provisions of ORS 433.045 (4) apply to any person who receives an HIV test result pursuant to ORS 433.080 or rules adopted under ORS 433.065. A person who complies with the requirements of this subsection is not subject to an action for damages.

## IMMUNIZATIONS

**SECTION 35.** ORS 433.269 is amended to read:

433.269. [*(1) Local health departments shall make immunizations available for administration under the direction of a local health officer in convenient areas and at convenient times. A local health department may not refuse to administer an immunization to a person because the person is unable to pay for the immunization.*]

**(1) A local public health authority shall ensure that immunizations required under ORS 433.282 and 433.283 and the rules adopted pursuant to ORS 433.273 for attendance at a school, children's facility or post-secondary educational institution are available through local health care providers or the local public health authority or its contractors:**

**(a) To the entire population of the area served by the local public health authority in convenient areas and at convenient times.**

**(b) Regardless of whether a child or student is able to pay for the immunization.**

(2)(a) Each local [*health department*] **public health authority**, school and children's facility shall report annually to the Oregon Health Authority on:

(A) The number of children in the area served by the local [*health department*] **public health authority**, school or children's facility; and

(B) The number of children in the area served by the local [*health department*] **public health authority**, school or children's facility who are susceptible to restrictable disease as prescribed by the **Oregon Health Authority's** rules pursuant to ORS 433.273.

(b) Each school and children's facility shall report annually to the **Oregon Health Authority** on the number of children in the area served by the school or children's facility who are in attendance at the school or children's facility conditionally because of an incomplete immunization schedule.

(c) Each local [*health department*] **public health authority** shall make available to each school and children's facility in the area served by the local [*health department*] **public health authority** data on the immunization rate, by disease, of children in the area. Upon request, the **Oregon Health Authority** shall assist local [*health departments*] **public health authorities** in compiling data for purposes of this paragraph.

(d) A child exempted under ORS 433.267 is susceptible to restrictable disease for purposes of this subsection.

(3)(a) For the purpose of providing parents with the information necessary to protect their children's health, each school and children's facility shall make available the information reported and received by the school and children's facility pursuant to subsection (2) of this section:

(A) At the main office of the school or children's facility;

(B) On the school's or school district's website or on the children's facility's website, if available; and

(C) To the parents of the children who attend the school or children's facility, in the form of a paper document or electronic communication that includes the information in a clear and easy to understand manner.

(b) The information required to be made available under paragraph (a) of this subsection must be made available at the beginning of each school year and not later than one month after the date that children may be excluded as provided by ORS 433.267.

(4) The administrator of a school or children's facility shall maintain immunization records of children, including children who are in attendance at the school or children's facility conditionally because of an incomplete immunization schedule and children who are exempted as described in ORS 433.267 (1)(b) and (c).

## MARIJUANA

**NOTE:** Section 36 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 37.** ORS 475B.895, as amended by section 7, chapter 103, Oregon Laws 2018, is amended to read:

475B.895. (1) The Oregon Health Authority shall enter into an agreement with the Oregon Liquor Control Commission under which the commission shall use the system developed and maintained under ORS 475B.177 to track:

(a) The propagation of immature marijuana plants and the production of marijuana by marijuana grow sites;

(b) The processing of marijuana into medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts that are transferred to a medical marijuana dispensary;

(c) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by a marijuana grow site or a medical marijuana dispensary to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder; and

(d) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts between marijuana grow sites, marijuana processing sites and medical marijuana dispensaries.

(2) Marijuana grow sites, marijuana processing sites[,] **and** medical marijuana dispensaries [*and any other person that processes marijuana into medical cannabinoid products and cannabinoid concentrates for the purpose of transferring the medical cannabinoid products and cannabinoid concentrates to a medical marijuana dispensary*] are subject to tracking under this section.

(3) On and after the date on which a marijuana grow site becomes subject to tracking under this section, the person is exempt from the requirements of ORS 475B.816 and the provisions of ORS 475B.810 that relate to ORS 475B.816.

(4) On and after the date on which a marijuana processing site becomes subject to tracking under this section, the marijuana processing site is exempt from the requirements of ORS 475B.846 and the provisions of ORS 475B.840 that relate to ORS 475B.846.

(5) On and after the date on which a medical marijuana dispensary becomes subject to tracking under this section, the medical marijuana dispensary is exempt from the requirements of ORS 475B.867 and the provisions of ORS 475B.858 that relate to ORS 475B.867.

