

House Bill 2421

Sponsored by Representative REYNOLDS (at the request of Paul Terdal) (Pre-session filed.)

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**.

Allows applied behavior analysis professional to provide outpatient treatment for mental or emotional disorder or chemical dependency to certain patients without parental consent. Requires applied behavior analysis professionals to report child abuse and to report prohibited or unprofessional conduct of another applied behavior analysis professional. Prohibits applied behavior analysis professional from practicing conversion therapy.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to applied behavior analysis; creating new provisions; amending ORS 109.675, 419B.005,
3 675.850, 676.150, 676.825, 676.830 and 676.992 and section 2, chapter 771, Oregon Laws 2013; and
4 prescribing an effective date.

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

6 **SECTION 1. ORS 676.802, 676.806, 676.810, 676.815, 676.820, 676.825 and 676.830 are added**
7 **to and made a part of ORS 676.802 to 676.830.**

8 **SECTION 2.** ORS 676.825 is amended to read:

9 676.825. In the manner prescribed in ORS chapter 183 for contested cases **and in consultation**
10 **with the Behavior Analysis Regulatory Board**, the Health Licensing Office may impose a form
11 of discipline listed in ORS 676.612 against any person licensed or registered under ORS 676.810 or
12 676.815 for any of the prohibited acts listed in ORS 676.612 and for any violation of a rule adopted
13 under ORS [676.810 or 676.815] **676.802 to 676.830.**

14 **SECTION 3.** ORS 676.830 is amended to read:

15 676.830. A health benefit plan as defined in ORS 743B.005 may establish credentialing require-
16 ments for the provision of applied behavior analysis [as defined in ORS 676.802] by licensed health
17 care professionals [as defined in ORS 676.802, by], behavior analysts or assistant behavior analysts
18 licensed [by the Behavior Analysis Regulatory Board] **under ORS 676.810** or by behavior analysis
19 interventionists registered by the Health Licensing Office **under 676.815.**

20 **SECTION 4.** ORS 676.992 is amended to read:

21 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other
22 penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to
23 exceed \$5,000 for each violation of the following statutes and any rule adopted under the following
24 statutes:

25 (a) ORS 688.701 to 688.734 (athletic training);

26 (b) ORS 690.005 to 690.225 (cosmetology);

27 (c) ORS 680.500 to 680.565 (denture technology);

28 (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);

29 (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal im-

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 planting and scarification);

2 (f) ORS 694.015 to 694.170 (dealing in hearing aids);

3 (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);

4 (h) ORS chapter 700 (environmental sanitation);

5 (i) ORS 675.365 to 675.410 (sexual abuse specific treatment);

6 (j) ORS 678.710 to 678.820 (nursing home administrators and residential care facility adminis-
7 trators);

8 (k) ORS 691.405 to 691.485 (dietitians);

9 (L) ORS 676.612 (prohibited acts);

10 (m) ORS [676.810 and 676.815] **676.802 to 676.830** (applied behavior analysis);

11 (n) ORS 681.700 to 681.730 (music therapy);

12 (o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure);

13 (p) ORS 681.740 to 681.758 (art therapy);

14 (q) ORS 676.665 to 676.689 (lactation consultation); and

15 (r) ORS 676.730 to 676.748 (genetic counseling).

16 (2) The office may take any other disciplinary action that it finds proper, including but not
17 limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any
18 statute listed in subsection (1) of this section or any rule adopted under any statute listed in sub-
19 section (1) of this section.

20 (3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a
21 violation of ORS 694.042.

22 (4) In imposing a civil penalty under this section, the office shall consider the following factors:

23 (a) The immediacy and extent to which the violation threatens the public health or safety;

24 (b) Any prior violations of statutes, rules or orders;

25 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-
26 lation; and

27 (d) Any other aggravating or mitigating factors.

28 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

29 (6) The moneys received by the office from civil penalties under this section shall be deposited
30 in the Health Licensing Office Account and are continuously appropriated to the office for the ad-
31 ministration and enforcement of the laws the office is charged with administering and enforcing that
32 govern the person against whom the penalty was imposed.

