



## PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 309  
OREGON HEALTH AUTHORITY  
HEALTH SYSTEMS DIVISION: BEHAVIORAL HEALTH SERVICES

FILING CAPTION: Qualifying Criteria For Loan Repayment Specific To The Behavioral Health Workforce Initiative.

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CONTACT: Bret Golden  
971-388-7766  
bret.golden@dhsosha.state.or.us

500 Summer St NE  
Salem, OR 97301

Filed By:  
Kalina Bathke  
Rules Coordinator

#### RULES:

309-081-0010, 309-081-0020, 309-081-0030, 309-081-0040, 309-081-0050, 309-081-0060, 309-081-0070, 309-081-0080, 309-081-0090, 309-081-0100, 309-081-0110

ADOPT: 309-081-0010

REPEAL: Temporary 309-081-0010 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Update definitions as it applies to loan repayment incentive program.

#### CHANGES TO RULE:

#### 309-081-0010

##### Definitions

The following definitions apply to OAR 309-081-0000 to OAR 309-081-0110:

(1) "Authority" means the Oregon Health Authority.

(2) "Behavioral health care worker" means any individual who assists or provides direct behavioral health care services to individuals and meets the qualifications provided in OAR 309-081-0020.

(3) "Board" means the Oregon Health Policy Board.

(4) "Community Mental Health Program or CMHP" means the organization of various services for individuals with a mental health diagnosis or addictive disorder operated by or contractually affiliated with a local mental health authority and operated in a specific geographic area of the state under an agreement with the Division pursuant to OAR chapter 309, division 014.

(5) "Communities of color" means members of the following racial or ethnic communities, but not limited to:

(a) American Indian;

(b) Alaska Native;

(c) Hispanic or Latino/a/x/?;

(d) Asian;

(e) Native Hawaiian;

(f) Pacific Islander;

(g) African American;

(h) Middle Eastern;

- (i) African; ¶
- (j) Mixed race; or ¶
- (k) Other racial or ethnic minorities. ¶
- (6) "Communities who are underserved" include, but is not limited to, communities of color, Tribal members, LGBTQIA2S+ communities, refugees, immigrants, veterans, persons with disabilities, individual with intellectual and developmental disabilities, individuals with limited English proficiency, individuals incarcerated or incapacitated as a result of contact with the criminal legal system, and rural residents. ¶
- (7) "Culturally and linguistically specific behavioral health services (CLSS)" means services that are grounded in the cultural values of minoritized communities to elevate their voices and experiences, with the aim of enhancing emotional safety, belonging, and a shared collective cultural experience for healing and recovery of the community served. ¶
- (8) "Direct behavioral health care" means a mental health or addiction service provided directly from a behavioral health care worker to either an individual client/patient or group of clients/patients. This can be in-person or through telehealth and can include, but is not limited to: ¶
  - (a) Behavioral health assessment; ¶
  - (b) Service plan development and review; ¶
  - (c) Increasing holistic health and health care literacy; ¶
  - (d) Risk assessment and monitoring; ¶
  - (e) Identifying and documenting risks; ¶
  - (f) Working with an individual to eliminate or reduce risks; ¶
  - (g) Developing and implementing a Risk Mitigation Plan; ¶
  - (h) Monitoring risks over time; ¶
  - (i) Making adjustments to an individual's Service Plan as needed; ¶
  - (j) Diversion activities; ¶
  - (k) Other program coordination. This means helping an individual navigate or coordinate with other social, health, and assistance programs; ¶
  - (l) Crisis response and intervention; ¶
  - (m) Service provision issues. This means assisting an individual with problem solving to resolve issues that occur with providers, services, or hours that don't meet the individual's needs; ¶
  - (n) Individual Psychotherapy and Group Psychotherapy; ¶
  - (o) Developing safety plans; ¶
  - (p) Facilitating support groups; ¶
  - (q) Providing screening tests; ¶
  - (r) Sharing culturally appropriate and accessible health education and information; ¶
  - (s) Assisting with creation of a birth plan; ¶
  - (t) Other services the Authority deems/identifies as direct behavioral health care. ¶
- (9) "Division" means the Health Systems Division of the Oregon Health Authority, or its designee. ¶
- (10) "Frontier" means any county with six or fewer people per square mile. ¶
- (11) "Full-Time" means working a minimum of 32 hours per week providing behavioral health services averaged over the month for a minimum of 45 weeks per service year. The Authority may consider patient charting, clinical supervision, case management, and care coordination related to behavioral health a component of behavioral health services. The Authority may also consider telehealth a behavioral health service. ¶
- (12) "Medicare" means medical coverage provided under Title XVIII of the Social Security Act. ¶
- (13) "Mental Health Professional Shortage Area" is a score developed by the National Health Service Corps (NHSC) in determining priorities for assignment of clinicians. The scores range from 0 to 26 where the higher the score, the greater the priority. ¶
- (14) "Part-Time" means working a minimum of 16 hours per week providing direct behavioral health care services averaged over the month for a minimum of 45 weeks per service year. The Authority may consider patient charting, clinical supervision, case management, and care coordination related to behavioral health a component of direct behavioral health care services. The Authority may also consider telehealth a behavioral health service. ¶
- (15) "Program" means the Oregon Behavioral Health Workforce Initiative Program. ¶
- (16) "Qualified Mental Health Associate or QMHA" has the meaning given that term in OAR 309-019-0125(11). ¶
- (17) "Qualified Mental Health Professional or QMHP" has the meaning given that term in OAR 309-019-0125(12). ¶
- (18) "Qualifying loan" means one or more government or commercial loans received solely to cover the cost of associates, undergraduate, graduate, doctoral and other educational training programs. The Authority may consider loans for past education not completed if the coursework contributed to their employment in behavioral health. This does not include credit card loans, lines of credit, personal loans, and loans for education or training programs that an individual is currently in school or is in training for. ¶