(6) The commission may conduct inspections and investigations of alleged violations of ORS 475B.785 to 475B.949 about which the commission obtains knowledge as a result of performing the commission's duties under this section. Notwithstanding ORS 475B.299, the commission may use regulatory specialists, as defined in ORS 471.001, to conduct the inspections and investigations, including inspections and investigations of marijuana grow sites located at a primary residence.

(7) When imposing a fee on a person responsible for a marijuana grow site, marijuana processing site or medical marijuana dispensary under ORS 475B.810, 475B.840 or 475B.858, the authority shall

impose a fee that is reasonably calculated to pay costs incurred under this section. As part of the agreement entered into under subsection (1) of this section, the authority shall transfer fee moneys collected pursuant to this subsection to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475B.296. Moneys collected pursuant to this subsection and deposited in the Marijuana Control and Regulation Fund are continuously appropriated to the commission for purposes of this section.

(8) The authority and the commission may adopt rules as necessary to administer this section.

(9) This section does not apply to a marijuana grow site located at an address where:

(a) A registry identification cardholder produces marijuana and no more than 12 mature marijuana plants and 24 immature marijuana plants are produced; or

(b)(A) No more than two persons are registered under ORS 475B.810 to produce marijuana; and

(B) The address is used to produce marijuana for no more than two registry identification cardholders.

**SECTION 38.** ORS 475B.895, as amended by sections 7 and 7a, chapter 103, Oregon Laws 2018, is amended to read:

475B.895. (1) The Oregon Health Authority shall enter into an agreement with the Oregon Liquor Control Commission under which the commission shall use the system developed and maintained under ORS 475B.177 to track:

(a) The propagation of immature marijuana plants and the production of marijuana by marijuana grow sites;

(b) The processing of marijuana into medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts that are transferred to a medical marijuana dispensary;

(c) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by a marijuana grow site or a medical marijuana dispensary to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder; and

(d) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts between marijuana grow sites, marijuana processing sites and medical marijuana dispensaries.

(2) Marijuana grow sites, marijuana processing sites[,] **and** medical marijuana dispensaries [*and any other person that processes marijuana into medical cannabinoid products and cannabinoid concentrates for the purpose of transferring the medical cannabinoid products and cannabinoid concentrates to a medical marijuana dispensary*] are subject to tracking under this section.

(3) On and after the date on which a marijuana grow site becomes subject to tracking under this section, the person is exempt from the requirements of ORS 475B.816 and the provisions of ORS 475B.810 that relate to ORS 475B.816.

(4) On and after the date on which a marijuana processing site becomes subject to tracking under this section, the marijuana processing site is exempt from the requirements of ORS 475B.846 and the provisions of ORS 475B.840 that relate to ORS 475B.846.

(5) On and after the date on which a medical marijuana dispensary becomes subject to tracking under this section, the medical marijuana dispensary is exempt from the requirements of ORS 475B.867 and the provisions of ORS 475B.858 that relate to ORS 475B.867.

(6) The commission may conduct inspections and investigations of alleged violations of ORS 475B.785 to 475B.949 about which the commission obtains knowledge as a result of performing the commission's duties under this section. Notwithstanding ORS 475B.299, the commission may use regulatory specialists, as defined in ORS 471.001, to conduct the inspections and investigations, including inspections and investigations of marijuana grow sites located at a primary residence.

(7) Notwithstanding ORS 475B.759, before making any other distribution from the Oregon Marijuana Account established under ORS 475B.759, the Department of Revenue shall first distribute moneys quarterly from the account to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475B.296 for purposes of paying administrative, inspection and investigatory costs incurred by the commission under this section, provided that the amount of

distributed moneys does not exceed \$1.25 million per quarter. For purposes of estimating the amount of moneys necessary to pay costs incurred under this section, the commission shall establish a formulary based on expected costs for each marijuana grow site, marijuana processing site or medical marijuana dispensary that is tracked under this section. The commission shall provide to the Department of Revenue and the Legislative Fiscal Officer before each quarter the estimated amount of moneys necessary to pay costs expected to be incurred under this section and the formulary.

(8) When imposing a fee on a person responsible for a marijuana grow site, marijuana processing site or medical marijuana dispensary under ORS 475B.810, 475B.840 or 475B.858, the authority shall impose an additional fee that is reasonably calculated to pay costs incurred under this section other than costs paid pursuant to subsection (7) of this section. As part of the agreement entered into under subsection (1) of this section, the authority shall transfer fee moneys collected pursuant to this subsection to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475B.296. Moneys collected pursuant to this subsection and deposited in the Marijuana Control and Regulation Fund are continuously appropriated to the commission for purposes of this section.