33 **SECTION 5.** Section 2, chapter 771, Oregon Laws 2013, as amended by section 9, chapter 674,
34 Oregon Laws 2015, and section 11, chapter 284, Oregon Laws 2019, is amended to read:

35 **Sec. 2.** (1) As used in this section and section 3a, chapter 771, Oregon Laws 2013:

36 (a)(A) "Applied behavior analysis" means the design, implementation and evaluation of environ-
37 mental modifications, using behavioral stimuli and consequences, to produce significant improvement
38 in human social behavior, including the use of direct observation, measurement and functional
39 analysis of the relationship between environment and behavior, that is provided by:

40 (i) A licensed health care professional as defined in ORS 676.802;

41 (ii) A behavior analyst or assistant behavior analyst licensed under ORS 676.810; or

42 (iii) A behavior analysis interventionist registered under ORS 676.815 who receives ongoing
43 training and supervision by a licensed behavior analyst, by a licensed assistant behavior analyst or
44 by a licensed health care professional.

45 (B) "Applied behavior analysis" does not mean psychological testing, neuropsychology,

1 psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy and long-term coun-
 2 seling as treatment modalities.

3 (b) "Autism spectrum disorder" has the meaning given that term in the fifth edition of the Di-
 4 agnostic and Statistical Manual of Mental Disorders (DSM-5) published by the American Psychiatric
 5 Association.

6 (c) "Diagnosis" means medically necessary assessment, evaluation or testing.

7 (d) "Health benefit plan" has the meaning given that term in ORS 743B.005.

8 (e) "Medically necessary" means in accordance with the definition of medical necessity that is
 9 specified in the policy or certificate for the health benefit plan and that applies to all covered ser-
 10 vices under the plan.

11 (f) "Treatment for autism spectrum disorder" includes applied behavior analysis for up to 25
 12 hours per week and any other mental health or medical services identified in the individualized
 13 treatment plan, as described in subsection (6) of this section.

14 (2) A health benefit plan shall provide coverage of:

15 (a) The screening for and diagnosis of autism spectrum disorder by a licensed neurologist,
 16 pediatric neurologist, developmental pediatrician, psychiatrist or psychologist, who has experience
 17 or training in the diagnosis of autism spectrum disorder; and

18 (b) Medically necessary treatment for autism spectrum disorder and the management of care, for
 19 an individual who begins treatment before nine years of age, subject to the requirements of this
 20 section.

21 (3) This section does not require coverage for:

22 (a) Services provided by a family or household member;

23 (b) Services that are custodial in nature or that constitute marital, family, educational or
 24 training services;

25 (c) Custodial or respite care, equine assisted therapy, creative arts therapy, wilderness or ad-
 26 venture camps, social counseling, telemedicine, music therapy, neurofeedback, chelation or
 27 hyperbaric chambers;

28 (d) Services provided under an individual education plan in accordance with the Individuals with
 29 Disabilities Education Act, 20 U.S.C. 1400 et seq.;

30 (e) Services provided through community or social programs; or

31 (f) Services provided by the Department of Human Services or the Oregon Health Authority,
 32 other than employee benefit plans offered by the department and the authority.

33 (4) An insurer may not terminate coverage or refuse to issue or renew coverage for an individ-
 34 ual solely because the individual has received a diagnosis of autism spectrum disorder or has re-
 35 ceived treatment for autism spectrum disorder.

36 (5) Coverage under this section may be subject to utilization controls that are reasonable in the
 37 context of individual determinations of medical necessity. An insurer may require:

38 (a) An autism spectrum disorder diagnosis by a professional described in subsection (2)(a) of this
 39 section if the original diagnosis was not made by a professional described in subsection (2)(a) of this
 40 section.

41 (b) Prior authorization for coverage of a maximum of 25 hours per week of applied behavior
 42 analysis recommended in an individualized treatment plan approved by a professional described in
 43 subsection (2)(a) of this section for an individual with autism spectrum disorder, as long as the
 44 insurer makes a prior authorization determination no later than 30 calendar days after receiving the
 45 request for prior authorization, notwithstanding ORS 743B.423.

