

House Bill 3043

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Oregon State Board of Nursing)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes some changes to the impaired health professional program. (Flesch Readability Score: 64.9).

Defines "monitoring agreement" and "workplace monitor" for purposes of the impaired health professional program. Clarifies that a licensee may self-refer to the program. Under specified circumstances, allows a health professional licensing board to remove from board records information regarding a licensee's participation in the program. Clarifies the requirements of a program clinical evaluator.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the impaired health professional program; creating new provisions; amending ORS
3 675.583, 676.185, 676.190, 676.194, 676.200 and 678.112; and prescribing an effective date.

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

5 **SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS 676.185**
6 **to 676.200.**

7 **SECTION 2. A health professional licensing board may establish by rule a process**
8 **through which a licensee enrolled in the impaired health professional program established**
9 **under ORS 676.190 who has successfully completed the program may petition the licensee's**
10 **health professional licensing board to remove from any records held by the health profes-**
11 **sional licensing board information relating to the licensee's participation in the program. A**
12 **health professional licensing board that establishes a process described in this section may**
13 **determine whether to grant a licensee's petition.**

14 **SECTION 3. (1) A monitoring agreement required under ORS 676.190 must require that**
15 **the licensee who is party to the monitoring agreement:**

16 (a) **Subject to subsection (3) of this section, consent to disclosure and exchange of in-**
17 **formation between the impaired health professional program established under ORS 676.190,**
18 **the licensee's health professional licensing board, employer, evaluators and treatment enti-**
19 **ties, in compliance with ORS 179.505 and 42 C.F.R. part 2;**

20 (b) **Comply continuously with the agreement for at least two years to successfully com-**
21 **plete the program;**

22 (c) **Agree to participate in a recommended treatment plan;**

23 (d) **Subject to subsection (4) of this section, submit to random drug or alcohol testing in**
24 **accordance with federal regulations; and**

25 (e) **Subject to subsection (4) of this section, abstain from the use of mind-altering or**
26 **intoxicating substances or potentially addictive drugs unless the drugs are:**

27 (A) **Prescribed for a documented medical condition by a person authorized by law to**

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 **prescribe the drug to the licensee; and**

2 **(B) Approved by the program if the licensee’s health professional licensing board has**
 3 **granted the program that authority.**

4 **(2) The monitoring agreement described in subsection (1) of this section must also:**

5 **(a) Require the licensee to report at least the following information to the impaired**
 6 **health professional program:**

7 **(A) The licensee’s use of mind-altering or intoxicating substances or potentially addictive**
 8 **drugs within 24 hours of the use, if the licensee’s monitoring agreement requires the licensee**
 9 **to abstain from the use of those substances;**

10 **(B) In compliance with rules adopted under ORS 676.190, the licensee’s compliance or**
 11 **noncompliance with the agreement;**

12 **(C) Regarding the licensee, any arrest for or conviction of a misdemeanor or felony crime**
 13 **within three business days after the licensee is arrested or convicted; and**

14 **(D) Any applications that the licensee submits for licensure in other states, changes in**
 15 **the licensee’s employment and changes in the licensee’s practice setting;**

16 **(b) Contain limits on the licensee’s practice of the licensee’s health profession; and**

17 **(c) Provide that the licensee is responsible for the cost of evaluations, toxicology testing**
 18 **and treatment.**

19 **(3) Notwithstanding subsection (1)(a) of this section, information related to a licensee**
 20 **who self-enrolls in the impaired health professional program may be disclosed to the**
 21 **licensee’s health professional licensing board only if the licensee is noncompliant with the**
 22 **licensee’s monitoring agreement.**

23 **(4) The requirements of subsection (1)(d) and (e) of this section do not apply to a moni-**
 24 **toring agreement for a licensee who is diagnosed with solely a mental health disorder and**
 25 **whose health professional licensing board does not otherwise require the licensee to submit**
 26 **to random drug or alcohol testing.**

27 **SECTION 4.** ORS 676.185 is amended to read:

28 676.185. As used in ORS 676.185 to 676.200:

29 *[(1) “Direct supervisor” means the individual who is responsible for:]*

30 *[(a) Supervising a licensee enrolled in the impaired health professional program;]*

31 *[(b) Monitoring the licensee’s compliance with the requirements of the program; and]*