(9) The authority and the commission may adopt rules as necessary to administer this section.

(10) This section does not apply to a marijuana grow site located at an address where:

(a) A registry identification cardholder produces marijuana and no more than 12 mature marijuana plants and 24 immature marijuana plants are produced; or

(b)(A) No more than two persons are registered under ORS 475B.810 to produce marijuana; and

(B) The address is used to produce marijuana for no more than two registry identification cardholders.

**NOTE:** Section 39 was deleted by amendment. Subsequent sections were not renumbered.

## HEALTH CARE PROFESSIONS

**SECTION 40.** ORS 676.669 is amended to read:

676.669. The Health Licensing Office may issue a lactation consultant license to an applicant who:

(1) Is at least 18 years old;

(2) Submits sufficient proof, as determined by the office, that the applicant [is]:

*[(a) Certified by the International Board of Lactation Consultant Examiners, or its successor organization, as approved by the office by rule, as an International Board Certified Lactation Consultant; and]*

**(a) As approved by the office by rule, satisfies the requirements for certification as an International Board Certified Lactation Consultant by the International Board of Lactation Consultant Examiners or its successor organization; and**

(b) Is in good standing in any other states where the applicant is authorized as a lactation consultant;

(3) Pays a licensure fee; and

(4) Meets other qualifications required by the office by rule.

**SECTION 41.** ORS 676.689 is amended to read:

676.689. (1) The Health Licensing Office shall adopt rules to:

(a) Establish a process for issuing lactation consultant licenses;

(b) Establish licensure fees;

(c) Determine qualifications for applicants for initial licensure and licensure by reciprocity;

*[(d) Approve the certification issued by the International Board of Lactation Consultant Examiners or its successor organization, so long as the organization offers:]*

*[(A) A process to evaluate candidates for certification or education;]*

*[(B) A grievance process for applicants or individuals authorized by the organization; and]*

*[(C) A process for recertification or reauthorization;]*

*[(e)] (d) Develop and maintain a publicly available record of lactation consultants; and*

[(f)] (e) Establish standards of practice and professional responsibility for lactation consultants that *reflect* **take into consideration** the standards established by the International Board of Lactation Consultant Examiners.

(2) The office may adopt other rules as necessary to carry out the provisions of ORS 676.665 to 676.689.

**SECTION 42.** In the manner provided under ORS chapter 183 for contested cases, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against a person practicing music therapy for any of the grounds listed in ORS 676.612, or for any violation of ORS 681.700 to 681.730 or the rules adopted pursuant to ORS 681.700 to 681.730.

**SECTION 43.** ORS 681.730 is amended to read:

681.730. The Health Licensing Office shall adopt rules to:

- (1) Establish a process for issuance of licenses **to practice music therapy**;
- (2) Establish licensure fees;
- (3) Determine qualifications for applicants for initial licensure, **licensure renewal** and licensure by reciprocity;
- (4) Approve:
  - (a) The Certification Board for Music Therapists examination;
  - (b) The certification issued by the Certification Board for Music Therapists; and
  - (c) The professional designations issued by the National Music Therapy Registry;
  - (5) Develop and maintain a publicly available record of music therapists; and
  - (6) Establish standards of practice and professional responsibility for music therapists.

**SECTION 44.** ORS 681.743 is amended to read:

681.743. The Health Licensing Office *shall* **may** issue a license to engage in the practice of art therapy as a licensed art therapist to an applicant who:

- (1) Is at least 18 years of age;
- (2) Has received **at least** a master's degree *[in art therapy]* from a program *[approved]* **accepted** by the Art Therapy Credentials Board, Inc., or its successor organization, and approved by the office;
- (3) Submits sufficient proof, as determined by the office, of:

*[(a) Holding a current credential as a registered art therapist by the Art Therapy Credentials Board, Inc., or its successor organization; and]*

**(a) As approved by the office by rule, satisfying the requirements to be credentialed as a registered art therapist by the Art Therapy Credentials Board, Inc., or its successor organization; and**

- (b) Being in good standing in any other states where the applicant is licensed or certified to practice art therapy; and
- (4) Pays a licensure fee.

**SECTION 45.** ORS 681.746 is amended to read:

681.746. The Health Licensing Office *shall* **may** issue a license to engage in the practice of art therapy as a licensed certified art therapist to an applicant who:

- (1) Is at least 18 years of age;
- (2) Has received **at least** a master's degree *[in art therapy]* from a program *[approved]* **accepted** by the Art Therapy Credentials Board, Inc., or its successor organization, and approved by the office;
- (3) Submits sufficient proof, as determined by the office, of:

*[(a) Current certification as a board certified art therapist by the Art Therapy Credentials Board, Inc., or its successor organization; and]*

**(a) As approved by the office by rule, satisfying the requirements as a board certified art therapist by the Art Therapy Credentials Board, Inc., or its successor organization; and**

- (b) Being in good standing in any other states where the applicant is licensed or certified to practice art therapy; and
- (4) Pays a licensure fee.