1 (6) If an individual is receiving applied behavior analysis, an insurer may require submission of
 2 an individualized treatment plan, which shall include all elements necessary for the insurer to ap-
 3 propriately determine coverage under the health benefit plan. The individualized treatment plan
 4 must be based on evidence-based screening criteria. An insurer may require an updated individual-
 5 ized treatment plan, not more than once every six months, that includes observed progress as of the
 6 date the updated plan was prepared, for the purpose of performing utilization review and medical
 7 management. The insurer may require the individualized treatment plan to be approved by a pro-
 8 fessional described in subsection (2)(a) of this section, and to include the:

- 9 (a) Diagnosis;
- 10 (b) Proposed treatment by type;
- 11 (c) Frequency and anticipated duration of treatment;
- 12 (d) Anticipated outcomes stated as goals, including specific cognitive, social, communicative,
 13 self-care and behavioral goals that are clearly stated, directly observed and continually measured
 14 and that address the characteristics of the autism spectrum disorder; and
- 15 (e) Signature of the treating provider.

16 (7)(a) Once coverage for applied behavior analysis has been approved, the coverage continues
 17 as long as:

- 18 (A) The individual continues to make progress toward the majority of the goals of the individ-
 19 ualized treatment plan; and
- 20 (B) Applied behavior analysis is medically necessary.

21 (b) An insurer may require periodic review of an individualized treatment plan, as described in
 22 subsection (6) of this section, and modification of the individualized treatment plan if the review
 23 shows that the individual receiving the treatment is not making substantial clinical progress toward
 24 the goals of the individualized treatment plan.

25 (8) Coverage under this section may be subject to requirements and limitations no more re-
 26 strictive than those imposed on coverage or reimbursement of expenses arising from the treatment
 27 of other medical conditions under the policy or certificate, including but not limited to:

- 28 (a) Requirements and limitations regarding in-network providers; and
- 29 (b) Provisions relating to deductibles, copayments and coinsurance.

30 (9) This section applies to coverage for up to 25 hours per week of applied behavior analysis for
 31 an individual if the coverage is first requested when the individual is under nine years of age. This
 32 section does not limit coverage for any services that are otherwise available to an individual under
 33 ORS 743A.168 or 743A.190, including but not limited to:

- 34 (a) Treatment for autism spectrum disorder other than applied behavior analysis or the services
 35 described in subsection (3) of this section;
- 36 (b) Applied behavior analysis for more than 25 hours per week; or
- 37 (c) Applied behavior analysis for an individual if the coverage is first requested when the indi-
 38 vidual is nine years of age or older.

39 (10) Coverage under this section includes treatment for autism spectrum disorder provided in the
 40 individual's home or a licensed health care facility or, for treatment provided by a licensed health
 41 care professional as defined in ORS 676.802 or a behavior analyst or assistant behavior analyst li-
 42 censed under ORS 676.810 **or a behavior analysis interventionist registered under ORS**
 43 **676.815**, in a setting approved by the health care professional, behavior analyst or assistant behavior
 44 analyst.

45 (11) An insurer that provides coverage of applied behavior analysis in accordance with a deci-

1 sion of an independent review organization that was made prior to January 1, 2016, shall continue
 2 to provide coverage, subject to modifications made in accordance with subsection (7) of this section.

3 (12) ORS 743A.001 does not apply to this section.

4 **SECTION 6.** ORS 109.675 is amended to read:

5 109.675. (1) A minor 14 years of age or older may obtain, without parental knowledge or
 6 consent[,]:

7 (a) Outpatient diagnosis or treatment of a mental or emotional disorder or a chemical depend-
 8 ency, excluding methadone maintenance, by a physician or physician assistant licensed by the
 9 Oregon Medical Board, a psychologist licensed by the Oregon Board of Psychology, a nurse practi-
 10 tioner registered by the Oregon State Board of Nursing, a clinical social worker licensed by the
 11 State Board of Licensed Social Workers, a professional counselor or marriage and family therapist
 12 licensed by the Oregon Board of Licensed Professional Counselors and Therapists, a naturopathic
 13 physician licensed by the Oregon Board of Naturopathic Medicine or a community mental health
 14 program established and operated pursuant to ORS 430.620 when approved to do so by the Oregon
 15 Health Authority pursuant to rule.

