

# Senate Bill 965

Sponsored by COMMITTEE ON HEALTH CARE

## 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 Oregon Health Authority to conduct off-site investigation after receiving certain complaints against hospitals. Allows initial licensure inspections to be conducted off-site for specified providers of home- and community-based care and hospice care.

Permits authority to disclose information obtained during investigation of complaint or reported violation against home health agency, in-home care agency or caregiver registry to specified public entities to carry out regulatory or enforcement activities of such public entities.

Allows authority to issue temporary or provisional certification to practice as hemodialysis technician during local, state or federal declaration of state of emergency or public health emergency. Permits certification by reciprocity of hemodialysis technicians. Authorizes authority to require fingerprints for purpose of conducting criminal records check of persons applying for or renewing certification as hemodialysis technicians. Updates defined term from "dialysis facility or center" to "outpatient renal dialysis facility" for purposes of hemodialysis technician statutes.

Removes requirement that outlines of instruction for courses for psilocybin service facilitators be submitted to Department of Education.

## A BILL FOR AN ACT

Relating to health care providers; creating new provisions; and amending ORS 441.171, 443.019, 443.315, 443.355, 443.860, 475A.380, 688.625, 688.630, 688.650 and 688.655.

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

### HEALTH CARE REGULATION AND QUALITY IMPROVEMENT PROGRAM (Inspections and Investigations)

**SECTION 1.** ORS 441.171 is amended to read:

441.171. (1) For purposes of ensuring compliance with ORS 441.152 to 441.177, the Oregon Health Authority shall:

(a) Within 60 days after receiving a complaint against a hospital for violating a provision of ORS 441.152 to 441.177, conduct an on-site **or off-site** investigation of the hospital; and

(b) Within 60 days after issuing an order requiring a hospital to implement a plan to correct a violation of ORS 441.152 to 441.177, conduct an investigation of the hospital to ensure compliance with the plan.

(2) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to 441.177, the authority shall, if the authority provides notice of the investigation to the hospital, provide notice of the investigation to the cochairs of the hospital nurse staffing committee established pursuant to ORS 441.154.

(3) Following an investigation conducted pursuant to this section, the authority shall provide in writing a report of the authority's findings to the hospital and the cochairs of the hospital nurse staffing committee.

**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 (4) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to  
2 441.177, the authority may:

3 (a) Take evidence;

4 (b) Take the depositions of witnesses in the manner provided by law in civil cases;

5 (c) Compel the appearance of witnesses in the manner provided by law in civil cases;

6 (d) Require answers to interrogatories; and

7 (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the  
8 matter under investigation.

9 **SECTION 2.** ORS 443.019 is amended to read:

10 443.019. (1) The Oregon Health Authority shall conduct an in-person site inspection **or an off-**  
11 **site inspection** of a home health agency and a caregiver registry prior to licensure and **an in-**  
12 **person site inspection** at least once every three years thereafter.

13 (2) In lieu of an in-person site inspection **or an off-site inspection**, the authority may accept  
14 a certification or accreditation from a federal agency or an accrediting body approved by the au-  
15 thority that the state licensing standards have been met, if:

16 (a) The certification or accreditation is recognized by the authority as addressing the standards  
17 and conditions of participation requirements of the Centers for Medicare and Medicaid Services and  
18 any additional standards set by the authority;

19 (b) The agency or registry notifies the authority to participate in any exit interview conducted  
20 by the federal agency or accrediting body; and

21 (c) The agency or registry provides copies of all documentation concerning the certification or  
22 accreditation requested by the authority.

23 **SECTION 3.** ORS 443.315 is amended to read:

24 443.315. (1) A person may not establish, manage or operate an in-home care agency or purport  
25 to manage or operate an in-home care agency without obtaining a license from the Oregon Health  
26 Authority.

27 (2) The authority shall establish classification requirements and qualifications for licensure un-  
28 der this section by rule. The authority shall issue a license to an applicant that has the necessary  
29 qualifications and meets all requirements established by rule, including the payment of required fees.  
30 An in-home care agency shall be required to maintain administrative and professional oversight to  
31 ensure the quality of services provided and that the training requirements established by the au-  
32 thority under ORS 443.011, if applicable, have been met by any individual employed by or contract-  
33 ing with the in-home care agency to provide in-home care services.

34 (3) Application for a license required under subsection (1) of this section shall be made in the  
35 form and manner required by the authority by rule and shall be accompanied by any required fees.

36 (4) A license may be granted, or may be renewed annually, upon payment of a fee as follows:

37 (a) For the initial licensure of an in-home care agency that is classified as:

38 (A) Limited, the fee is \$2,000.

39 (B) Basic, the fee is \$2,250.

