

# House Bill 2661

Sponsored by Representative KENY-GUYER (Presession filed.)

## 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**.

Requires long term care referral provider to be certified by Health Licensing Office. Directs office to adopt rules for regulation of long term care referral providers.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to long term care referral; creating new provisions; amending ORS 676.992; and declaring  
3 an emergency.

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

5 **SECTION 1. As used in sections 1 to 6 of this 2017 Act:**

6 (1) **"Client" means a potential resident of a long term care facility who seeks a long term**  
7 **care referral.**

8 (2) **"Long term care facility" has the meaning given that term in ORS 442.015.**

9 (3) **"Long term care referral" means the act of providing the name of a long term care**  
10 **facility to a client in exchange for compensation of any kind.**

11 **SECTION 2. A person may not provide a long term care referral unless the person is**  
12 **certified by the Health Licensing Office under section 3 of this 2017 Act.**

13 **SECTION 3. The Health Licensing Office shall issue a certificate to provide long term**  
14 **care referrals to an applicant who:**

15 (1) **Meets requirements established by the office by rule; and**

16 (2) **Pays the applicable fees established under ORS 676.592.**

17 **SECTION 4. A certificate issued under ORS section 3 of this 2017 Act must be renewed**  
18 **annually. To renew a certificate under this section, a long term care referral provider must**  
19 **submit to the Health Licensing Office:**

20 (1) **A renewal application; and**

21 (2) **The applicable renewal fee established under ORS 676.592.**

22 **SECTION 5. (1) The Health Licensing Office shall adopt rules for the provision of long**  
23 **term care referrals. The rules must require long term care referral providers to:**

24 (a) **Assess a client in person when possible and gather the following information about**  
25 **the client:**

26 (A) **Medical history;**

27 (B) **Necessary assistance with activities of daily living;**

28 (C) **Known medications and medication management needs;**

29 (D) **Known diagnoses and health concerns;**

30 (E) **The reason for seeking long term care;**

31 (F) **Behaviors that require special attention;**

**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 (G) The presence of mental illnesses, dementia, Alzheimer’s disease and developmental  
2 disabilities;

3 (H) Necessary cultural and language accommodations, activity preferences and location  
4 preferences;

5 (I) Budget and financial assistance resources; and

6 (J) The identity of any legal or financial representatives of the client.

7 (b) Enter into written contracts with clients.

8 (c) Comply with the requirements of the federal Health Insurance Portability and Ac-  
9 countability Act.

10 (d) Perform in-person screenings of all long term care facilities to which the provider  
11 refers clients.

12 (e) Enter into written contracts describing the compensation received by the provider  
13 by the long term care facilities to which the provider refers clients.

14 (f) Advise clients on checking public disclosure files.

15 (g) Disclose to clients that the provider is compensated by long term care facilities.

16 (h) Disclose to clients that the law prohibits referral agencies from servicing Medicaid  
17 recipients because the provider receives compensation from long term care facilities for re-  
18 ferrals.

19 (i) Complete background checks as provided by rule.

20 (j) Contact a client within 30 days after the client is placed in a long term care facility.

21 (k) Maintain liability insurance as required by the office by rule.

22 (L) Complete continuing education requirements established by the office by rule, in-  
23 cluding but not limited to continuing education on common late life diagnoses, Medicaid,  
24 powers of attorney, conservatorships, guardianships and fiduciaries, long term care options  
25 and vetting of long term care providers.

26 (2) The office has the power to:

27 (a) Adopt rules and take actions necessary to carry out the duties of the office under  
28 sections 1 to 6 of this 2017 Act.

29 (b) Adopt rules establishing a professional code of conduct for long term care referral  
30 providers.

31 (c) Adopt any other rule necessary to regulate long term care referral providers.

32 **SECTION 6.** In the manner provided by ORS chapter 183 for contested cases, the Health  
33 Licensing Office may impose a form of discipline described in ORS 676.612 against any person  
34 certified under section 3 of this 2017 Act for a violation of the provisions of sections 1 to 6  
35 of this 2017 Act or of a rule adopted under sections 1 to 6 of this 2017 Act, or for commission  
36 of a prohibited act listed in ORS 676.612.

37 **SECTION 7.** ORS 676.992 is amended to read:

38 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other  
39 penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to  
40 exceed \$5,000 for each violation of the following statutes and any rule adopted under the following  
41 statutes:

42 (a) ORS 688.701 to 688.734 (athletic training);

43 (b) ORS 690.005 to 690.225 (cosmetology);

44 (c) ORS 680.500 to 680.565 (denture technology);

45 (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);

1 (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal im-  
2 planting and scarification);

3 (f) ORS 694.015 to 694.170 (dealing in hearing aids);

4 (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);

5 (h) ORS chapter 700 (environmental sanitation);

6 (i) ORS 675.360 to 675.410 (sex offender treatment);

7 (j) ORS 678.710 to 678.820 (nursing home administrators);

8 (k) ORS 691.405 to 691.485 (dietitians);

9 (L) ORS 676.612 (prohibited acts);

10 (m) ORS 676.810 and 676.815 (applied behavior analysis);

11 (n) ORS 681.700 to 681.730 (music therapy); [and]

12 (o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure)[.]; and

13 **(p) Sections 1 to 6 of this 2017 Act (long term care referral providers).**

14 (2) The office may take any other disciplinary action that it finds proper, including but not  
15 limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any  
16 statute listed in subsection (1) of this section or any rule adopted under any statute listed in sub-  
17 section (1) of this section.

18 (3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a  
19 violation of ORS 694.042.

20 (4) In imposing a civil penalty under this section, the office shall consider the following factors:

21 (a) The immediacy and extent to which the violation threatens the public health or safety;

22 (b) Any prior violations of statutes, rules or orders;

23 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-  
24 lation; and

25 (d) Any other aggravating or mitigating factors.

26 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

27 (6) The moneys received by the office from civil penalties under this section shall be deposited  
28 in the Health Licensing Office Account and are continuously appropriated to the office for the ad-  
29 ministration and enforcement of the laws the office is charged with administering and enforcing that  
30 govern the person against whom the penalty was imposed.

31 **SECTION 8. (1) Sections 1 to 6 of this 2017 Act and the amendments to ORS 676.992 by**  
32 **section 7 of this 2017 Act become operative on January 1, 2018.**

33 **(2) The Health Licensing Office may take any action before the operative date specified**  
34 **in subsection (1) of this section to enable the office, on and after the operative date specified**  
35 **in subsection (1) of this section, to exercise all of the duties, functions and powers conferred**  
36 **on the office by sections 1 to 6 of this 2017 Act and the amendments to ORS 676.992 by sec-**  
37 **tion 7 of this 2017 Act.**

38 **SECTION 9. This 2017 Act being necessary for the immediate preservation of the public**  
39 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
40 **on its passage.**

41