

Senate Bill 147

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Board of Medical Examiners)

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**.

Changes name of Board of Medical Examiners for the State of Oregon to Oregon Medical Board. Makes conforming changes.

A BILL FOR AN ACT

1
2 Relating to Board of Medical Examiners for the State of Oregon; creating new provisions; and
3 amending ORS 343.146, 677.120, 677.235, 677.265, 677.290, 677.485, 677.677 and 677.830.

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

5 **SECTION 1.** ORS 677.235 is amended to read:

6 677.235. (1) The [*Board of Medical Examiners for the State of Oregon*] **Oregon Medical Board**
7 consists of 12 members appointed by the Governor. Seven of the members shall be appointed from
8 among persons having the degree of Doctor of Medicine, two from among persons having the degree
9 of Doctor of Osteopathy and one from among persons having the degree of Doctor of Podiatric
10 Medicine. Of the seven members who hold the degree of Doctor of Medicine, there shall be at least
11 one member appointed from each federal congressional district. In addition to the 10 named persons
12 described, there shall be appointed two public members representing health consumers. All persons
13 appointed must have been residents of this state for at least seven years. The physician members
14 and the member who is a podiatric physician and surgeon must have been in the active practice of
15 their profession for at least five years immediately preceding their appointment. Neither the public
16 members nor any person within the immediate family of the public members shall be employed as a
17 health professional or in any health-related industry. The public members shall be members of the
18 investigative committee of the board. The member of the board who is a podiatric physician and
19 surgeon may vote only on a matter before the board that has been determined by the board to in-
20 volve a podiatric physician and surgeon.

21 (2) Not later than February 1 of each year, the Oregon Medical Association shall nominate three
22 qualified physicians for each physician member of the board whose term expires in that year, and
23 shall certify its nominees to the Governor. Not later than February 1 of each odd-numbered year,
24 the Osteopathic Physicians and Surgeons of Oregon, Inc., shall nominate three physicians possessing
25 the degree of Doctor of Osteopathy and shall certify its nominees to the Governor. Not later than
26 February 1 of each third year, the Oregon Podiatric Medical Association shall nominate three
27 podiatric physicians and surgeons possessing the degree of Doctor of Podiatric Medicine and shall
28 certify its nominees to the Governor. The Governor shall consider these nominees in selecting suc-
29 cessors to retiring board members.

30 (3) Each member of the board shall serve for a term of three years beginning on March 1 of the

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 year the member is appointed and ending on the last day of February of the third year thereafter.
 2 No member shall serve more than two consecutive terms. If a vacancy occurs on the board, another
 3 qualifying member possessing the same professional degree or fulfilling the same public capacity as
 4 the person whose position has been vacated shall be appointed as provided in this section to fill the
 5 unexpired term.

6 (4) All appointments of members of the board by the Governor are subject to confirmation by
 7 the Senate in the manner provided in ORS 171.562 and 171.565.

8 **SECTION 2. (1) The amendments to ORS 677.235 by section 1 of this 2007 Act are intended**
 9 **to change the name of the “Board of Medical Examiners for the State of Oregon” to the**
 10 **“Oregon Medical Board.”**

11 **(2) For the purpose of harmonizing and clarifying statute sections published in Oregon**
 12 **Revised Statutes, the Legislative Counsel may substitute for words designating the “Board**
 13 **of Medical Examiners for the State of Oregon” or the “Board of Medical Examiners,” wher-**
 14 **ever they occur in Oregon Revised Statutes, other words designating the “Oregon Medical**
 15 **Board.”**

16 **SECTION 3.** ORS 677.290 is amended to read:

17 677.290. (1) All moneys received by the [*Board of Medical Examiners for the State of Oregon*]
 18 **Oregon Medical Board** under this chapter shall be paid into the General Fund in the State Treas-
 19 ury and placed to the credit of the [*Board of Medical Examiners Account*] **Oregon Medical Board**
 20 **Account** which is established. Such moneys are appropriated continuously and shall be used only
 21 for the administration and enforcement of this chapter.

22 (2) Notwithstanding subsection (1) of this section, the board may maintain a revolving account
 23 in a sum not to exceed \$50,000 for the purpose of receiving and paying pass-through moneys relating
 24 to peer review pursuant to its duties under ORS 441.055 (6) and (7) and in administering programs
 25 pursuant to its duties under this chapter relating to the education and rehabilitation of licensees in
 26 the areas of chemical substance abuse, inappropriate prescribing and medical competence. The cre-
 27 ation of and disbursement of moneys from the revolving account shall not require an allotment or
 28 allocation of moneys pursuant to ORS 291.234 to 291.260. All moneys in the account are continuously
 29 appropriated for purposes set forth in this subsection.

