

House Bill 2115

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Mental Health Regulatory Agency)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Oregon Board of Licensed Professional Counselors and Therapists to sanction applicants for licensure and licensees for unprofessional conduct.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to Oregon Board of Licensed Professional Counselors and Therapists disciplinary authority;
3 creating new provisions; amending ORS 675.745; and prescribing an effective date.

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

5 **SECTION 1.** ORS 675.745 is amended to read:

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

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

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

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

15 (d) Has **engaged in unprofessional conduct or has** been grossly negligent in the practice of
16 professional counseling or marriage and family therapy[;], **including but not limited to:**

17 **(A) Conduct or practice contrary to the code of ethics adopted by the board;**

18 **(B) Conduct or practice that constitutes a danger to the health or safety of a patient or**
19 **the public;**

20 **(C) Conduct, practice or a condition that adversely affects the applicant or licensee's**
21 **ability to practice the profession safely and skillfully;**

22 **(D) Willful ordering or performing of unnecessary tests or studies or administration of**
23 **unnecessary treatment;**

24 **(E) Willful failure to obtain consultations or perform referrals when failing to do so is**
25 **inconsistent with the standard of care; or**

26 **(F) Willful or otherwise ordering or performing of a service or treatment that is contrary**
27 **to recognized standards of practice in the profession;**

28 (e) Has violated any provision of ORS 675.715 to 675.835 or 675.850;

29 (f) Has violated any rule of the board pertaining to the licensure of professional counselors or
30 licensed marriage and family therapists;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (g) Has failed to file a professional disclosure statement or has filed a false, incomplete or mis-
2 leading professional disclosure statement;

3 (h) Has practiced outside the scope of activities, including administering, constructing or inter-
4 preting tests or diagnosing or treating mental disorders, for which the licensee has individual
5 training and qualification;

6 (i) Has been disciplined by a state mental health licensing board or program in this or any other
7 state for violation of competency or conduct standards; or

8 (j) Notwithstanding ORS 670.280, has been convicted of a sex crime as defined in ORS 163A.005
9 or has been convicted in another state or jurisdiction of a crime that is substantially equivalent to
10 a sex crime as defined in ORS 163A.005.

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

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

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

16 (B) Requirements for specific training;

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

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

19 (3) The board may initiate injunctive proceedings in any circuit court against persons violating
20 any provision of ORS 675.715 to 675.835 or any rules adopted by the board.

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

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

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

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

32 **SECTION 2. (1) The amendments to ORS 675.745 by section 1 of this 2021 Act become**
33 **operative on January 1, 2022.**

34 **(2) The Oregon Board of Licensed Professional Counselors and Therapists may take any**
35 **action before the operative date specified in subsection (1) of this section that is necessary**
36 **to enable the board to exercise, on and after the operative date specified in subsection (1)**
37 **of this section, all of the duties, functions and powers conferred on the board by the**
38 **amendments to ORS 675.745 by section 1 of this 2021 Act.**

39 **SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021**
40 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**