(19) "Rural" means any geographic areas in Oregon ten or more miles from the centroid of a population center of 40,000 people or more.¶

(20) "Telehealth" means the provision of health services from a distance using electronic communications.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0020

REPEAL: Temporary 309-081-0020 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Eligibility criteria and program requirements for awarding loan repayment to behavioral health care workers

CHANGES TO RULE:

309-081-0020

Eligibility Criteria for The Oregon Behavioral Health Loan Repayment Program.

(1) To be eligible for the Oregon Behavioral Health Loan Repayment Program, applicants must be a Behavioral Health Care Worker who has qualifying loans who provides direct behavioral health care services and who is:

(a) Licensed, certified, or registered as a behavioral health care worker in Oregon under one of the following approved behavioral health certified and or governing bodies:

(A) Board of License d Social Workers;

(B) Board of Psychology;

(C) Health Licensing Office's Art Therapy Program;

(D) Mental Health and Addiction Certification Board of Oregon (MHACBO);

(E) Oregon Board of Licensed Professional Counselors and Therapists;

(F) Oregon Medical Board;

(G) Oregon State Board of Nursing;

(H) Teacher Standards and Practices Commission ;

(I) Traditional Health Worker Registry; or

(J) Other credentialing bodies recognized by the Authority. Or

(b) Meets one of the following employer qualifications:

(A) Is a Qualified Mental Health Associate (QMHA) or Qualified Mental Health Professional (QMHP) designated by their employer and that meets the minimum criteria outlined in OAR 309-019-0125 and the personnel documentation, training, and supervision requirements in OAR 309-019-0130; or

(B) Is a behavioral health care worker designated by their employer and who provides treatment services or peer delivered services in substance use disorders, problem gambling, or mental health treatment programs and meets personnel documentation, training, and supervision requirements in OAR 309-019-0130.

(2) If awarded, an eligible behavioral health care worker will receive a loan repayment subsidy if they are not at the same time receiving loan repayment or forgiveness under a separate, competing service obligation.

(3) Recipient must commit to working in the behavioral health field Full-Time or Part-Time for two years from the start of recipient's contract with the Authority to receive their full award as determined by the Authority. Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0030

REPEAL: Temporary 309-081-0030 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Updates service commitment to reflect guidelines from HB 4071

CHANGES TO RULE:

309-081-0030

Application Requirements

To qualify for consideration for loan repayment an eligible behavioral health care worker must submit an application that:

(1) Documents the individual having, an unrestricted license, certification or registration (if required) to practice in Oregon within their discipline.

(2) Includes a signed and dated statement certifying that the individual is not currently participating in the National Health Services Corps (NHSC), Nursing Corps, or State Loan Repayment Programs or the NHSC Scholarship Program or other current service obligation.

(3) Agrees to a service commitment of two years' working full-time or part-time in the behavioral health care field.

(4) Provides all other information required by the program to determine the suitability of making an award from program funds.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0040

REPEAL: Temporary 309-081-0040 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Updates application and review process to reflect achievement goals outlined by HB4071.

