

Requested by Senator LIEBER

**PROPOSED AMENDMENTS TO
SENATE BILL 1549**

1 On page 1 of the printed bill, line 2, after “658.015” insert “, 676.565,
2 676.579, 676.613, 676.622 and 676.625”.

3 Delete lines 5 through 29 and delete pages 2 through 4 and insert:

4 **“SECTION 1. As used in sections 1 to 8 of this 2022 Act:**

5 **“(1) ‘Personnel’ means an individual, regardless of whether the in-**
6 **dividual is licensed or otherwise authorized by the state to practice a**
7 **health care occupation or profession, who provides health care ser-**
8 **vices or assistance with activities of daily living to clients, patients**
9 **or residents for or on behalf of an entity that engages the temporary**
10 **staffing agency with which the individual is associated.**

11 **“(2) ‘Rate’ means the total amount that a temporary staffing**
12 **agency charges to or receives from an entity that engages the tempo-**
13 **rary staffing agency to assign personnel to the entity on a temporary**
14 **basis.**

15 **“(3)(a) ‘Temporary staffing agency’ means an entity that operates**
16 **in this state for the purpose of providing temporary work to personnel**
17 **providing health care services or assistance with activities of daily**
18 **living for or on behalf of entities that engage the temporary staffing**
19 **agency.**

20 **“(b) ‘Temporary staffing agency’ does not include:**

21 **“(A) A staff arrangement established by an entity solely for use by**

1 the entity, or by any entity associated with the entity, and in which
2 the only costs are salaries paid to individuals who perform work;

3 “(B) An individual who provides the individual’s services on a tem-
4 porary basis;

5 “(C) An employment agency as defined in ORS 658.005;

6 “(D) Home health agencies licensed under ORS 443.015;

7 “(E) In-home care agencies licensed under ORS 443.315; or

8 “(F) Home care workers and personal support workers listed on the
9 home care registry as defined in ORS 410.600.

10 **“SECTION 2. (1) Subject to subsection (4) of this section, the Health**
11 **Licensing Office shall issue a temporary staffing agency license to an**
12 **applicant that submits to the office:**

13 “(a) An application that includes the names and addresses of the
14 applicant’s officers and directors and any other person that has own-
15 ership, partnership or a similar interest in the applicant;

16 “(b) For the purposes of conducting a state or nationwide criminal
17 records check under ORS 181A.195, the fingerprints of all individuals
18 described in paragraph (a) of this subsection;

19 “(c) Copies of the applicant’s organizational documents, including
20 but not limited to articles of incorporation and other relevant filings;

21 “(d) Any other information requested by the office; and

22 “(e) A licensure fee.

23 “(2) A license issued under this section is valid for one year and
24 may be renewed. In order to renew a license issued under this section,
25 a temporary staffing agency shall submit to the office a renewal ap-
26 plication that includes:

27 “(a) Any changes to the information described in subsection (1)(a)
28 or (c) of this section;

29 “(b) Any other information requested by the office; and

30 “(c) A renewal fee.

1 **“(3) Every two years after the issuance of a license under subsection**
2 **(1) of this section, as a condition of license renewal, the office shall**
3 **require a temporary staffing agency to provide to the office the fin-**
4 **gerprints described in subsection (1)(b) of this section for the purpose**
5 **of conducting updated state and national criminal records checks un-**
6 **der ORS 181A.195.**

7 **“(4) The office may refuse to issue or renew a license under this**
8 **section if the office is not satisfied with the results of a state or na-**
9 **tionwide criminal records check conducted under ORS 181A.195 using**
10 **the fingerprints described in subsection (1)(b) of this section.**

11 **“SECTION 3. The Health Licensing Office shall publish and main-**
12 **tain on a publicly available website operated by or on behalf of the**
13 **office a list of temporary staffing agencies licensed under section 2 of**
14 **this 2022 Act.**

15 **“SECTION 4. (1) A temporary staffing agency may not operate in**
16 **this state without a license issued or renewed under section 2 of this**
17 **2022 Act.**

18 **“(2) Each separate physical location of a temporary staffing agency**
19 **must obtain a license under section 2 of this 2022 Act.**

20 **“SECTION 5. (1) A temporary staffing agency licensed under section**
21 **2 of this 2022 Act shall:**

22 **“(a) Ensure all personnel for which the temporary staffing agency**
23 **procures or provides temporary employment meet any professional**
24 **authorization requirements established for the practice or perform-**
25 **ance of the services provided by the personnel.**

