

**A-Engrossed**  
**House Bill 2285**

Ordered by the House June 14  
Including House Amendments dated June 14

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary for Oregon State Bar Administrative Law Section)

**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.

*[Extends application of statute governing ex parte communications in proceedings before administrative law judges of Office of Administrative Hearings to all contested case hearings.]*

*[Authorizes administrative law judge conducting contested case to order taking of deposition and to require other discovery. Specifies exceptions.]*

*[Lists responsibilities of administrative law judge in conducting proceedings.]*

*[Requires that model rules governing conduct of proceedings by administrative law judges must provide for discretion necessary to ensure fair result.]*

*[Provides that in contested case proceeding agency cannot change administrative law judge's finding of historical fact unless no substantial evidence supports finding.]*

**Requires health professional regulatory board, upon voting to issue notice of intent to impose disciplinary sanction and upon request of licensee or applicant, to disclose to licensee or applicant all information obtained by board in investigation of complaint.**

**A BILL FOR AN ACT**

Relating to administrative procedure; amending ORS 676.175.

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

**SECTION 1.** ORS 676.175 is amended to read:

676.175. (1) A health professional regulatory board shall keep confidential and not disclose to the public any information obtained by the board as part of an investigation of a licensee or applicant, including complaints concerning licensee or applicant conduct and information permitting the identification of complainants, licensees or applicants. However, the board may disclose information obtained in the course of an investigation of a licensee or applicant to the extent necessary to conduct a full and proper investigation.

(2) Notwithstanding subsection (1) of this section, if a health professional regulatory board votes not to issue a notice of intent to impose a disciplinary sanction:

(a) The board shall disclose information obtained as part of an investigation of an applicant or licensee if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.

(b) The board may disclose to a complainant a written summary of information obtained as part of an investigation of an applicant or licensee resulting from the complaint to the extent the board determines necessary to explain the reasons for the board's decision. An applicant or licensee may review and obtain a copy of any written summary of information disclosed to a complainant by the board after the board has deleted any information that could reasonably be used to identify the complainant.

**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       **(3) If a health professional regulatory board votes to issue a notice of intent to impose**  
2 **a disciplinary sanction, upon written request by the licensee or applicant, the board shall**  
3 **disclose to the licensee or applicant all information obtained by the board in the investigation**  
4 **of the allegations in the notice except:**

5       **(a) Information that is privileged or confidential under a law other than this section.**

6       **(b) Information that would permit the identification of any person who provided infor-**  
7 **mation that led to the filing of the notice and who will not provide testimony at a hearing**  
8 **arising out of the investigation.**

9       **(c) Information that would permit the identification of any person as a person who made**  
10 **a complaint to the board about a licensee or applicant.**

11       **(d) Reports of expert witnesses.**

12       **(4) Information disclosed to a licensee or applicant under subsection (3) of this section**  
13 **may be further disclosed by the licensee or applicant only to the extent necessary to prepare**  
14 **for a hearing on the notice of intent to impose a disciplinary sanction.**

15       [(3)(a)] **(5)(a)** A health professional regulatory board shall disclose:

16       (A) A notice of intent to impose a disciplinary sanction against a licensee or applicant that has  
17 been issued by vote of the board;

18       (B) A final order that results from the board's notice of intent to impose a disciplinary sanction;

19       (C) An emergency suspension order;

20       (D) A consent order or stipulated agreement that involves licensee or applicant conduct; and

21       (E) Information to further an investigation into board conduct under ORS 192.685.

22       (b) A health professional regulatory board may make the information required to be disclosed  
23 under paragraph (a)(A) to (D) of this subsection available in electronic form, accessible by use of a  
24 personal computer or similar technology that provides direct electronic access to the information.

25       [(4)] **(6)** If a notice of intent to impose a disciplinary sanction has been issued by vote of a health  
26 professional regulatory board, a final order that results from the board's notice of intent to impose  
27 a disciplinary sanction, an emergency suspension order or a consent order or stipulated agreement  
28 that involves licensee or applicant conduct shall summarize the factual basis for the board's dispo-  
29 sition of the matter.

30       [(5)] **(7)** A health professional regulatory board record or order, or any part thereof, obtained  
31 as part of or resulting from an investigation, contested case proceeding, consent order or stipulated  
32 agreement, is not admissible as evidence and may not preclude an issue or claim in any civil pro-  
33 ceeding except in a proceeding between the board and the licensee or applicant as otherwise al-  
34 lowed by law.

35       [(6)(a)] **(8)(a)** Notwithstanding subsection (1) of this section, it is not disclosure to the public for  
36 a board to permit other public officials and members of the press to attend executive sessions where  
37 information obtained as part of an investigation is discussed. Public officials and members of the  
38 press attending such executive sessions shall not disclose information obtained as part of an inves-  
39 tigation to any other member of the public.

40       (b) For purposes of this subsection, "public official" means a member or member-elect, or any  
41 member of the staff or an employee, of a public entity as defined by ORS 676.177.

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