32 *[(c) Periodically reporting to the program on the licensee’s compliance with the requirements of the*
 33 *program.]*

34 *[(2)] (1) “Health [profession] professional licensing board” means:*

35 *(a) A health professional regulatory board as defined in ORS 676.160; or*

36 *(b) The Health Licensing Office for a board, council or program listed in ORS 676.565.*

37 *[(3) “Impaired professional” means a licensee who is unable to practice with professional skill and*
 38 *safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances that impair*
 39 *ability or by reason of a mental health disorder.]*

40 *[(4)] (2) “Licensee” means a health professional licensed or certified by or registered with a*
 41 *health [profession] professional licensing board.*

42 **(3) “Monitoring agreement” means a written agreement entered into between the im-**
 43 **paired health professional program established under ORS 676.190 and a licensee enrolled in**
 44 **the program that includes the provisions described in section 3 of this 2025 Act.**

45 *[(5)] (4) “Substantial noncompliance” includes the following:*

- 1 (a) Criminal behavior;
- 2 (b) Conduct that causes injury, death or harm to the public, or a patient, including sexual
3 impropriety with a patient;
- 4 (c) Impairment in a health care setting in the course of employment;
- 5 (d) A positive toxicology test result as determined by federal regulations pertaining to drug
6 testing;
- 7 (e) Violation of a restriction on a licensee’s practice imposed by the impaired health professional
8 program established under ORS 676.190 or the licensee’s health [*profession*] **professional** licensing
9 board;
- 10 (f) Civil commitment for mental illness;
- 11 (g) Failure to participate in the program after entering into a [*diversion*] **monitoring** agreement
12 under ORS 676.190; or
- 13 (h) Failure to enroll in the program after being referred to the program.
- 14 (5) **“Workplace monitor” means an individual who is free of conflicts of interest, agrees**
15 **to serve as a liaison between the impaired health professional program and a licensee en-**
16 **rolled in the program, and has responsibility for at least:**
 - 17 (a) **Monitoring the licensee’s safe practice in the workplace;**
 - 18 (b) **Completing a monthly safe practice report and submitting the report to the program;**
 - 19 (c) **Informing the program of any concerns regarding the licensee, including any unsafe**
20 **practices in which the licensee engages in the workplace; and**
 - 21 (d) **Receiving noncompliance reports from the program that may require the licensee to**
22 **cease practicing.**
- 23 **SECTION 5.** ORS 676.190 is amended to read:
 - 24 676.190. (1) The health [*profession*] **professional** licensing boards may establish or contract to
25 establish an impaired health professional program **to assist licensees who are unable to practice**
26 **with professional skill and safety by reason of habitual or excessive use or abuse of drugs,**
27 **alcohol or other substances that impair ability or by reason of a mental health disorder.**
 - 28 (2) A program established or contracted for under this section must:
 - 29 (a) Enroll licensees of participating health [*profession*] **professional** licensing boards who have
30 been diagnosed with alcohol or substance abuse or a mental health disorder;
 - 31 (b) Require that a licensee sign a written consent prior to enrollment in the program allowing
32 disclosure and exchange of information between the program, the licensee’s **health professional**
33 **licensing** board, the licensee’s employer, evaluators and treatment entities in compliance with ORS
34 179.505 and 42 C.F.R. part 2;
 - 35 (c) Enter into [*diversion*] **monitoring** agreements with enrolled licensees, **regardless of**
36 **whether the licensee was referred by the licensee’s health professional licensing board or**
37 **was self-referred;**
 - 38 (d) If the enrolled licensee has a [*direct supervisor*] **workplace monitor**, assess the ability of the
39 [*direct supervisor*] **workplace monitor** to supervise the licensee, including an assessment of any
40 documentation of the [*direct supervisor’s*] **workplace monitor’s** completion of specialized training;
 - 41 (e) Report substantial noncompliance with a [*diversion*] **monitoring** agreement to a
42 noncompliant licensee’s **health professional licensing** board within one business day after the
43 program learns of the substantial noncompliance; and
 - 44 (f) At least weekly, submit to licensees’ **health professional licensing** boards:
 - 45 (A) A list of licensees who were referred to the program by a health [*profession*] **professional**

1 licensing board and who are enrolled in the program; and

2 (B) A list of licensees who were referred to the program by a health [profession] **professional**
 3 licensing board and who successfully complete the program.