26 **“(b) Assign personnel to settings for which the personnel have the**
27 **appropriate work experience and background to provide the services**
28 **required by the specific setting.**

29 **“(c) Retain records for at least 10 years in a manner that makes the**
30 **records immediately available to the Health Licensing Office upon re-**

1 **quest of the office.**

2 **“(d) Meet any other requirements established by the office by rule.**

3 **“(2) A temporary staffing agency licensed under section 2 of this**
4 **2022 Act may not charge to or receive from an entity that engages the**
5 **temporary staffing agency:**

6 **“(a) A rate greater than the applicable rate established by the office**
7 **under section 6 of this 2022 Act; or**

8 **“(b) Any fees or other amounts related to or associated with the**
9 **subsequent hiring of personnel by the entity if the entity has not di-**
10 **rectly solicited, or attempted to solicit, employment of the personnel.**

11 **“SECTION 6. (1)(a) The Health Licensing Office shall adopt rules**
12 **to establish rates that a temporary staffing agency licensed under**
13 **section 2 of this 2022 Act may charge to or receive from an entity that**
14 **engages the temporary staffing agency.**

15 **“(b) The office may establish more than one rate under this sub-**
16 **section. The differences in rates may be based on factors including but**
17 **not limited to geographic regions of this state, personnel education**
18 **and qualification and settings.**

19 **“(c) The office shall annually evaluate the rates established under**
20 **this subsection and, based on changes in the market, average industry**
21 **wages and other factors the office considers relevant, adjust the rates**
22 **established under this subsection.**

23 **“(2)(a) The office shall adopt by rule lists of provisions that an**
24 **agreement between a temporary staffing agency licensed under section**
25 **2 of this 2022 Act and an entity that engages the temporary staffing**
26 **agency:**

27 **“(A) Must include; and**

28 **“(B) May not include.**

29 **“(b) An agreement described in this subsection may include pro-**
30 **visions in addition to those required under this subsection.**

1 “(c) The office may adopt a template agreement that a temporary
2 staffing agency may, but is not required to, use.

3 “(3) The office may adopt other rules as necessary to carry out
4 sections 1 to 8 of this 2022 Act.

5 “SECTION 7. In the manner prescribed in ORS chapter 183 for
6 contested cases, the Health Licensing Office may impose a form of
7 discipline against a temporary staffing agency licensed under section
8 2 of this 2022 Act for a violation of sections 2, 4, 5 or 6 of this 2022 Act
9 or a rule adopted under sections 1 to 8 of this 2022 Act.

10 “SECTION 8. (1) The Health Licensing Office may impose on a
11 temporary staffing agency a civil penalty not to exceed \$500 per day
12 per violation of section 2, 4, 5 or 6 of this 2022 Act or rules adopted
13 under section 6 of this 2022 Act. The office shall consider as a separate
14 violation each assignment of an individual personnel member in vio-
15 lation of section 5 (1) of this 2022 Act.

16 “(2) Moneys from civil penalties imposed under this section shall
17 be deposited in the Health Licensing Office Account established under
18 ORS 676.625 for the administration of sections 1 to 8 of this 2022 Act.

19 “SECTION 9. ORS 658.015 is amended to read:

20 “658.015. (1) ORS 658.005 to 658.245 do not apply to:

21 “(a) Labor contractors subject to ORS 658.405 to 658.511; or

22 “(b) A temporary staffing agency as defined in section 1 of this 2022
23 Act.

24 “(2) ORS 658.005 to 658.245 do not apply to any nonprofit organization or
25 corporation organized for the purpose of economic adjustment, civic
26 betterment and the giving of professional guidance and placement to its
27 members, when all of the following requirements are met:

28 “(a) None of its directors, officers or employees are deriving any profit
29 beyond a nominal salary for services performed on its behalf.

30 “(b) Membership dues and fees are used solely for the maintenance of the

1 organization or corporation.

2 “(c) No fee is charged for employment services.

3 “(d) On request of the Commissioner of the Bureau of Labor and Indus-
4 tries, the organization or corporation files with the commissioner, on or be-
5 fore the first day of April of each year, a copy of its constitution or articles
6 of incorporation and its bylaws, together with a sworn statement setting
7 forth its place of business; the names and addresses of its officers, directors
8 and employees, the salaries they receive and the services they actually per-
9 form; and the various benefits furnished to its members.

