

CHAPTER 199

AN ACT

SB 965

Relating to health care providers; creating new provisions; and amending ORS 431.122, 441.171, 443.355, 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 cochair 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 cochair of the hospital nurse staffing committee.

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

(a) Take evidence;

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

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

(d) Require answers to interrogatories; and

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

SECTION 2. ORS 443.355 is amended to read:

443.355. (1) **As used in this section:**

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

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

(c) **"Hospice program" has the meaning given that term in ORS 443.850.**

(d) **"In-home care agency" has the meaning given that term in ORS 443.305.**

(e) **"Public entity" means:**

(A) A health professional regulatory board or licensing agency or a board or agency of this state or another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board in this state;

(B) A district attorney;

(C) The Department of Justice;

(D) A state or local public body of this state that licenses, franchises or provides emergency medical services;

(E) A state or federal agency that disburses public funds;

(F) A law enforcement agency of this state or another state; or

(G) A law enforcement agency of the federal government.

[(1)] (2) Rules adopted by the Oregon Health Authority pursuant to ORS 443.085 [and 443.340], **443.340 and 443.860** shall include procedures for the filing of complaints as to the care or services provided by home health agencies, in-home care agencies, **hospice programs** or caregiver registries that ensure the confidentiality of the identity of the complainant.

[(2)] (3) An employee or contract provider with knowledge of a violation of law or rules of the authority shall use the reporting procedures established by the home health agency, in-home care agency, **hospice program** or caregiver registry before notifying the authority or other state agency of the inappropriate care or violation, unless the employee or contract provider:

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

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

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

[(4) As used in this section:]

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

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

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

(5)(a) Information obtained by the authority during an investigation of a complaint or reported violation under this section that reasonably relates to the regulatory or enforcement function of another public entity may be disclosed by the authority to the other public entity.

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

(Hemodialysis Technicians)

SECTION 3. Section 4 of this 2023 Act is added to and made a part of ORS 688.625 to 688.665.

SECTION 4. 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 5. 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 6. 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 7. 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

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

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

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

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

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

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

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

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

[(3)] (6) Each person holding a certificate under this section shall submit, at the time of application for renewal of the certificate to the authority, evidence of the applicant's satisfactory completion of any continuing education requirements prescribed by rule by the authority.

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

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

SECTION 8. ORS 688.655 is amended to read:

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

(a) Failure to complete continuing education requirements.

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

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

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

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

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

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

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

(2) The authority may investigate any evidence that appears to show that a hemodialysis technician certified by the authority is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be mentally or physically unable to safely function as a hemodialysis technician.

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

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

(5) Any person who reports or provides information to the authority under this section and who

provides information in good faith shall not be subject to an action for civil damage as a result thereof.

PSILOCYBIN REGULATION

SECTION 9. ORS 475A.380 is amended to read:

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

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

OREGON PUBLIC HEALTH ADVISORY BOARD

SECTION 10. ORS 431.122 is amended to read:

431.122. (1) **As used in this section:**

(a) **"Community-based organization"** means a nongovernmental organization that provides culturally and linguistic responsive services that are informed by the community, to improve the community's health and well-being, and that provides services intended to reach individuals disproportionately impacted by health risks and disease.

(b) **"Rural"** means a geographic area that is at least 10 miles from a population center of at least 40,000 residents.

(c) **"Urban"** means a geographic area that is less than 10 miles from a population center of at least 40,000 residents.

[(1)(a)] (2)(a) The Oregon Public Health Advisory Board is established for the purpose of advising and making recommendations to the Oregon Health Authority and the Oregon Health Policy Board. The Oregon Public Health Advisory Board shall consist of:

(A) *[Fourteen]* **Eighteen** members appointed by the Governor as specified in paragraph (b) of this subsection;

(B) The Public Health Director or the Public Health Director's designee;

(C) If the Public Health Director is not the State Health Officer, the State Health Officer or a physician licensed under ORS chapter 677 acting as the State Health Officer's designee;

(D) If the Public Health Director is the State Health Officer, a representative from the Oregon Health Authority who is familiar with public health programs and public health activities in this state; and

(E) A designee of the Oregon Health Policy Board.

(b) The Governor shall appoint the following individuals to the board:

(A) A state employee who has technical expertise in the field of public health;

(B) A local public health administrator who supervises public health programs and public health activities in Benton, Clackamas, Deschutes, Jackson, Lane, Marion, Multnomah or Washington County;

(C) A local public health administrator who supervises public health programs and public health activities in Coos, Douglas, Josephine, Klamath, Linn, Polk, Umatilla or Yamhill County;

(D) A local public health administrator who supervises public health programs and public health activities in Clatsop, Columbia, Crook, Curry, Hood River, Jefferson, Lincoln, Tillamook, Union or Wasco County;

(E) A local public health administrator who supervises public health programs and public health activities in Baker, Gilliam, Grant, Harney, Lake, Malheur, Morrow, Sherman, Wallowa or Wheeler County;

(F) A local health officer who is not a local public health administrator;

(G) An individual who represents the Conference of Local Health Officials created under ORS 431.330;

(H) An individual who is a member of, or who represents, a federally recognized Indian tribe in this state;

(I) An individual who represents coordinated care organizations;

(J) An individual who represents health care organizations that are not coordinated care organizations;

(K) An individual who represents individuals who provide public health services directly to the public;

(L) An expert in the field of public health who has a background in academia;

(M) An expert in population health metrics; [and]

(N) An expert in health equity;

(O) An individual who represents a community-based organization serving a rural community;

(P) An individual who represents a community-based organization serving an urban community;

(Q) An individual who represents the education system from early learning through high school; and

[~~(N)~~] **(R)** An at-large member.

[~~(2)(a)~~] **(3)(a)** The term of office for a board member appointed under this section is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(b) Members of the board described in subsection [~~(1)(a)(B) to (E)~~] **(2)(a)(B) to (E)** of this section are nonvoting ex officio members of the board.

[~~(3)~~] **(4)** A majority of the voting members of the board constitutes a quorum for the transaction of business.

[~~(4)~~] **(5)** Official action by the board requires the approval of a majority of the voting members of the board.

[~~(5)~~] **(6)** The board shall elect one of its voting members to serve as chairperson.

[~~(6)~~] **(7)** The board shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the board.

[~~(7)~~] **(8)** The board may adopt rules necessary for the operation of the board.

[~~(8)~~] **(9)** The board may establish committees and subcommittees necessary for the operation of the board.

[~~(9)~~] **(10)** Voting members of the board are entitled to compensation and expenses as provided in ORS 292.495.

CAPTIONS

SECTION 11. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

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