**SECTION 46.** ORS 681.749 is amended to read:

681.749. (1) A licensed art therapist and a licensed certified art therapist shall comply with the [code of ethics, conduct and disciplinary procedures established by the Art Therapy Credentials Board, Inc., or its successor organization, and] rules adopted by the Health Licensing Office pursuant to ORS 681.758.

(2) A licensed art therapist or licensed certified art therapist may, in accordance with that person's education and training, administer and use appropriate assessment instruments to measure and treat a client's affective, behavioral and cognitive disorders or problems. A licensed art therapist or licensed certified art therapist shall refer a client who presents with a disorder or problem that is beyond the licensed art therapist's or licensed certified art therapist's education and training to a licensed health care practitioner qualified to treat that disorder or problem.

(3) A licensed art therapist or licensed certified art therapist may not perform psychological or other assessments or testing designed to diagnose or measure mental illness.

**SECTION 47.** ORS 681.758 is amended to read:

681.758. The Health Licensing Office shall adopt rules to:

(1) Establish a process for issuing licenses under ORS 681.743 and 681.746;

(2) Establish licensure fees for licenses issued under ORS 681.743 and 681.746;

(3) Determine qualifications for applicants for initial licensure, license renewal and licensure by reciprocity for licenses under ORS 681.743 and 681.746;

[4] *Approve the credentials issued by the Art Therapy Credentials Board, Inc., or its successor organization;*

[5] **(4)** Develop and maintain a publicly available record of licensed art therapists and licensed certified art therapists; and

[6] **(5)** Establish standards of professional practice and standards of ethical conduct for licensed art therapists and licensed certified art therapists that take into consideration the code of ethics, conduct and disciplinary procedures of the Art Therapy Credentials Board, Inc., or its successor organization.

**SECTION 48.** ORS 688.815 is amended to read:

688.815. The Health Licensing Office may issue a license to practice respiratory care to an applicant who:

(1) Submits to the office written evidence that the applicant:

(a) Is at least 18 years of age;

(b) Has completed an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and

[c] *Holds an active credential conferred by the National Board for Respiratory Care, or its successor organization, as a Registered Respiratory Therapist; and*

**(c) As approved by the office by rule, satisfies the requirements to be credentialed as a registered respiratory therapist by the National Board for Respiratory Care, or its successor organization; and**

(2) Passes any examinations approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board, including but not limited to an examination regarding Oregon law and administrative rules related to the practice of respiratory care.

**SECTION 49.** Section 42 of this 2019 Act and the amendments to ORS 676.669, 676.689, 681.730, 681.743, 681.746, 681.749, 681.758 and 688.815 by sections 40, 41 and 43 to 48 of this 2019 Act apply to applications for authorization to practice lactation consultation, music therapy, art therapy or respiratory therapy on or after the operative date specified in section 50 of this 2019 Act.

**SECTION 50.** (1) Section 42 of this 2019 Act and the amendments to ORS 676.669, 676.689, 681.730, 681.743, 681.746, 681.749, 681.758 and 688.815 by sections 40, 41 and 43 to 48 of this 2019 Act become operative on January 1, 2020.

(2) The Health Licensing Office may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the office to exercise, on and

after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the office by section 42 of this 2019 Act and the amendments to ORS 676.669, 676.689, 681.730, 681.743, 681.746, 681.749, 681.758 and 688.815 by sections 40, 41 and 43 to 48 of this 2019 Act.

## EMERGENCY MEDICAL SERVICES

**SECTION 51.** ORS 682.025 is amended to read:

682.025. As used in this chapter, unless the context requires otherwise:

(1) "Ambulance" or "ambulance vehicle" means a privately or publicly owned motor vehicle, aircraft or watercraft that is regularly provided or offered to be provided for the emergency transportation of persons who are ill or injured or who have disabilities.

(2) "Ambulance service" means a person, governmental unit or other entity that operates ambulances and that holds itself out as providing prehospital care or medical transportation to persons who are ill or injured or who have disabilities.