4 (3) The lists submitted under subsection (2)(f) of this section are exempt from disclosure as a
 5 public record under ORS 192.311 to 192.478.

6 (4) When the program reports substantial noncompliance under subsection (2)(e) of this section
 7 to a licensee's **health professional licensing** board, the report must include:

8 (a) A description of the substantial noncompliance;

9 (b) A copy of a report from the independent [third party] **clinical evaluator** who diagnosed the
 10 licensee under ORS 676.200 (2)(a) or subsection [(7)(a)] **(6)(c)** of this section stating the licensee's
 11 diagnosis;

12 (c) A copy of the licensee's [diversion] **monitoring** agreement; and

13 (d) The licensee's employment status.

14 (5) The program may not diagnose or treat licensees enrolled in the program.

15 [(6) *The diversion agreement required by subsection (2) of this section must:*]

16 [(a) *Require the licensee to consent to disclosure and exchange of information between the program,*
 17 *the licensee's board, the licensee's employer, evaluators and treatment programs or providers, in com-*
 18 *pliance with ORS 179.505 and 42 C.F.R. part 2;]*

19 [(b) *Require that the licensee comply continuously with the agreement for at least two years to*
 20 *successfully complete the program;]*

21 [(c) *Require that the licensee abstain from mind-altering or intoxicating substances or potentially*
 22 *addictive drugs, unless the drug is:*

23 [(A) *Prescribed for a documented medical condition by a person authorized by law to prescribe the*
 24 *drug to the licensee; and]*

25 [(B) *Approved by the program if the licensee's board has granted the program that authority;]*

26 [(d) *Require the licensee to report use of mind-altering or intoxicating substances or potentially*
 27 *addictive drugs within 24 hours;]*

28 [(e) *Require the licensee to agree to participate in a recommended treatment plan;]*

29 [(f) *Contain limits on the licensee's practice of the licensee's health profession;]*

30 [(g) *Require the licensee to submit to random drug or alcohol testing in accordance with federal*
 31 *regulations, unless the licensee is diagnosed with solely a mental health disorder and the licensee's*
 32 *board does not otherwise require the licensee to submit to random drug or alcohol testing;]*

33 [(h) *Require the licensee to report to the program regarding the licensee's compliance with the*
 34 *agreement;]*

35 [(i) *Require the licensee to report any arrest for or conviction of a misdemeanor or felony crime to*
 36 *the program within three business days after the licensee is arrested or convicted;]*

37 [(j) *Require the licensee to report applications for licensure in other states, changes in employment*
 38 *and changes in practice setting; and]*

39 [(k) *Provide that the licensee is responsible for the cost of evaluations, toxicology testing and*
 40 *treatment.]*

41 [(7)(a)] **(6)(a)** A health [profession] **professional** licensing board may establish by rule an option
 42 to permit licensees of the health [profession] **professional** licensing board to self-refer to the pro-
 43 gram.

44 (b) The program shall require a licensee who self-refers to the program to attest that the
 45 licensee is not, to the best of the licensee's knowledge, under investigation by the licensee's **health**

1 **professional licensing** board. The program shall enroll the licensee on the date on which the
2 licensee attests that the licensee, to the best of the licensee's knowledge, is not under investigation
3 by the licensee's **health professional licensing** board.

4 (c) When a licensee self-refers to the program, the program shall:

5 (A) Require that an independent [*third party*] **clinical evaluator** approved by the licensee's
6 board to evaluate alcohol or substance abuse or mental health disorders evaluate the licensee for
7 alcohol or substance abuse or mental health disorders; and

8 (B) Investigate to determine whether the licensee's practice while impaired has presented or
9 presents a danger to the public.

10 (d) When a licensee self-refers to the program, the program may not report the licensee's en-
11 rollment in or successful completion of the program to the licensee's **health professional licensing**
12 board.

13 [(8)] (7) The health [*profession*] **professional** licensing boards shall arrange for an independent
14 [*third party*] **clinical evaluator** to conduct an audit every four years of an impaired health profes-
15 sional program for the licensees of those health [*profession*] **professional** licensing boards to ensure
16 compliance with program guidelines. The health [*profession*] **professional** licensing boards shall re-
17 port the results of the audit to the Legislative Assembly in the manner provided by ORS 192.245 and
18 to the Governor. The report may not contain individually identifiable information about licensees.