16 (b) **Outpatient applied behavior analysis, as defined in ORS 676.802, as a treatment of a**
 17 **mental or emotional disorder or a chemical dependency, excluding methadone maintenance,**
 18 **by a behavior analyst or assistant behavior analyst licensed under ORS 676.810 or a behavior**
 19 **analysis interventionist registered by the Health Licensing Office under ORS 676.815 if the**
 20 **treatment is within the scope of practice of the behavior analyst, assistant behavior analyst**
 21 **or behavior analysis interventionist.**

22 (2) However, the person providing treatment shall have the parents of the minor involved before
 23 the end of treatment unless the parents refuse or unless there are clear clinical indications to the
 24 contrary, which shall be documented in the treatment record. The provisions of this subsection do
 25 not apply to:

26 (a) A minor who has been sexually abused by a parent; or

27 (b) An emancipated minor, whether emancipated under the provisions of ORS 109.510 and
 28 109.520 or 419B.550 to 419B.558 or, for the purpose of this section only, emancipated by virtue of
 29 having lived apart from the parents or legal guardian while being self-sustaining for a period of 90
 30 days prior to obtaining treatment as provided by this section.

31 **SECTION 7.** ORS 419B.005, as amended by section 8, chapter 90, Oregon Laws 2022, is amended
 32 to read:

33 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

34 (1)(a) "Abuse" means:

35 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
 36 which has been caused by other than accidental means, including any injury which appears to be
 37 at variance with the explanation given of the injury.

38 (B) Any mental injury to a child, which shall include only observable and substantial impairment
 39 of the child's mental or psychological ability to function caused by cruelty to the child, with due
 40 regard to the culture of the child.

41 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
 42 tration and incest, as those acts are described in ORS chapter 163.

43 (D) Sexual abuse, as described in ORS chapter 163.

44 (E) Sexual exploitation, including but not limited to:

45 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any

1 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
 2 in the performing for people to observe or the photographing, filming, tape recording or other ex-
 3 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
 4 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
 5 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
 6 which is designed to serve educational or other legitimate purposes; and

7 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in
 8 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as
 9 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

10 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to
 11 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
 12 welfare of the child.

13 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
 14 to the child's health or welfare.

15 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

16 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where
 17 methamphetamines are being manufactured.

18 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful
 19 manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a sub-
 20 stantial risk of harm to the child's health or safety.

21 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
 22 conditions described in paragraph (a) of this subsection.

23 (2) "Child" means an unmarried person who:

24 (a) Is under 18 years of age; or

25 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
 26 agency as that term is defined in ORS 418.205.

27 (3) "Higher education institution" means:

28 (a) A community college as defined in ORS 341.005;

29 (b) A public university listed in ORS 352.002;

30 (c) The Oregon Health and Science University; and

31 (d) A private institution of higher education located in Oregon.

32 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged
 33 to have experienced abuse.

34 (b) "Investigation" does not include screening activities conducted upon the receipt of a report.

35 (5) "Law enforcement agency" means:

36 (a) A city or municipal police department.

37 (b) A county sheriff's office.

38 (c) The Oregon State Police.

39 (d) A police department established by a university under ORS 352.121 or 353.125.

40 (e) A county juvenile department.

41 (6) "Public or private official" means:

42 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
 43 including any intern or resident.

44 (b) Dentist.

45 (c) School employee, including an employee of a higher education institution.