10 “(3) As used in subsection (2) of this section:

11 “(a) ‘Civic betterment’ means the promotion of the common good and
12 general welfare of the people of this state or any political subdivision
13 therein.

14 “(b) ‘Economic adjustment’ means the promotion of a program by which
15 individuals are helped to acquire new professional skills, add to their exist-
16 ing professional skills or change their type of profession.

17 “(4) ORS 658.005 to 658.245 do not apply to a bona fide labor organization
18 of workers or a nonprofit organization or corporation that has been formed
19 in good faith for the regulation, promotion and advancement of the general
20 professional interests of its members and that incidentally maintains a
21 placement service principally engaged in securing employment for such
22 members.

23 **“SECTION 10.** ORS 676.565 is amended to read:

24 “676.565. Pursuant to ORS 676.568, the Health Licensing Office shall pro-
25 vide administrative and regulatory oversight and centralized service for the
26 following boards, councils and programs:

27 “(1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

28 “(2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;

29 “(3) State Board of Denture Technology, as provided in ORS 680.500 to
30 680.565;

1 “(4) State Board of Direct Entry Midwifery, as provided in ORS 687.405
2 to 687.495;

3 “(5) Respiratory Therapist and Polysomnographic Technologist Licensing
4 Board, as provided in ORS 688.800 to 688.840;

5 “(6) Environmental Health Registration Board, as provided in ORS chap-
6 ter 700;

7 “(7) Board of Electrologists and Body Art Practitioners, as provided in
8 ORS 690.350 to 690.410;

9 “(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to
10 694.170;

11 “(9) Sexual Offense Treatment Board, as provided in ORS 675.365 to
12 675.410;

13 “(10) Long Term Care Administrators Board, as provided in ORS 678.710
14 to 678.820;

15 “(11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;

16 “(12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;

17 “(13) Board of Certified Advanced Estheticians, as provided in ORS
18 676.630 to 676.660;

19 “(14) Art therapy, as provided in ORS 681.740 to 681.758;

20 “(15) Lactation consultation, as provided in ORS 676.665 to 676.689;

21 “(16) Music therapy, as provided in ORS 681.700 to 681.730; *[and]*

22 “(17) Genetic counseling, as provided in ORS 676.730 to 676.748; **and**

23 **“(18) Temporary staffing agencies, as provided in sections 1 to 8 of**
24 **this 2022 Act.**

25 **“SECTION 11.** ORS 676.579 is amended to read:

26 “676.579. (1)(a) The Health Licensing Office is under the supervision and
27 control of a director, who is responsible for the performance of the duties,
28 functions and powers and for the organization of the office.

29 “(b) The Director of the Oregon Health Authority shall establish the
30 qualifications for and appoint the Director of the Health Licensing Office,

1 who holds office at the pleasure of the Director of the Oregon Health Au-
2 thority.

3 “(c) The Director of the Health Licensing Office shall receive a salary as
4 provided by law or, if not so provided, as prescribed by the Director of the
5 Oregon Health Authority.

6 “(d) The Director of the Health Licensing Office is in the unclassified
7 service.

8 “(2) The Director of the Health Licensing Office shall provide the boards,
9 councils and programs administered by the office with any services and em-
10 ployees as the office requires to carry out the office’s duties. Subject to any
11 applicable provisions of the State Personnel Relations Law, the Director of
12 the Health Licensing Office shall appoint all subordinate officers and em-
13 ployees of the office, prescribe their duties and fix their compensation.

14 “(3) The Director of the Health Licensing Office is responsible for carry-
15 ing out the duties, functions and powers under ORS 675.365 to 675.410,
16 676.560 to 676.625, 676.630 to 676.660, 676.665 to 676.689, 676.730 to 676.748,
17 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565, 681.700
18 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 687.895, 688.701 to 688.734,
19 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and
20 694.015 to 694.170 and ORS chapter 700 **and sections 1 to 8 of this 2022**
21 **Act.**

22 “(4) The enumeration of duties, functions and powers in subsection (3) of
23 this section is not intended to be exclusive or to limit the duties, functions
24 and powers imposed on or vested in the office by other statutes.