30 (3) Each year \$10 shall be paid to the Oregon Health and Science University for each actively
 31 in-state registered physician under ORS 677.265 which amount is continuously appropriated to the
 32 Oregon Health and Science University to be used in maintaining a circulating library of medical and
 33 surgical books and publications for the use of practitioners of medicine in this state, and when not
 34 so in use to be kept at the library of the School of Medicine and accessible to its students. The
 35 balance of the money received by the board is appropriated continuously and shall be used only for
 36 the administration and enforcement of this chapter, but any part of the balance may, upon the order
 37 of the board, be paid into the circulating library fund.

38 **SECTION 4.** ORS 343.146 is amended to read:

39 343.146. (1) To receive special education, children with disabilities shall be determined eligible
 40 for special education services under a school district program approved under ORS 343.045 and as
 41 provided under ORS 343.221.

42 (2) Before initially providing special education, the school district shall ensure that a full and
 43 individual evaluation is conducted to determine the child’s eligibility for special education and the
 44 child’s special educational needs.

45 (3) Eligibility for special education shall be determined pursuant to rules adopted by the State

1 Board of Education.

2 (4) Each school district shall conduct a reevaluation of each child with a disability in accord-
3 ance with rules adopted by the State Board of Education.

4 (5) If a medical or vision examination or health assessment is required as part of an initial
5 evaluation or reevaluation, the evaluation shall be given:

6 (a) In the case of a medical examination, by a physician licensed to practice by a state board
7 of medical examiners **or a state medical board**;

8 (b) In the case of a health assessment, by a nurse licensed by a state board of nursing and
9 specially certified as a nurse practitioner or by a licensed physician assistant; and

10 (c) In the case of a vision examination, by an ophthalmologist or optometrist licensed by a state
11 board.

12 **SECTION 5.** ORS 677.120 is amended to read:

13 677.120. (1) As used in this section, "health clinic" means a public health clinic or a health clinic
14 operated by a charitable corporation that mainly provides primary physical health, dental or mental
15 health services to low-income patients without charge or using a sliding fee scale based on the in-
16 come of the patient.

17 (2) A physician and surgeon who lawfully has been issued a license to practice in another state
18 or territory of the United States or the District of Columbia, the qualifications and licensing exam-
19 inations of which are substantially similar to those of the State of Oregon, may be licensed by the
20 [*Board of Medical Examiners for the State of Oregon*] **Oregon Medical Board** to practice medicine
21 in this state without taking an examination, except when an examination is required under sub-
22 section (3) or (4) of this section.

23 (3) A person described in subsection (2) of this section, whose application is based on a license
24 issued in another state or territory or the District of Columbia, certification of the National Board
25 of Medical Examiners of the United States, the National Board of Examiners for Osteopathic Phy-
26 sicians and Surgeons or the Medical Council of Canada or successful completion of the United
27 States Medical Licensing Examination, 10 years or more prior to the filing of an application with
28 the [*board*] **Oregon Medical Board** or who has ceased the practice of medicine for 12 or more
29 consecutive months, may be required by the board to take an examination.

30 (4) A person described in subsection (2) of this section who volunteers at a health clinic and
31 whose application is based on a license issued in another state or territory or the District of
32 Columbia, certification of the National Board of Medical Examiners of the United States, the Na-
33 tional Board of Examiners for Osteopathic Physicians and Surgeons or the Medical Council of
34 Canada or successful completion of the United States Medical Licensing Examination or the Feder-
35 ation Licensing Examination may be required by the [*board*] **Oregon Medical Board** to take a na-
36 tional licensing examination if the person has ceased the practice of medicine for 24 or more
37 consecutive months immediately prior to filing the application.

38 (5) The [*board*] **Oregon Medical Board** shall make the application under subsection (4) of this
39 section available online. A physician and surgeon applying for a license under subsection (4) of this
40 section shall pay to the board an application fee as determined by the board pursuant to ORS
41 677.265.

42 **SECTION 6.** ORS 677.265 is amended to read:

43 677.265. In addition to any other powers granted by this chapter, the [*Board of Medical Exam-*
44 *iners for the State of Oregon*] **Oregon Medical Board** may:

45 (1) Adopt necessary and proper rules for administration of this chapter including but not limited

1 to:

2 (a) Establishing fees and charges to carry out its legal responsibilities, subject to prior approval
3 by the Oregon Department of Administrative Services and a report to the Emergency Board prior
4 to adopting the fees and charges. The fees and charges shall be within the budget authorized by the
5 Legislative Assembly as that budget may be modified by the Emergency Board. The fees and charges
6 established under this section may not exceed the cost of administering the program or the purpose
7 for which the fee or charge is established, as authorized by the Legislative Assembly for the
8 [board's] **Oregon Medical Board's** budget, or as modified by the Emergency Board or future ses-
9 sions of the Legislative Assembly.

10 (b) Establishing standards and tests to determine the moral, intellectual, educational, scientific,
11 technical and professional qualifications required of applicants for licenses under this chapter.