- 1 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
- 2 or employee of an in-home health service.
- 3 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
- 4 Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon
- 5 Youth Authority, a local health department, a community mental health program, a community de-
- 6 velopmental disabilities program, a county juvenile department, a child-caring agency as that term
- 7 is defined in ORS 418.205 or an alcohol and drug treatment program.
- 8 (f) Peace officer.
- 9 (g) Psychologist.
- 10 (h) Member of the clergy.
- 11 (i) Regulated social worker.
- 12 (j) Optometrist.
- 13 (k) Chiropractor.
- 14 (L) Certified provider of foster care, or an employee thereof.
- 15 (m) Attorney.
- 16 (n) Licensed professional counselor.
- 17 (o) Licensed marriage and family therapist.
- 18 (p) Firefighter or emergency medical services provider.
- 19 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 20 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 21 (s) An elected official of a branch of government of this state or a state agency, board, com-
- 22 mission or department of a branch of government of this state or of a city, county or other political
- 23 subdivision in this state.
- 24 (t) Physical, speech or occupational therapist.
- 25 (u) Audiologist.
- 26 (v) Speech-language pathologist.
- 27 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 28 gations or discipline by the commission.
- 29 (x) Pharmacist.
- 30 (y) An operator of a preschool recorded program under ORS 329A.255.
- 31 (z) An operator of a school-age recorded program under ORS 329A.255.
- 32 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 33 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 34 109.056.
- 35 (bb) An employee of a public or private organization providing child-related services or activ-
- 36 ities:
 - 37 (A) Including but not limited to an employee of a:
 - 38 (i) Youth group or center;
 - 39 (ii) Scout group or camp;
 - 40 (iii) Summer or day camp;
 - 41 (iv) Survival camp; or
 - 42 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-
 - 43 ligious, public or private educational system or a community service organization; and
 - 44 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that
 - 45 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-

1 man trafficking.

2 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
3 if compensated and if the athlete is a child.

4 (dd) Personal support worker, as defined in ORS 410.600.

5 (ee) Home care worker, as defined in ORS 410.600.

6 (ff) Animal control officer, as defined in ORS 609.500.

7 (gg) Member of a school district board, an education service district board or a public charter
8 school governing body.

9 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a
10 service identified in an individualized written service plan of a child with a developmental disability.

11 (ii) Referral agent, as defined in ORS 418.351.

12 **(jj) Behavior analyst or assistant behavior analyst licensed under ORS 676.810 or behavior**
13 **analysis interventionist registered by the Health Licensing Office under ORS 676.815.**

14 **SECTION 8.** ORS 419B.005, as amended by section 58, chapter 631, Oregon Laws 2021, section
15 16, chapter 27, Oregon Laws 2022, and section 7, chapter 90, Oregon Laws 2022, is amended to read:
16 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

17 (1)(a) "Abuse" means:

18 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
19 which has been caused by other than accidental means, including any injury which appears to be
20 at variance with the explanation given of the injury.

21 (B) Any mental injury to a child, which shall include only observable and substantial impairment
22 of the child's mental or psychological ability to function caused by cruelty to the child, with due
23 regard to the culture of the child.

24 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
25 tration and incest, as those acts are described in ORS chapter 163.

26 (D) Sexual abuse, as described in ORS chapter 163.

27 (E) Sexual exploitation, including but not limited to:

28 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
29 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
30 in the performing for people to observe or the photographing, filming, tape recording or other ex-
31 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
32 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
33 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
34 which is designed to serve educational or other legitimate purposes; and

35 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in
36 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as
37 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

38 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to
39 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
40 welfare of the child.

41 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
42 to the child's health or welfare.

43 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

44 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where
45 methamphetamines are being manufactured.

1 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful
2 manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a sub-
3 stantial risk of harm to the child's health or safety.

4 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
5 conditions described in paragraph (a) of this subsection.

6 (2) "Child" means an unmarried person who:

7 (a) Is under 18 years of age; or

8 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
9 agency as that term is defined in ORS 418.205.

10 (3) "Higher education institution" means:

11 (a) A community college as defined in ORS 341.005;

12 (b) A public university listed in ORS 352.002;

13 (c) The Oregon Health and Science University; and

14 (d) A private institution of higher education located in Oregon.

15 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged
16 to have experienced abuse.

17 (b) "Investigation" does not include screening activities conducted upon the receipt of a report.

18 (5) "Law enforcement agency" means:

19 (a) A city or municipal police department.

20 (b) A county sheriff's office.

21 (c) The Oregon State Police.

22 (d) A police department established by a university under ORS 352.121 or 353.125.

23 (e) A county juvenile department.

24 (6) "Public or private official" means:

25 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
26 including any intern or resident.

27 (b) Dentist.

28 (c) School employee, including an employee of a higher education institution.

29 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
30 or employee of an in-home health service.