19 [(9)] (8) The health [*profession*] **professional** licensing boards, in consultation with one another,
20 may adopt rules to carry out this section **and section 3 of this 2025 Act**.

21 **(9) In addition to other fees that a health professional licensing board imposes on**
22 **licensees, a health professional licensing board may adopt rules to impose a fee of \$25 per**
23 **year on each person licensed by the health professional licensing board who is eligible to**
24 **enroll in the program. A health professional licensing board that adopts rules described in**
25 **this section shall collect the \$25 fee at the same time the health professional licensing board**
26 **collects other fees imposed on licensees.**

27 **SECTION 6.** ORS 676.194 is amended to read:

28 676.194. (1) The Impaired Health Professional Program Work Group is established.

29 (2) The work group consists of the designees of any health [*profession*] **professional** licensing
30 boards that elect to establish or contract for an impaired health professional program as described
31 in ORS 676.190.

32 (3) The work group shall facilitate the establishment and continuation of the impaired health
33 professional program described in ORS 676.190.

34 (4) A majority of the members of the work group constitutes a quorum for the transaction of
35 business.

36 (5) Official action by the work group requires the approval of a majority of the members of the
37 work group.

38 (6) The work group shall elect one of its members to serve as chairperson.

39 (7) The work group shall meet at times and places specified by the call of the chairperson or
40 of a majority of the members of the work group.

41 (8) The work group may adopt rules necessary for the operation of the work group.

42 (9) The Oregon Medical Board shall provide staff support to the work group.

43 (10) Members of the work group are not entitled to compensation, but may be reimbursed for
44 actual and necessary travel and other expenses incurred by them in the performance of their official
45 duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid

1 out of funds appropriated to the health professional licensing board that the member represents for
 2 purposes of the work group.

3 (11) All agencies of state government, as defined in ORS 174.111, are directed to assist the work
 4 group in the performance of duties of the work group and, to the extent permitted by laws relating
 5 to confidentiality, to furnish information and advice the members of the work group consider nec-
 6 essary to perform their duties.

7 **SECTION 7.** ORS 676.200 is amended to read:

8 676.200. (1)(a) A health [*profession*] **professional** licensing board that is authorized by law to
 9 take disciplinary action against licensees may adopt rules opting to participate in the impaired
 10 health professional program established under ORS 676.190 and may contract with or designate one
 11 or more programs to deliver therapeutic services to its licensees.

12 (b) A **health professional licensing** board may not establish the **health professional licensing**
 13 board's own impaired health professional program for the purpose of monitoring licensees of the
 14 **health professional licensing** board that have been referred **or that have been self-referred** to
 15 the program.

16 (c) A **health professional licensing** board may adopt rules establishing additional requirements
 17 for licensees referred to the impaired health professional program established under ORS 676.190
 18 or a program with which the **health professional licensing** board has entered into a contract or
 19 designated to deliver therapeutic services under [*subsection (1) of this section*] **paragraph (a) of this**
 20 **subsection.**

21 (2) If a **health professional licensing** board participates in the impaired health professional
 22 program, the **health professional licensing** board shall establish by rule a procedure for referring
 23 licensees to the program. The procedure must provide that, before the **health professional licens-**
 24 **ing** board refers a licensee to the program, the **health professional licensing** board shall ensure
 25 that:

26 [*(a) An independent third party approved by the board to evaluate alcohol or substance abuse or*
 27 *mental health disorders has diagnosed the licensee with alcohol or substance abuse or a mental health*
 28 *disorder and provided the diagnosis and treatment options to the licensee and the board;]*

29 (a) **An independent clinical evaluator, who is a licensed health care professional with**
 30 **demonstrated expertise in the areas of concern, and who is approved by the health profes-**
 31 **sional licensing board:**

32 (A) **Provides a comprehensive clinical assessment of the licensee including both a mental**
 33 **health disorder assessment and an alcohol or substance use disorder assessment, according**
 34 **to guidelines established by the Diagnostic and Statistical Manual of Mental Disorders**
 35 **(DSM-5-TR);**

36 (B) **Diagnoses the licensee with a mental health disorder or an alcohol or substance use**
 37 **disorder; and**

38 (C) **Suggests a monitoring care plan and recommended fitness level for the licensee's**
 39 **return to practice and, if applicable, recommends the criteria treatment plan of the Ameri-**
 40 **can Society of Addiction Medicine, or its successor organization;**

41 (b) The **health professional licensing** board has investigated to determine whether the
 42 licensee's professional practice while impaired has presented or presents a danger to the public; and

43 (c) The licensee has agreed to report any arrest for or conviction of a misdemeanor or felony
 44 crime to the **health professional licensing** board within three business days after the licensee is
 45 arrested or convicted.