CHANGES TO RULE:

309-081-0040

Application and Review Process

(1) The Authority will publish an application process online.¶

(2) The Authority shall review those applications that meet all requirements of OAR 309-081-0020.¶

(a) The Authority shall make their award selections within 60 days of the most recent application cycle closing.¶

(b) The Authority shall notify all applicants in writing regarding if they have been awarded or not awarded within 60 days of the most recent application cycle closing. ¶

(3) If awarded, applicants must sign a contract with the Authority agreeing to the terms and conditions of the program service obligation.¶

(4) Applicants who are awarded are not eligible to apply for future application cycles. Applicants can only be awarded once.¶

(5) The Authority may prioritize awards to behavioral health care workers who:¶

(a) Represent the ethnicity or culture of Oregon's communities who are underserved; ¶

(b) Provide culturally and linguistically specific behavioral health services to Oregon's communities who are underserved;¶

(c) Have lived experience with Oregon's communities who are underserved;¶

(d) Speak a second language other than English in a behavioral health care setting for Oregon's communities who are underserved;¶

(e) Provide behavioral health services in a designated Rural or Frontier community.¶

(f) Work at a Community Mental Health Program, a publicly funded or public mental health facility, or a nonprofit mental health facility that contracts with a county to provide mental health services.¶

(g) Provide direct behavioral health care to Medicaid and Medicare individuals. ¶

(h) Are physically located in Oregon and who primarily serve Oregon residents; In the case of behavioral health care workers delivering telehealth services as all or part of their services, the Authority may give behavioral health care workers physically located in Oregon who work primarily with Oregon residents priority for an award;¶

(i) Other behavioral health care workers who provide services deemed appropriate and necessary by the Authority to increase and improve equity to individuals seeking behavioral health services.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0050

REPEAL: Temporary 309-081-0050 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Adjusts maximum compensation limit for both Full-Time and Part-Time recipients. Eliminates opportunity for enrolling in additional years of service commitment.

CHANGES TO RULE:

309-081-0050

Maximum Award Amounts

The Oregon Behavioral Health Loan Repayment recipients are eligible for a maximum loan repayment award in the following manner:

(1) Full-Time Service:

(a) Seventy percent of the balance owed on qualifying loans upon program entry for two years of service:

(b) A recipient may receive no more than \$50,000 in a single year for Full-Time service.

(2) Part-Time Service:

(a) Thirty five percent of the balance owed on qualifying loans upon program entry for two years of service:

(b) A recipient may receive no more than \$25,000 in a single year for Part-Time service.

(3) Service obligations and maximum award amounts are subject to change as determined by the Authority.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0060

REPEAL: Temporary 309-081-0060 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Updated to reflect new definitions.

CHANGES TO RULE:

309-081-0060

Transfer of Behavioral Health Care Worker Service Obligation to Another Employer or Practice Site.

In the event of a participating behavioral health care worker moving to another practice site, or accepting a new employment opportunity, the individual may continue to receive their award if it doesn't breach the terms and conditions of their contractual agreement. The Authority must be notified of the request within 14 days of the transition, and must meet the following criteria to still be considered eligible for their award: ¶

(1) A participating behavioral health care worker must still be working in a behavioral health field in Oregon providing direct behavioral health care services full-time or part-time, and must submit a written employment or site transfer request to the Authority documenting: ¶

(a) Detailed information regarding the new employer or practice site and the type of organization and behavioral health care services they provide; ¶

(b) Name of the director or administrator at the new employment or practice site; ¶

(c) A letter from the original practice site releasing the eligible behavioral health care worker from any employment contract (if applicable) and provide an explanation for the termination of employment (if applicable). The Authority may waive this requirement if the original practice site is in non-compliance with federal requirements, federal or state law, or these rules; and ¶

(d) An employment contract with the new practice site or employer, a letter of intent from the new practice site or employer to employ the behavioral health care worker, or documentation of the behavioral health care worker having established a sole proprietorship, Limited Liability Corporation, Limited Liability Partnership, or Professional Corporation. ¶

(2) The new practice site or employer, in collaboration with the behavioral health care worker, must provide confirmation that the site will cooperate with the behavioral health care worker to comply with the monitoring and follow-up requirements set forth in these rules.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825



ADOPT: 309-081-0070

REPEAL: Temporary 309-081-0070 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Updated to reflect new definitions.