31 (e) Employee of the Department of Human Services, Oregon Health Authority, Department of
32 Early Learning and Care, Department of Education, Youth Development Division, Office of Child
33 Care, the Oregon Youth Authority, a local health department, a community mental health program,
34 a community developmental disabilities program, a county juvenile department, a child-caring
35 agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.

36 (f) Peace officer.

37 (g) Psychologist.

38 (h) Member of the clergy.

39 (i) Regulated social worker.

40 (j) Optometrist.

41 (k) Chiropractor.

42 (L) Certified provider of foster care, or an employee thereof.

43 (m) Attorney.

44 (n) Licensed professional counselor.

45 (o) Licensed marriage and family therapist.

- 1 (p) Firefighter or emergency medical services provider.
- 2 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 3 (r) A child care provider registered or certified under ORS 329A.250 to 329A.450.
- 4 (s) An elected official of a branch of government of this state or a state agency, board, com-
5 mission or department of a branch of government of this state or of a city, county or other political
6 subdivision in this state.
- 7 (t) Physical, speech or occupational therapist.
- 8 (u) Audiologist.
- 9 (v) Speech-language pathologist.
- 10 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
11 gations or discipline by the commission.
- 12 (x) Pharmacist.
- 13 (y) An operator of a preschool recorded program under ORS 329A.255.
- 14 (z) An operator of a school-age recorded program under ORS 329A.255.
- 15 (aa) Employee of a private agency or organization facilitating the provision of respite services,
16 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
17 109.056.
- 18 (bb) An employee of a public or private organization providing child-related services or activ-
19 ities:
 - 20 (A) Including but not limited to an employee of a:
 - 21 (i) Youth group or center;
 - 22 (ii) Scout group or camp;
 - 23 (iii) Summer or day camp;
 - 24 (iv) Survival camp; or
 - 25 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-
26 ligious, public or private educational system or a community service organization; and
 - 27 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that
28 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-
29 man trafficking.
- 30 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
31 if compensated and if the athlete is a child.
- 32 (dd) Personal support worker, as defined in ORS 410.600.
- 33 (ee) Home care worker, as defined in ORS 410.600.
- 34 (ff) Animal control officer, as defined in ORS 609.500.
- 35 (gg) Member of a school district board, an education service district board or a public charter
36 school governing body.
- 37 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a
38 service identified in an individualized written service plan of a child with a developmental disability.
- 39 (ii) Referral agent, as defined in ORS 418.351.
- 40 **(jj) Behavior analyst or assistant behavior analyst licensed under ORS 676.810 or behavior**
41 **analysis interventionist registered by the Health Licensing Office under ORS 676.815.**
- 42 **SECTION 9.** ORS 675.850 is amended to read:
43 675.850. (1) A mental health care or social health professional may not practice conversion
44 therapy if the recipient of the conversion therapy is under 18 years of age.
45 (2) As used in this section:

1 (a)(A) "Conversion therapy" means providing professional services for the purpose of attempting
2 to change a person's sexual orientation or gender identity, including attempting to change behaviors
3 or expressions of self or to reduce sexual or romantic attractions or feelings toward individuals of
4 the same gender.

5 (B) "Conversion therapy" does not mean:

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

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

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

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

16 (ii) A psychologist associate licensed by the Oregon Board of Psychology before January 1, 2022;

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

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

19 (v) A licensed marriage and family therapist or licensed professional counselor both as defined
20 in ORS 675.705; [and]

21 (vi) An individual who provides counseling as part of an educational or training program nec-
22 essary to practice any of the professions described in sub-subparagraphs (i) to (v) of this
23 subparagraph[.]; **and**

24 **(vii) A behavior analyst or assistant behavior analyst licensed under ORS 676.810 or a**
25 **behavior analysis interventionist registered under ORS 676.815.**

26 (B) "Mental health care or social health professional" includes any individual not described in
27 this paragraph who is licensed in this state and whose license authorizes the individual to provide
28 mental health care or social health counseling services.

29 (3) Any state board that regulates licensees described in subsection (2)(b)(B) of this section may
30 impose any form of discipline that the board may impose on a licensee under the laws of this state
31 for violating a law of this state or a rule adopted by the board.