(3) "Emergency care" means the performance of acts or procedures under emergency conditions in the observation, care and counsel of persons who are ill or injured or who have disabilities; in the administration of care or medications prescribed by a licensed physician or naturopathic physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. "Emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

(4) "Emergency medical services provider" means a person who has received formal training in prehospital and emergency care, and is licensed to attend any person who is ill or injured or who has a disability. Police officers, firefighters, funeral home employees and other persons serving in a dual capacity one of which meets the definition of "emergency medical services provider" are "emergency medical services providers" within the meaning of this chapter.

(5) "Fraud or deception" means the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact, or any other means by which misinformation or false impression knowingly is given.

(6) "Governmental unit" means the state or any county, municipality or other political subdivision or any department, board or other agency of any of them.

(7) "Highway" means every public way, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, used or intended for the use of the general public for vehicles.

(8) "Nonemergency care" means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS chapter 677 or naturopathic physician licensed under ORS chapter 685, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board or Oregon Board of Naturopathic Medicine in the course of providing prehospital care.

(9) "Owner" means the person having all the incidents of ownership in an ambulance service or an ambulance vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an ambulance service under a security agreement or a lease for a term of 10 or more successive days.

(10) "Patient" means a person who is ill or injured or who has a disability and [*who is transported in an ambulance*] **who receives emergency or nonemergency care from an emergency medical services provider.**

(11) "Prehospital care" means care rendered by emergency medical services providers as an incident of the operation of an ambulance and care rendered by emergency medical services providers as incidents of other public or private safety duties, and includes, but is not limited to, "emergency care."

(12) "Scope of practice" means the maximum level of emergency or nonemergency care that an emergency medical services provider may provide.

(13) "Standing orders" means the written protocols that an emergency medical services provider follows to treat patients when direct contact with a physician is not maintained.

(14) "Supervising physician" means a physician licensed under ORS 677.100 to 677.228, actively registered and in good standing with the Oregon Medical Board, who provides direction of emergency or nonemergency care provided by emergency medical services providers.

(15) "Unprofessional conduct" means conduct unbecoming a person licensed to perform emergency care, or detrimental to the best interests of the public and includes:

(a) Any conduct or practice contrary to recognized standards of ethics of the medical profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition which does or might impair an emergency medical services provider's ability safely and skillfully to practice emergency or nonemergency care;

(b) Willful performance of any medical treatment which is contrary to acceptable medical standards; and

(c) Willful and consistent utilization of medical service for treatment which is or may be considered inappropriate or unnecessary.

**SECTION 52.** ORS 682.035 is amended to read:

682.035. ORS 820.330 to 820.380 and this chapter do not apply to:

(1) Ambulances owned by or operated, **and emergency medical service providers who operate**, under the control of the United States Government.

(2) Vehicles being used to render temporary assistance in the case of a major catastrophe or emergency with which the ambulance services of the surrounding locality are unable to cope, or when directed to be used to render temporary assistance by an official at the scene of an accident.

(3) Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any highway through the property or grounds is involved.

(4) Vehicles operated by lumber industries solely for the transportation of lumber industry employees.

(5) Any person who drives or attends [*an individual who is ill or injured or who has a disability*] **a patient**, if the [*individual*] **patient** is transported in a vehicle [*mentioned*] **described** in subsections [*(1)*] **(2)** to (4) of this section.

(6) Any person who otherwise by license is authorized to attend patients.

**SECTION 53.** ORS 682.039 is amended to read:

682.039. (1) The State Emergency Medical Service Committee is established within the Oregon Health Authority. The committee must have at least [*19*] **18** members. The Oregon Health Authority shall appoint at least [*18*] **17** voting members as described in subsection (2) of this section. The chairperson of the State Trauma Advisory Board established under ORS 431A.055, or the chairperson's designee, shall be a nonvoting member.

(2) The authority shall appoint members to serve on the State Emergency Medical Service Committee, including:

(a) [*Seven*] **Six** physicians licensed under ORS chapter 677 whose practice consists of routinely treating emergencies, such as cardiovascular illness, [*or*] **trauma or pediatric emergencies**, appointed from a list submitted by the Oregon Medical Board. **At least two members appointed under this paragraph must be emergency medical services medical directors, and at least one member appointed under this paragraph must specialize in pediatric emergency care.**

(b) Four emergency medical services providers whose practices consist of routinely treating emergencies, such as cardiovascular illness or trauma. At least one of the providers must be at the lowest level of licensure for emergency medical services providers established by the authority at

the time of appointment. Emergency medical services providers appointed pursuant to this paragraph must be selected from lists submitted by each area trauma advisory board. The lists must include nominations from organizations that represent emergency care providers in this state.

