

B-Engrossed
House Bill 2285

Ordered by the Senate August 3
Including House Amendments dated June 14 and Senate Amendments
dated August 3

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.

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. **Allows board to charge fees for actual cost of disclosing information.**

A BILL FOR AN ACT

1
2 Relating to administrative procedure; amending ORS 676.175.

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

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

5 676.175. (1) A health professional regulatory board shall keep confidential and not disclose to
6 the public any information obtained by the board as part of an investigation of a licensee or appli-
7 cant, including complaints concerning licensee or applicant conduct and information permitting the
8 identification of complainants, licensees or applicants. However, the board may disclose information
9 obtained in the course of an investigation of a licensee or applicant to the extent necessary to
10 conduct a full and proper investigation.

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

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

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

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

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

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

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

7 (d) Reports of expert witnesses.

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

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

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

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

15 (C) An emergency suspension order;

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

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

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

21 [(4)] (6) If a notice of intent to impose a disciplinary sanction has been issued by vote of a health
22 professional regulatory board, a final order that results from the board's notice of intent to impose
23 a disciplinary sanction, an emergency suspension order or a consent order or stipulated agreement
24 that involves licensee or applicant conduct shall summarize the factual basis for the board's dispo-
25 sition of the matter.

26 [(5)] (7) A health professional regulatory board record or order, or any part thereof, obtained
27 as part of or resulting from an investigation, contested case proceeding, consent order or stipulated
28 agreement, is not admissible as evidence and may not preclude an issue or claim in any civil pro-
29 ceeding except in a proceeding between the board and the licensee or applicant as otherwise al-
30 lowed by law.

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

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

38 (9) A health professional regulatory board may establish fees reasonably calculated to
39 reimburse the actual cost of disclosing information to licensees or applicants as required by
40 subsection (3) of this section.

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