32 **SECTION 10.** ORS 676.150 is amended to read:

33 676.150. (1) As used in this section:

34 (a) "Board" means the:

35 (A) State Board of Examiners for Speech-Language Pathology and Audiology;

36 (B) State Board of Chiropractic Examiners;

37 (C) State Board of Licensed Social Workers;

38 (D) Oregon Board of Licensed Professional Counselors and Therapists;

39 (E) Oregon Board of Dentistry;

40 (F) Board of Licensed Dietitians;

41 (G) State Board of Massage Therapists;

42 (H) Oregon Board of Naturopathic Medicine;

43 (I) Oregon State Board of Nursing;

44 (J) Long Term Care Administrators Board;

45 (K) Oregon Board of Optometry;

- 1 (L) State Board of Pharmacy;
- 2 (M) Oregon Medical Board;
- 3 (N) Occupational Therapy Licensing Board;
- 4 (O) Oregon Board of Physical Therapy;
- 5 (P) Oregon Board of Psychology;
- 6 (Q) Board of Medical Imaging;
- 7 (R) State Board of Direct Entry Midwifery;
- 8 (S) State Board of Denture Technology;
- 9 (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
- 10 (U) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-
- 11 vices providers;
- 12 (V) Oregon State Veterinary Medical Examining Board; [*or*]
- 13 (W) State Mortuary and Cemetery Board[.]; **or**
- 14 **(X) Behavior Analysis Regulatory Board.**
- 15 (b) "Licensee" means a health professional licensed or certified by or registered with a board.
- 16 (c) "Prohibited conduct" means conduct by a licensee that:
- 17 (A) Constitutes a criminal act against a patient or client; or
- 18 (B) Constitutes a criminal act that creates a risk of harm to a patient or client.
- 19 (d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best
- 20 interests of the public, including conduct contrary to recognized standards of ethics of the licensee's
- 21 profession or conduct that endangers the health, safety or welfare of a patient or client.
- 22 (2) Unless state or federal laws relating to confidentiality or the protection of health information
- 23 prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has en-
- 24 gaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for
- 25 the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the
- 26 conduct without undue delay, but in no event later than 10 working days after the reporting licensee
- 27 learns of the conduct.
- 28 (3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime
- 29 shall report the conviction or arrest to the licensee's board within 10 days after the conviction or
- 30 arrest.
- 31 (4) The board responsible for a licensee who is reported to have engaged in prohibited or un-
- 32 professional conduct shall investigate in accordance with the board's rules. If the board has rea-
- 33 sonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present
- 34 the facts to an appropriate law enforcement agency without undue delay, but in no event later than
- 35 10 working days after the board finds reasonable cause to believe that the licensee engaged in pro-
- 36 hibited conduct.
- 37 (5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection
- 38 (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section
- 39 is subject to discipline by the board responsible for the licensee.
- 40 (6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section
- 41 commits a Class A violation.
- 42 (7)(a) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this
- 43 section is confidential under ORS 676.175.
- 44 (b) A board may disclose a report as provided in ORS 676.177.
- 45 (c) If the Health Licensing Office receives a report described in this subsection, the report is

1 confidential and the office may only disclose the report pursuant to ORS 676.595 and 676.599.

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

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

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

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

12 **SECTION 11. (1) The amendments to ORS 109.675, 419B.005, 675.850, 676.150, 676.825,**
13 **676.830 and 676.992 and section 2, chapter 771, Oregon Laws 2013, by sections 2 to 10 of this**
14 **2023 Act become operative on January 1, 2024.**

15 **(2) The Behavior Analysis Regulatory Board and the Health Licensing Office may take**
16 **any action before the operative date specified in subsection (1) of this section that is neces-**
17 **sary to enable the board and the office to exercise, on and after the operative date specified**
18 **in subsection (1) of this section, all of the duties, functions and powers conferred on the**
19 **board and the office by the amendments to ORS 109.675, 419B.005, 675.850, 676.150, 676.825,**
20 **676.830 and 676.992 and section 2, chapter 771, Oregon Laws 2013, by sections 2 to 10 of this**
21 **2023 Act.**

22 **SECTION 12. This 2023 Act takes effect on the 91st day after the date on which the 2023**
23 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

24