- (c) One volunteer ambulance operator.
- (d) One person representing governmental agencies that provide ambulance services.
- (e) One person representing a private ambulance company.
- (f) One hospital administrator.
- (g) One nurse who has served at least two years in the capacity of an emergency department nurse.

- (h) One representative of an emergency dispatch center.
- (i) One community college or licensed career school representative.

(3) The committee must include at least one resident, but no more than three residents, from each region served by one area trauma advisory board at the time of appointment.

(4) Appointments are for a term of four years and must be made in a manner that preserves as much as possible the representation of the organization described in subsection (2) of this section. A vacancy must be filled for an unexpired term as soon as the authority can make the appointment. The committee shall choose a chairperson and shall meet at the call of the chairperson or the Director of the Oregon Health Authority.

(5) The State Emergency Medical Service Committee shall:

(a) Advise the authority concerning the adoption, amendment and repeal of rules authorized by this chapter;

(b) Assist the Emergency Medical Services and Trauma Systems Program in providing state and regional emergency medical services coordination and planning;

(c) Assist communities in identifying emergency medical service system needs and quality improvement initiatives;

(d) Assist the Emergency Medical Services and Trauma Systems Program in prioritizing, implementing and evaluating emergency medical service system quality improvement initiatives identified by communities;

(e) Review and prioritize rural community emergency medical service funding requests and provide input to the Rural Health Coordinating Council; and

(f) Review and prioritize funding requests for rural community emergency medical service training and provide input to the Area Health Education Center program.

(6) The chairperson of the committee shall appoint a subcommittee on the licensure and discipline of emergency medical services providers, consisting of five physicians and four emergency medical services providers. The subcommittee shall advise the authority and the Oregon Medical Board on the adoption, amendment, repeal and application of rules implementing ORS 682.204 to 682.220 and 682.245. The decisions of the subcommittee are not subject to the review of the committee.

(7) Members of the committee are entitled to compensation as provided in ORS 292.495.

**SECTION 54.** ORS 682.208 is amended to read:

682.208. (1) A person desiring to be licensed as an emergency medical services provider shall submit an application for licensure to the Oregon Health Authority. The application must be upon forms prescribed by the authority and must contain:

(a) The name and address of the applicant.

(b) The name and location of the training course successfully completed by the applicant and the date of completion.

*[(c) A statement that to the best of the applicant's knowledge the applicant is physically and mentally qualified to act as an emergency medical services provider, is free from addiction to controlled substances, cannabis or alcoholic beverages or, if not so free, has been and is currently rehabilitated and is free from epilepsy or diabetes or, if not so free, has been free from any lapses of consciousness or control for a period of time as prescribed by rule of the authority.]*

**(c) Evidence that the authority determines is satisfactory to prove that the applicant's physical and mental health is such that it is safe for the applicant to act as an emergency medical services provider.**

(d) Other information as the authority may reasonably require to determine compliance with applicable provisions of this chapter and the rules adopted under this chapter.

(2) The application must be accompanied by proof as prescribed by rule of the authority of the applicant's successful completion of a training course approved by the authority and, if an extended period of time has elapsed since the completion of the course, of a satisfactory amount of continuing education.

(3) The authority shall adopt a schedule of minimum educational requirements in emergency and nonemergency care for emergency medical services providers. A course approved by the authority must be designed to protect the welfare of out-of-hospital patients, to promote the health, well-being and saving of the lives of such patients and to reduce their pain and suffering.

**SECTION 55. (1) The amendments to ORS 682.039 by section 53 of this 2019 Act apply to individuals who are members of the State Emergency Medical Service Committee on or after the operative date specified in section 56 of this 2019 Act.**

**(2) The amendments to ORS 682.208 by section 54 of this 2019 Act apply to applications for licensure as an emergency medical services provider received on or after the operative date specified in section 56 of this 2019 Act.**

**SECTION 56. (1) The amendments to ORS 682.025, 682.035, 682.039 and 682.208 by sections 51 to 54 of this 2019 Act become operative on January 1, 2020.**

**(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 682.025, 682.035, 682.039 and 682.208 by sections 51 to 54 of this 2019 Act.**

**NOTE:** Sections 57 through 110 were deleted by amendment. Subsequent sections were not re-numbered.

## MISCELLANEOUS

**SECTION 111.** ORS 700.035 is amended to read:

700.035. (1) Subject to ORS 676.612, upon application and payment of the applicable fees established under ORS 676.576, the Health Licensing Office shall issue an environmental health specialist trainee registration to any applicant who performs to the satisfaction of the Environmental Health Registration Board on an examination approved by the board and furnishes evidence satisfactory to the office that the applicant:

(a) Has a bachelor's degree [or] **and** at least 45 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation from an accredited college or university; or

(b) Has at least 15 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation from an accredited college or university and has at least five years of experience in environmental sanitation or related activities, as determined by the board, under the supervision of a registered environmental health specialist or a person possessing equal qualifications, as determined by the board.