12 (c) Enforcing the provisions of this chapter and exercising general supervision over the practice
13 of medicine and podiatry within this state. In determining whether to discipline a licensee for a
14 standard of care violation, the [board] **Oregon Medical Board** shall determine whether the licensee
15 used that degree of care, skill and diligence that is used by ordinarily careful physicians or podiatric
16 physicians and surgeons in the same or similar circumstances in the community of the physician or
17 podiatric physician and surgeon or a similar community.

18 (2) Issue, deny, suspend and revoke licenses and limited licenses, assess costs of proceedings and
19 fines and place licensees on probation as provided in this chapter.

20 (3) Use the gratuitous services and facilities of private organizations to receive the assistance
21 and recommendations of the organizations in administering this chapter.

22 (4) Make its personnel and facilities available to other regulatory agencies of this state, or other
23 bodies interested in the development and improvement of the practice of medicine or podiatry in this
24 state, upon terms and conditions for reimbursement as are agreed to by the [board] **Oregon Medical**
25 **Board** and the other agency or body.

26 (5) Appoint examiners, who need not be members of the [board] **Oregon Medical Board**, and
27 employ or contract with the American Public Health Association or the National Board of Medical
28 Examiners or other organizations, agencies and persons to prepare examination questions and score
29 examination papers.

30 (6) Determine the schools, colleges, universities, institutions and training acceptable in con-
31 nection with licensing under this chapter. All residency, internship and other training programs
32 carried on in this state by any hospital, institution or medical facility shall be subject to approval
33 by the [board] **Oregon Medical Board**. The board shall accept the approval by the American
34 Osteopathic Association or the American Medical Association **in lieu of approval by the board**.

35 (7) Prescribe the time, place, method, manner, scope and subjects of examinations under this
36 chapter.

37 (8) Prescribe all forms that it considers appropriate for the purposes of this chapter, and require
38 the submission of photographs and relevant personal history data by applicants for licensure under
39 this chapter.

40 (9) For the purpose of requesting a state or nationwide criminal records check under ORS
41 181.534, require the fingerprints of a person who is:

42 (a) Applying for a license that is issued by the board;

43 (b) Applying for renewal of a license that is issued by the board; or

44 (c) Under investigation by the board.

45 (10) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas

1 in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are rea-
2 sonably necessary to carry out its duties under this chapter.

3 **SECTION 7.** ORS 677.485 is amended to read:

4 677.485. Prior to commencing the treatment of intractable pain as allowed under ORS 677.474,
5 the physician shall provide to the person and the person shall sign a written notice, provided and
6 approved by the [board] **Oregon Medical Board**, disclosing the material risks associated with the
7 prescribed or administered controlled substances to be used in the course of the physician's treat-
8 ment of that person.

9 **SECTION 8.** ORS 677.677 is amended to read:

10 677.677. In addition to any other powers granted by ORS 677.615 to 677.677, the [Board of
11 *Medical Examiners*] **Oregon Medical Board** may adopt necessary and proper rules for adminis-
12 tration of ORS 677.615 to 677.677 including, but not limited to, establishing fees and charges to carry
13 out its legal responsibilities, subject to prior approval by the Oregon Department of Administrative
14 Services and a report to the Emergency Board prior to adopting the fees and charges. The fees and
15 charges established under this section shall not exceed the cost of administering the program of the
16 Diversion Program Supervisory Council, as authorized by the Legislative Assembly within the
17 [board's] **Oregon Medical Board's** budget, or as the budget may be modified by the Emergency
18 Board, and shall be maintained in an account separate from other funds of the [board] **Oregon**
19 **Medical Board**.

20 **SECTION 9.** ORS 677.830 is amended to read:

21 677.830. (1) Notwithstanding the provisions of ORS 677.825, the [Board of *Medical Examiners*]
22 **Oregon Medical Board** may issue a license to practice podiatry without a written examination of
23 the applicant if the applicant has a license to practice podiatry issued by a licensing agency of an-
24 other state or territory of the United States and the applicant complies with the other provisions
25 of ORS 677.805 to 677.840. Such a license shall not be issued unless the requirements, including the
26 examination for such license are substantially similar to the requirements of this state for a license
27 to practice podiatry. The board shall adopt rules governing the issuance of licenses to persons ap-
28 plying under this section. The license may be evidenced by a certificate of the board indorsed on
29 the license issued by the other state or territory, or by issuance of a license as otherwise provided
30 by ORS 677.805 to 677.840.

31 (2) The [board] **Oregon Medical Board** may accept a certificate of successful examination is-
32 sued by the National Board of Podiatry Examiners in lieu of a written examination given by the
33 [board] **Oregon Medical Board**.

34 (3) The [board] **Oregon Medical Board** may require an applicant under subsection (1) or (2) of
35 this section to take an oral examination conducted by one or more members of the board.

36