40 (C) Intermediate, the fee is \$2,500.

41 (D) Comprehensive, the fee is \$3,000.

42 (b) There is an additional fee of \$1,250 for the initial licensure of each subunit in any classi-  
43 fication of in-home care agency.

44 (c) For the renewal of a license classified as:

45 (A) Limited or basic, the fee is \$1,000.

- 1 (B) Intermediate, the fee is \$1,250.
- 2 (C) Comprehensive, the fee is \$1,500.
- 3 (d) There is an additional fee of \$1,000 for the renewal of licensure for each subunit in any  
4 classification of in-home care agency.
- 5 (e) For a change of ownership at a time other than the annual renewal date:
- 6 (A) The fee is \$350; and
- 7 (B) There is an additional fee of \$350 for each subunit.
- 8 (5) A license issued under this section is valid for one year. A license may be renewed by pay-  
9 ment of the required renewal fee and by demonstration of compliance with requirements for renewal  
10 established by rule.
- 11 (6) A license issued under this section is not transferable.
- 12 (7) The authority shall conduct an *[on-site]* **in-person site inspection or an off-site** inspection  
13 of each in-home care agency prior to services being rendered and **an in-person site inspection** once  
14 every two years thereafter as a requirement for licensing.
- 15 (8) In lieu of the *[on-site]* **in-person site inspection or an off-site inspection** required by sub-  
16 section (7) of this section, the authority may accept a certification or accreditation from a federal  
17 agency or an accrediting body approved by the authority that the state licensing standards have  
18 been met, if the in-home care agency:
- 19 (a) Notifies the authority to participate in any exit interview conducted by the federal agency  
20 or accrediting body; and
- 21 (b) Provides copies of all documentation concerning the certification or accreditation requested  
22 by the authority.
- 23 **SECTION 4.** ORS 443.355 is amended to read:
- 24 **443.355. (1) As used in this section:**
- 25 (a) **“Caregiver registry” has the meaning given that term in ORS 443.014.**
- 26 (b) **“Home health agency” has the meaning given that term in ORS 443.014.**
- 27 (c) **“In-home care agency” has the meaning given that term in ORS 443.305.**
- 28 (d) **“Public entity” means:**
- 29 (A) **A health professional regulatory board or licensing agency or a board or agency of**  
30 **this state or another state with regulatory or enforcement functions similar to the functions**  
31 **of a health professional regulatory board in this state;**
- 32 (B) **A district attorney;**
- 33 (C) **The Department of Justice;**
- 34 (D) **A state or local public body of this state that licenses, franchises or provides emer-**  
35 **gency medical services;**
- 36 (E) **A state or federal agency that disburses public funds;**
- 37 (F) **A law enforcement agency of this state or another state; or**
- 38 (G) **A law enforcement agency of the federal government.**
- 39 *[(1)]* (2) Rules adopted by the Oregon Health Authority pursuant to ORS 443.085 and 443.340  
40 shall include procedures for the filing of complaints as to the care or services provided by home  
41 health agencies, in-home care agencies or caregiver registries that ensure the confidentiality of the  
42 identity of the complainant.
- 43 *[(2)]* (3) An employee or contract provider with knowledge of a violation of law or rules of the  
44 authority shall use the reporting procedures established by the home health agency, in-home care  
45 agency or caregiver registry before notifying the authority or other state agency of the inappropri-

1 ate care or violation, unless the employee or contract provider:

2 (a) Believes a client's health or safety is in immediate jeopardy; or

3 (b) Files a complaint in accordance with rules adopted under subsection [(1)] (2) of this section.

4 [(3)] (4) **Except as provided in subsection (5) of this section**, information obtained by the  
5 authority during an investigation of a complaint or reported violation under this section is confi-  
6 dential and not subject to public disclosure under ORS 192.311 to 192.478. Upon the conclusion of  
7 the investigation, the authority may publicly release a report of its findings but may not include  
8 information in the report that could be used to identify the complainant or any client of the home  
9 health agency, in-home care agency or caregiver registry. The authority may use any information  
10 obtained during an investigation in an administrative or judicial proceeding concerning the licensing  
11 of a home health agency, in-home care agency or caregiver registry.

12 [(4) As used in this section:]

13 [(a) "Caregiver registry" has the meaning given that term in ORS 443.014.]

14 [(b) "Home health agency" has the meaning given that term in ORS 443.014.]

15 [(c) "In-home care agency" has the meaning given that term in ORS 443.305.]