(2) A person may not be registered as an environmental health specialist trainee for more than two years' full-time employment in the environmental sanitation profession, or the equivalent hours if employment in environmental sanitation is less than full-time or 40 hours per week.

(3) The office, in consultation with the board, shall establish by rule requirements for registration as an environmental health specialist trainee when an individual's date of employment precedes attainment of registration.

(4) An environmental health specialist trainee shall be supervised by a registered environmental health specialist or a person possessing equal qualifications as determined by the board.

**SECTION 112.** The amendments to ORS 700.035 by section 111 of this 2019 Act apply to applications received on or after the operative date specified in section 113 of this 2019 Act.

**SECTION 113.** (1) The amendments to ORS 700.035 by section 111 of this 2019 Act become operative on January 1, 2020.

(2) The Health Licensing Office may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the office to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the office by the amendments to ORS 700.035 by section 111 of this 2019 Act.

## FOOD SANITATION

**SECTION 114.** Section 115 of this 2019 Act is added to and made a part of ORS chapter 624.

**SECTION 115.** (1) A person may apply to the Oregon Health Authority for a variance from one or more rules of the authority regarding food sanitation, including but not limited to rules regarding personnel, food protection, equipment and facilities, utilities and plan review. An application for a variance must be accompanied by a fee of \$500. If the authority grants the variance, the authority shall state the terms and conditions of the variance.

(2) The authority shall adopt rules establishing requirements for applications and variances under this section.

(3) The authority may not delegate the granting of variances under this section.

**SECTION 116.** (1) Section 115 of this 2019 Act becomes operative on January 1, 2020.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by section 115 of this 2019 Act.

## PUBLIC POOLS

**SECTION 117.** ORS 448.011 is amended to read:

448.011. The Oregon Health Authority shall *[make such]* **adopt** rules pertaining to *[the submission of plans for]* construction **plan submission**, *[issuance of permits,]* **plan approval**, design, construction, size, shape, purification equipment, piping, operation, sanitation and accident prevention for public swimming pools, public spa pools, public wading pools and bathhouses as *[it]* **the authority** deems necessary.

**SECTION 118.** ORS 448.020 is amended to read:

448.020. *[No person shall]* **A person may not** construct or perform a major alteration or reconstruction of a public swimming pool, public spa pool, public wading pool or bathhouse without *[a permit]* **plan approval** to do so from the Oregon Health Authority.

**SECTION 119.** ORS 448.030 is amended to read:

448.030. (1) Any person desiring to construct any public swimming pool, public spa pool, public wading pool or bathhouse shall file **an** application for *[a permit to do so]* **plan approval** with the Oregon Health Authority.

(2) The application *[shall]* **must** be accompanied by a description of the sources of water supply, amount and quality of water available and intended to be used, method and manner of water purification, treatment, disinfection, heating, regulating and cleaning, lifesaving apparatus, and measures to *[insure]* **ensure** safety of bathers, measures to *[insure]* **ensure** personal cleanliness of bathers, methods and manner of washing, disinfecting, drying and storing bathing apparel and towels, and all other information and statistics that may be required by the authority. The authority shall either approve or *[reject]* **deny** the application based upon the plans submitted *[and either issue or deny the construction permit]*.

(3) After [a] construction [*permit is issued and upon request*], the authority shall cause an [*investigation*] **inspection** to be made of the proposed public swimming pool, public spa pool, public wading pool or bathhouse. If the authority determines that the public swimming pool, public spa pool, public wading pool or bathhouse **as constructed** complies with the rules of the authority, it shall issue a final approval [*which shall authorize*] **authorizing** the issuance of a license **under ORS 448.035**.

(4) [*An applicant for a permit to construct*] **If** a public swimming pool, public spa pool, public wading pool or bathhouse **is** to be owned, operated or maintained by a person for profit, or in conjunction with a travelers' accommodation or recreation park, **the applicant** shall pay the authority a plan review fee of **\$600**. [*\$100 and a construction permit fee of \$200, which*] **Payment of the plan review fee** entitles the [*holder*] **applicant** to two inspections toward final approval. The authority [*shall*] **may** not impose any new standards after a second or any subsequent inspection. For any subsequent construction inspection necessary, the [*permit holder*] **applicant** shall pay \$100 for each inspection.