25 **“SECTION 12.** ORS 676.613 is amended to read:

26 “676.613. (1) In addition to all other remedies, when it appears to the
27 Health Licensing Office that a person is engaged in, has engaged in or is
28 about to engage in any act, practice or transaction that violates any pro-
29 vision of ORS 675.365 to 675.410, 676.630 to 676.660, 676.665 to 676.689, 676.730
30 to 676.748, 676.810, 676.815, 678.710 to 678.820, 680.500 to 680.565, 681.700 to

1 681.730, 681.740 to 681.758, 687.405 to 687.495, 688.701 to 688.734, 688.800 to
2 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 or 694.015 to
3 694.170 or ORS chapter 700 **or sections 1 to 8 of this 2022 Act**, the office
4 may, through the Attorney General or the district attorney of the county in
5 which the act, practice or transaction occurs or will occur, apply to the
6 court for an injunction restraining the person from the act, practice or
7 transaction.

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

12 **“SECTION 13.** ORS 676.622 is amended to read:

13 “676.622. (1) A transaction conducted through a state or local system or
14 network that provides electronic access to the Health Licensing Office in-
15 formation and services is exempt from any requirement under ORS 675.365
16 to 675.410, 676.560 to 676.625, 676.630 to 676.660, 676.665 to 676.689, 676.730 to
17 676.748, 676.810, 676.815, 676.992, 680.500 to 680.565, 681.700 to 681.730, 681.740
18 to 681.758, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to
19 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS
20 chapter 700 **and sections 1 to 8 of this 2022 Act**, and rules adopted there-
21 under, requiring an original signature or the submission of handwritten ma-
22 terials.

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

25 **“SECTION 14.** ORS 676.625 is amended to read:

26 “676.625. (1) The Health Licensing Office shall establish by rule and shall
27 collect fees and charges to carry out the office’s responsibilities under ORS
28 676.560 to 676.625, 676.850 and 676.992 and any responsibility imposed on the
29 office pertaining to the boards, councils and programs administered and
30 regulated by the office pursuant to ORS 676.565.

1 “(2) The Health Licensing Office Account is established separate and
2 distinct from the General Fund. The account shall consist of the moneys
3 credited to the account by the Legislative Assembly. All moneys in the ac-
4 count are continuously appropriated to and shall be used by the office for
5 payment of expenses of the office in carrying out the duties, functions and
6 obligations of the office, and for payment of the expenses of the boards,
7 councils and programs administered and regulated by the office pursuant to
8 ORS 676.565. The office shall keep a record of all moneys credited to the
9 account and report the source from which the moneys are derived and the
10 activity of each board, council or program that generated the moneys.

11 “(3) Subject to prior approval of the Oregon Department of Administrative
12 Services and a report to the Emergency Board prior to establishing fees and
13 charges credited to the account, the fees and charges may not exceed the cost
14 of administering the office and the boards, councils and programs within the
15 office, as authorized by the Legislative Assembly within the office’s budget,
16 as the budget may be modified by the Emergency Board.

17 “(4) All moneys credited to the account pursuant to ORS 676.576 and
18 676.806, and moneys credited to the account from other office and program
19 fees established by the office by rule, are continuously appropriated to the
20 office for carrying out the duties, functions and powers of the office under
21 ORS 676.560 to 676.625, 676.806, 676.850 and 676.992.

22 “(5) The moneys received from civil penalties assessed under ORS 676.992
23 **and section 8 of this 2022 Act** shall be deposited and accounted for as are
24 other moneys received by the office and shall be for the administration and
25 enforcement of the statutes governing the boards, councils and programs
26 administered by the office.

27 **“SECTION 15. (1) Sections 1 to 8 of this 2022 Act and the amend-**
28 **ments to ORS 658.015, 676.565, 676.579, 676.613, 676.622 and 676.625 by**
29 **sections 9 to 14 of this 2022 Act become operative on July 1, 2023.**

30 **“(2) The Health Licensing Office may take any action before the**

1 **operative date specified in subsection (1) of this section that is neces-**
2 **sary to enable the office to exercise, on and after the operative date**
3 **specified in subsection (1) of this section, all of the duties, functions**
4 **and powers conferred on the office by sections 1 to 8 of this 2022 Act**
5 **and the amendments to ORS 658.015, 676.565, 676.579, 676.613, 676.622 and**
6 **676.625 by sections 9 to 14 of this 2022 Act.**

7 **“SECTION 16. This 2022 Act being necessary for the immediate**
8 **preservation of the public peace, health and safety, an emergency is**
9 **declared to exist, and this 2022 Act takes effect on its passage.”.**

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