CHANGES TO RULE:

309-081-0070

Suspension or Waiver of Minimum Service Obligation

(1) The Authority may agree to suspend the participating behavioral health care worker service obligation for a specified time under circumstances it deems appropriate, including, but not limited to parental leave, medical leave, military service leave, or other factors beyond the behavioral health care worker's control. During the time of suspension, awards shall be suspended.¶

(2) A recipient requesting a suspension of minimum service obligation shall make a written request to the Authority, citing the reasons and providing documentation of the circumstances.¶

(3) The Authority may waive all or part of the minimum service obligation under the following circumstances:¶

(a) Upon receipt of written documentation acceptable to the Authority of the death of the recipient;¶

(b) Upon receipt of written documentation acceptable to the Authority of the total and permanent disability of the participant; or¶

(c) Upon receipt of written documentation of other significant changes in life circumstances that are out of the control of the recipient and that the Authority determines warrant a waiver of service commitment.¶

(4) If all or part of the minimum service obligation is waived, the Authority may not impose any penalty for failure to meet the obligation.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0080

REPEAL: Temporary 309-081-0080 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Updated to reflect new definitions.

CHANGES TO RULE:

### 309-081-0080

#### Monitoring and Follow-up Requirements

(1) To maintain participation in the program, the behavioral health care worker must:

(a) Promptly submit quarterly reports signed by the Behavioral Health Care Worker and the administrator or HR personnel of the practice site verifying the behavioral health care worker's employment, or licensed business; and

¶

(b) Provide any additional information as requested by the Authority, including but not limited to:

(A) The practice site and behavioral health care worker's caseload (panel size or equivalent) (if applicable);

(B) The practice site and behavioral health care worker's Medicaid caseload and Medicare caseload (if applicable);

(C) Behavioral health care worker's Full-Time equivalent (FTE) status; and

(D) Number and percentages of practice site's patients whose health care is covered by Medicaid and by Medicare, and the number of patients at the practice site who are uninsured (if applicable).

(2) A Behavioral health care worker participating in the program must notify the Authority immediately of any change in employment or practice status.

(3) If required documentation is not received within 30 days from the program's final request, the participating behavioral health care worker's contract is subject to termination and penalties by the Authority under 309-081-0090 if a waiver is not in place.

(4) The behavioral health care worker must at all times be qualified, professionally competent and actively licensed and/or certified where required by law to perform behavioral health care services. The behavioral health care worker, employed Full-Time or Part-time, must provide services within the parameters permitted by the behavioral health care worker's license or certification.

(5) Information disclosed or data provided by a behavioral health care worker, including employment status, is subject to verification by the Authority. Pursuant to 410-081-0080, a recipient of a loan repayment award whose two-year service obligation cannot be validated or verified by the Authority will be considered to have breached the terms and conditions of their contractual agreement.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0090

REPEAL: Temporary 309-081-0090 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Updated to reflect new definitions. Removed loan forgiveness and scholarships ruleset.

CHANGES TO RULE:

### 309-081-0090

#### Failure to Comply; Penalties and Appeals

A recipient of a loan repayment award who fails to obtain or maintain a license/certification, has a suspension or termination of a license/certification, is under fraud, conviction, termination of employment for-cause, or fails to complete their two-year service obligation providing behavioral health services in Oregon, or other circumstances deemed to be negligent or fraudulent by the Authority and does not receive a waiver may be considered to have breached the terms and conditions of their contractual agreement. Under these circumstances: ¶

(1) The Authority may impose a penalty on any such behavioral health care worker in an amount up to the sum of: ¶

(a) The total paid from the Oregon Behavioral Health Loan Repayment Program to the recipient or on behalf of the recipient for any periods of obligated service not served; ¶

(b) Up to \$500 for each month of the minimum service period not completed according to the terms of the obligation; and ¶

(c) Interest on the above amounts at the maximum prevailing rate, as determined by the Oregon Department of Revenue, calculated from the date of breach until full repayment has been made. ¶

(2) The recipient may appeal decisions made by the Authority under the provisions of ORS Chapter 183. ¶

(3) A recipient of loan repayment found to be in breach of their contractual agreement under this program is subject to penalties. Administrative review, for purposes of these rules, shall be the process for any appeals made to the Authority. Recipient may request administrative review. The Authority must receive the request in writing no later than 30 calendar days after the date of the Authority's notice. If the request for administrative review is timely, the recipient must provide the Authority with a copy of all relevant records and other materials relevant to the appeal, no later than 10 days before the review is scheduled. ¶

(a) If the Authority decides that a preliminary meeting between the recipient and Authority staff may assist the review, the Authority shall notify the individual requesting the review of the date, time, and place the meeting is scheduled. ¶