16 (5)(a) **Information obtained by the authority during an investigation of a complaint or**  
17 **reported violation under this section that reasonably relates to the regulatory or enforce-**  
18 **ment function of another public entity may be disclosed by the authority to the other public**  
19 **entity.**

20 (b) **Any public entity that receives information pursuant to paragraph (a) of this sub-**  
21 **section shall take all reasonable steps to maintain the confidentiality of the information,**  
22 **except that the public entity may use or disclose the information to the extent necessary to**  
23 **carry out the public entity's regulatory or enforcement functions.**

24 **SECTION 5.** ORS 443.860 is amended to read:

25 443.860. (1) A person may not establish, conduct or maintain a hospice program providing  
26 hospice services, or hold itself out to the public as a hospice program, without obtaining a license  
27 from the Oregon Health Authority.

28 (2) The authority:

29 (a) Shall adopt rules to carry out the provisions of ORS 443.850 to 443.869, including but not  
30 limited to rules for licensure that require an in-person site inspection **or an off-site inspection** of  
31 each [licensed] hospice program **prior to licensure and an in-person site inspection of each li-**  
32 **censed hospice program** at least once every three years **thereafter.**

33 (b) May accept certification by a federal agency or accreditation by an accrediting organization  
34 approved by the authority as evidence of compliance with the requirements for licensure adopted  
35 under paragraph (a) of this subsection if:

36 (A) The certification or accreditation meets standards and conditions established for hospice  
37 programs by the Centers for Medicare and Medicaid Services;

38 (B) The hospice program invites the authority to participate in any exit interview conducted by  
39 the agency or organization; and

40 (C) The hospice program provides the authority with copies of all documentation requested by  
41 the authority concerning the certification or accreditation.

42 (3) The fee to obtain or renew a hospice program license is \$1,140.

43 (4) The authority shall prescribe by rule the form and manner for application for or renewal of  
44 a license. The authority shall issue a license to an applicant that has the necessary qualifications,  
45 meets all requirements established by the authority by rule and has paid the fee.

(5) A license issued under this section is valid for one year and is not transferable. A license may be renewed by payment of the fee and demonstration of compliance with requirements for renewal established by the authority by rule.

**(Hemodialysis Technicians)**

**SECTION 6.** Section 7 of this 2023 Act is added to and made a part of ORS 688.625 to 688.665.

**SECTION 7.** For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of a person who is:

(1) Applying for a certificate, or a renewal of a certificate, under ORS 688.640 or 688.650; or

(2) Under investigation by the authority under ORS 688.655.

**SECTION 8.** ORS 688.625 is amended to read:

688.625. As used in ORS 688.625 to 688.665:

[(1) “Dialysis facility or center” means a place awarded conditional or unconditional status by the federal Centers for Medicare and Medicaid Services.]

[(2) “End stage renal disease” means a condition that requires either the replacement of kidney functions through renal transplantation or the permanent assistance of those functions through dialysis.]

[(3)] (1) “Hemodialysis technician” means a person certified by the Oregon Health Authority under ORS 688.650.

(2) “Outpatient renal dialysis facility” has the meaning given that term in ORS 442.015.

**SECTION 9.** ORS 688.630 is amended to read:

688.630. (1) It is unlawful for any person to act as a hemodialysis technician without being certified by the Oregon Health Authority.

(2) It is unlawful for any **outpatient renal** dialysis facility [*or center*] to authorize a person to act for it as a hemodialysis technician without being certified by the authority.

**SECTION 10.** ORS 688.650 is amended to read:

688.650. (1)(a) When application has been made as required under ORS 688.640, the Oregon Health Authority shall certify an applicant as a hemodialysis technician if the authority finds that the applicant:

(A) Has successfully completed the training requirement adopted by the authority.

(B) Has paid a fee to the authority pursuant to ORS 688.645.

(C) Has successfully completed an examination administered by the authority or administered by another public or private entity and approved by the authority.

(D) Meets any other requirements prescribed by rule of the authority.

(b) An applicant meets the requirements of paragraph (a)(A) of this subsection if the applicant provides the authority with documentation of military training or experience that the authority determines is substantially equivalent to the training requirement adopted by the authority.

(2) The authority may provide for the issuance of a temporary or provisional certification for a person to practice as a hemodialysis technician:

(a) Until the person has taken and passed the next held certification examination available to the person and has received a certificate[.]; or

1       **(b)(A) During a state of emergency declared under ORS 401.165 or a state of emergency**  
 2 **declared at the local or federal level; or**

3       **(B) During a public health emergency declared under ORS 433.441 or declared at the**  
 4 **federal level.**

5       **(3) Prior to the issuance of a temporary or provisional certification under subsection (2)**  
 6 **of this section, the authority may impose on the certification any conditions, [or] limitations or**  
 7 **additional requirements [on a temporary or provisional certificate] that the authority considers**  
 8 **reasonable and necessary to protect the public.**

9       **(4) A temporary or provisional certificate issued under subsection (2) of this section may be**  
 10 **held only by a person who:**

11       (a) Has not received a failing grade on a certification examination approved or administered by  
 12 the authority; and

13       (b)(A) Has successfully completed the initial training required by authority rule; or

14       (B) Is currently working in this [or another] state as a hemodialysis technician and is enrolled  
 15 in a program offering the initial training required by authority rule.