**SECTION 120.** ORS 448.051 is amended to read:

448.051. (1) The Director of the Oregon Health Authority shall inspect all public swimming pools, public spa pools, public wading pools and bathhouses to determine the sanitary conditions of such places and whether ORS 448.005 to 448.090 and the rules of the Oregon Health Authority pertaining to public swimming pools, public spa pools, public wading pools and bathhouses are being violated.

(2) If the director determines that a public swimming pool, public spa pool, public wading pool or bathhouse is being **constructed**, operated or maintained in violation of the rules of the authority or is found to be insanitary, unclean or dangerous to public health or safety, the director may suspend, revoke or deny the permit **or plan approval issued under ORS 448.030** or license issued under ORS [*448.030 or*] 448.035 in accordance with ORS chapter 183.

**SECTION 121.** ORS 448.060 is amended to read:

448.060. (1) [*No*] **A** public swimming pool, public spa pool, public wading pool or bathhouse [*shall*] **may not** remain open to the public after the permit, **plan approval** or license to operate [*such facilities*] **the facility** has been suspended, denied or revoked.

(2) Any public swimming pool, public spa pool, public wading pool or bathhouse constructed, operated or maintained contrary to ORS 448.005 to 448.090[,] is a public nuisance, dangerous to health.

[*3*] Such nuisance may be abated or enjoined in an action brought by the Director of the Oregon Health Authority or may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health.

**SECTION 122.** ORS 448.100 is amended to read:

448.100. (1) The Director of the Oregon Health Authority shall delegate to any county board of commissioners that requests any of the duties and functions of the director under ORS 448.005, 448.011, 448.020 to 448.035[,] **and** 448.040 to 448.060 and this section if the director determines that the county is able to carry out the rules of the Oregon Health Authority relating to fee collection, licensing, inspections, enforcement and issuance and revocation of [*permits and certificates*] **plan approvals and licenses** in compliance with standards for enforcement by the counties and monitoring by the authority. The authority shall review and monitor each county's performance under this subsection. In accordance with ORS chapter 183, the director may suspend or rescind a delegation under this subsection. If it is determined that a county is not carrying out such rules or the delegation is suspended, the unexpended portion of the fees collected under subsection (2) of this section shall be available to the authority for carrying out the duties and functions under this section.

(2) The county may determine the amount of, and retain, any fee for any function undertaken pursuant to subsection (1) of this section or use the fee [*schedules pursuant to*] **amounts established under** ORS 448.030 and 448.035. A county to whom licensing, inspection and enforcement authority has been delegated under this section shall collect and remit to the authority a fee to support the

activities of the authority under this section. The fee shall be established by the authority and the Conference of Local Health Officials based upon a budget and formula for funding activities described in this section. The authority and the Conference of Local Health Officials shall consult with associations representing Oregon cities, special districts and the lodging industry in establishing the fee. In the event the authority and the Conference of Local Health Officials cannot reach agreement on the budget and formula, the authority shall submit its budget proposal to the Legislative Assembly.

(3) In any action, suit or proceeding arising out of county administration of functions pursuant to subsection (1) of this section and involving the validity of a rule promulgated by the authority, the authority shall be made a party to the action, suit or proceeding.

**SECTION 123.** (1) **The amendments to ORS 448.011, 448.020 and 448.030 by sections 117 to 119 of this 2019 Act do not affect the validity or terms of any permit issued under ORS 448.030 before the effective date of this 2019 Act.**

(2) **The Oregon Health Authority shall treat any application for a permit under ORS 448.030 that is pending with the authority on the effective date of this 2019 Act as an application for plan approval. This subsection does not subject an application pending authority approval on the effective date of this 2019 Act to any additional fee amount established in the amendments to ORS 448.030 by section 119 of this 2019 Act.**

#### **REPEALS**

**SECTION 124. ORS 181A.330 and 181A.335 are repealed.**

#### **CAPTIONS**

**SECTION 125. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.**

#### **EFFECTIVE DATE**

**SECTION 126. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.**

**Passed by Senate March 5, 2019**

**Repassed by Senate June 10, 2019**

.....  
Lori L. Brocker, Secretary of Senate

.....  
Peter Courtney, President of Senate

**Passed by House June 4, 2019**

.....  
Tina Kotek, Speaker of House

**Received by Governor:**

.....M,....., 2019

**Approved:**

.....M,....., 2019

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2019

.....  
Bev Clarno, Secretary of State