1 (3) A **health professional licensing** board that participates in the impaired health professional
 2 program shall review reports received from the program. If the **health professional licensing** board
 3 finds that a licensee is substantially noncompliant with a *[diversion]* **monitoring** agreement entered
 4 into under ORS 676.190, the **health professional licensing** board may suspend, restrict, modify or
 5 revoke the licensee’s license or end the licensee’s participation in the impaired health professional
 6 program.

7 (4) A **health professional licensing** board may not discipline a licensee solely because the
 8 licensee:

9 (a) Self-refers to or participates in the impaired health professional program;

10 (b) Has been diagnosed with alcohol or substance abuse or a mental health disorder; or

11 (c) Used controlled substances or cannabis, **or used psilocybin pursuant to ORS 475A.210 to**
 12 **475A.722**, before entry into the impaired health professional program, if the licensee did not practice
 13 while impaired.

14 **SECTION 8.** ORS 678.112 is amended to read:

15 678.112. Persons licensed *[to practice nursing]* **or certified by the Oregon State Board of**
 16 **Nursing** who elect not to participate in the impaired health professional program established under
 17 ORS 676.190 or who fail to comply with the terms of participation shall be reported **by the program**
 18 to the *[Oregon State Board of Nursing]* **board** for formal disciplinary action under ORS 678.111.

19 **SECTION 9.** ORS 675.583 is amended to read:

20 675.583. (1) **As used in this section:**

21 (a) **“Impaired professional” means a regulated social worker who is unable to practice**
 22 **with professional skill and safety by reason of habitual or excessive use or abuse of drugs,**
 23 **alcohol or other substances that impair ability or by reason of a mental health disorder.**

24 (b) **“Prohibited conduct” has the meaning given that term in ORS 676.150.**

25 [(1)] (2) Unless state or federal laws relating to confidentiality or the protection of health in-
 26 formation prohibit disclosure, a regulated social worker shall report to the State Board of Licensed
 27 Social Workers any information the regulated social worker has that appears to show that a regu-
 28 lated social worker is or may be an impaired professional *[as defined in ORS 676.185]*, or may have
 29 engaged in unprofessional conduct according to the guidelines of the code of ethics, to the extent
 30 that disclosure does not conflict with the requirements of ORS 675.580.

31 [(2)] (3) A regulated social worker shall report any prohibited conduct *[as defined in ORS*
 32 *676.150]* in the manner provided in ORS 676.150.

33 [(3)] (4) Notwithstanding ORS 676.175, any information that the board obtains pursuant to sub-
 34 section [(1)] (2) of this section is confidential and may not be disclosed except as provided by the
 35 board by rule.

36 [(4)] (5) A person who reports or provides information to the board under subsection [(1)] (2)
 37 of this section in good faith is not subject to an action for civil damages as a result of reporting
 38 or providing information to the board.

39 **SECTION 10.** (1) **Sections 2 and 3 of this 2025 Act and the amendments to ORS 675.583,**
 40 **676.185, 676.190, 676.194, 676.200 and 678.112 by sections 4 to 9 of this 2025 Act become opera-**
 41 **tive on January 1, 2026.**

42 (2) **A health professional licensing board, as defined in ORS 676.185, may take any action**
 43 **before the operative date specified in subsection (1) of this section that is necessary to enable**
 44 **the health professional licensing board to exercise, on and after the operative date specified**
 45 **in subsection (1) of this section, all of the duties, functions and powers conferred on the**

1 **health professional licensing board by sections 2 and 3 of this 2025 Act and the amendments**
2 **to ORS 675.583, 676.185, 676.190, 676.194, 676.200 and 678.112 by sections 4 to 9 of this 2025 Act.**

3 **SECTION 11. This 2025 Act takes effect on the 91st day after the date on which the 2025**
4 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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