16       **(5) The authority may issue a certificate by reciprocity for a person to practice as a**  
 17 **hemodialysis technician if the person is currently licensed, certified or otherwise authorized**  
 18 **to practice as a hemodialysis technician under the laws of another state, territory or country**  
 19 **and the authority determines that the qualifications imposed by the other state, territory**  
 20 **or country are substantially equivalent to the qualifications required by this state.**

21       [(3)] **(6) Each person holding a certificate under this section shall submit, at the time of appli-**  
 22 **cation for renewal of the certificate to the authority, evidence of the applicant's satisfactory com-**  
 23 **pletion of any continuing education requirements prescribed by rule by the authority.**

24       [(4)] **(7) The authority shall prescribe criteria and approve programs of continuing education.**

25       [(5)] **(8) Each certification issued under this section, [unless sooner suspended or revoked,] other**  
 26 **than a temporary or provisional certification issued under subsection (2) of this section, shall**  
 27 **expire and be renewable after a period of two years, unless sooner suspended or revoked. Each**  
 28 **such certificate must be renewed on or before June 30 of every second year or on or before [such]**  
 29 **a date [as may be] specified by authority rule. The authority by rule shall establish a schedule of**  
 30 **certificate renewals under this subsection and shall prorate the fees to reflect any shorter certificate**  
 31 **period.**

32       **SECTION 11.** ORS 688.655 is amended to read:

33       688.655. (1) The certification of a hemodialysis technician may be denied, suspended or revoked  
 34 in accordance with the provisions of ORS chapter 183 for any of the following:

35       (a) Failure to complete continuing education requirements.

36       (b) The use of fraud or deception in receiving a certificate.

37       (c) Habitual or excessive use of intoxicants or drugs.

38       (d) The presence of a mental disorder that demonstrably affects a technician's performance, as  
 39 certified by two psychiatrists retained by the Oregon Health Authority.

40       (e) Conviction of a criminal offense that the authority considers reasonably related to the fitness  
 41 of the person to practice hemodialysis.

42       (f) Suspension or revocation of a hemodialysis technician certificate issued by another state.

43       (g) Gross negligence or repeated negligence in rendering hemodialysis care.

44       (h) Any reason identified by authority rule as rendering the applicant unfit to perform the duties  
 45 of a hemodialysis technician.

1 (2) The authority may investigate any evidence that appears to show that a hemodialysis tech-  
2 nician certified by the authority is or may be medically incompetent or is or may be guilty of un-  
3 professional or dishonorable conduct or is or may be mentally or physically unable to safely function  
4 as a hemodialysis technician.

5 (3) Any **outpatient renal** dialysis facility [*or center*], any hemodialysis technician certified under  
6 ORS 688.650, any physician licensed under ORS chapter 677 or any registered nurse licensed under  
7 ORS 678.010 to 678.410 shall report to the authority any information the person may have that ap-  
8 pears to show that a hemodialysis technician is or may be medically incompetent or is or may be  
9 guilty of unprofessional or dishonorable conduct or is or may be mentally or physically unable to  
10 safely function as a hemodialysis technician.

11 (4) Information provided to the authority pursuant to this section is confidential and shall not  
12 be subject to public disclosure, nor shall it be admissible as evidence in any judicial proceeding.

13 (5) Any person who reports or provides information to the authority under this section and who  
14 provides information in good faith shall not be subject to an action for civil damage as a result  
15 thereof.

16  
17 **PSILOCYBIN REGULATION**

18  
19 **SECTION 12.** ORS 475A.380 is amended to read:

20 475A.380. [*Minimum standards of education and training for psilocybin service facilitators;*  
21 *rules.*] (1) The Oregon Health Authority shall adopt by rule minimum standards of education and  
22 training requirements for psilocybin service facilitators.

23 (2) The authority shall approve courses for psilocybin service facilitators. To obtain approval  
24 of a course, the provider of a course must submit an outline of instruction to the authority [*and the*  
25 *Department of Education*]. The outline must include the approved courses, total hours of instruction,  
26 hours of lectures in theory and the hours of instruction in application of practical skills.

27  
28 **CAPTIONS**

29  
30 **SECTION 13.** **The unit captions used in this 2023 Act are provided only for the conven-**  
31 **ience of the reader and do not become part of the statutory law of this state or express any**  
32 **legislative intent in the enactment of this 2023 Act.**

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