(b) The Authority shall conduct the administrative review meeting as follows: ¶

(A) No minutes or transcript of the review shall be made: ¶

(B) The recipient requesting review does not have to be represented by counsel during an administrative review meeting and shall be given the opportunity to present relevant information: ¶

(C) Authority staff may not be available for cross-examination, but may attend and participate in the review meeting: ¶

(D) Failure to appear without good cause constitutes acceptance of the Authority's determination: ¶

(E) The Authority may combine similar administrative review proceedings and meetings involving the same parties or similar facts, if the Authority determines that joint proceedings may facilitate the review: ¶

(F) The Authority may request the appealing recipient to submit, in writing, new information that has been presented orally. The Authority shall establish the deadline for submission of the information: ¶

(G) The Authority shall send the results of the administrative review to the recipient involved in the review, within 30 calendar days of the conclusion of the administrative review meeting, or such time as may be agreed to by the recipient or designated by the Authority: ¶

(H) The Authority's final decision on administrative review is the final decision on appeal and binding on the parties. Under ORS 183.484, this decision is an order in other than a contested case. ORS 183.484 and the procedures in OAR 137-004-0080 to 137-004-0092 apply to the Authority's final decision on administrative review: ¶

(I) Academic institutions providing admission-based scholarships may set penalties for default against the terms of their program.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0100

REPEAL: Temporary 309-081-0100 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Unchanged from 409-036 ruleset.

CHANGES TO RULE:

### 309-081-0100

#### Program Integrity

(1) The Authority shall analyze and monitor the operation of the program and audit and verify the accuracy and appropriateness of all payments made under the terms of this program. To promote the integrity of the program, the Authority may require participants and any other parties to develop and maintain adequate financial and other documentation as determined by the Board to be necessary. ¶

(2) The Authority may communicate with and coordinate any program integrity actions with the federal and state oversight authorities. ¶

(3) Any overpayment made to an individual is subject to recovery. The Authority shall take appropriate action and may redress payment errors or false claims for payment under the program. ¶

(4) Loan repayment recipients must cooperate in good faith with Authority or their designees, or law enforcement in any investigation, review or audit relating to suspected fraud, waste, or abuse as follows: ¶

(a) Loan repayment recipient shall provide immediate access to work-site and reports or other documentation when a request is made in-person. Loan repayment recipient shall provide copies of reports, records or other documentation when requested for desk or remote review. All reports and documents required to be provided must be provided without cost to OHA: ¶

(b) Loan repayment recipient shall permit the Authority to inspect, evaluate, or audit books, records, documents, files, accounts, and facilities maintained by or on behalf of the loan repayment recipient as such parties may determine is necessary to establish compliance with program rules or investigate any incident of fraud, waste, or abuse: ¶

(c) Loan repayment recipient shall cooperate in good faith with the Authority during any investigation of fraud, waste, or abuse: and ¶

(d) In the event that loan repayment recipient reports suspect fraud, waste, or abuse by the loan repayment recipient's employer or other third party, or the loan repayment recipient learns of an Authority or federal oversight authority's investigation the recipient is strictly prohibited from notifying the employer or third party. Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825

ADOPT: 309-081-0110

REPEAL: Temporary 309-081-0110 from BHS 9-2022

NOTICE FILED DATE: 10/13/2022

RULE SUMMARY: Unchanged from 409-036 ruleset

CHANGES TO RULE:

309-081-0110

Data Sharing

(1) The Authority may not share data about program participants unless legally required to do so a by a public record request, a subpoena or court order..¶

(2) Data may only be shared for the purposes of planning, program evaluation or analysis with:¶

(a) State agencies, offices, or contractors of the Authority;¶

(b) The Oregon Employment Department; and¶

(c) Non-governmental not noted above only with written approval from the Director of the Authority.¶

(3) The Authority requires applicants and individuals who receive loan repayment funds to submit true, accurate, and complete information and data to the Authority. For the purposes of these rules this includes Provider requests for payment under an agreement or contract, whether submitted as a claim or invoice or other method for requesting payment authorized by administrative rules 309-081. The Authority treats payment, whether on paper or electronically, as certification by the recipient of the following: "This is to certify, under penalty of law, that the foregoing information is true, accurate, and complete. I understand that payment will be from state funds, and that any falsification or concealment of a material fact maybe prosecuted under federal and state laws.

Statutory/Other Authority: HB 4071 (2022)

Statutes/Other Implemented: ORS 675.375, ORS 675.705, ORS 675.720, ORS 675.745, ORS 675.785, ORS 675.825