

A-Engrossed
Senate Bill 326

Ordered by the Senate April 30
Including Senate Amendments dated April 30

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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.

Creates Orthotics and Prosthetics Board of Examiners in Oregon Health Licensing Agency. Requires that persons who practice orthotics or prosthetics be licensed.

Appropriates certain fees to Oregon Health Licensing Agency Account for use of board.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Orthotics and Prosthetics Board of Examiners; creating new provisions; amending ORS
3 676.606 and 676.612; appropriating money; and declaring an emergency.

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

5 **SECTION 1. As used in sections 1 to 9 of this 2007 Act:**

6 (1) **"Orthotic device" means a device that supports, aligns, prevents or corrects**
7 **deformities of, or improves the functioning of, movable parts of the body.**

8 (2) **"Orthotics" means the practice of evaluation, measurement, design, fabrication, as-**
9 **sembly, fitting, adjustment or servicing of an orthotic device for the support, correction or**
10 **alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury or deformity.**

11 (3) **"Orthotist" means a person licensed to practice orthotics under section 5 of this 2007**
12 **Act.**

13 (4) **"Prosthetic device" means an artificial limb device or appliance designed to replace**
14 **in whole or in part an arm, hand, leg or foot.**

15 (5) **"Prosthetics" means the practice of evaluation, measurement, design, fabrication,**
16 **assembly, fitting, alignment, adjustment or servicing of a prosthetic device for the replace-**
17 **ment of external parts of a human body lost due to amputation or congenital deformity.**

18 (6) **"Prosthetist" means a person who is licensed to practice prosthetics under section 5**
19 **of this 2007 Act.**

20 **SECTION 2. (1) There is created within the Oregon Health Licensing Agency the**
21 **Orthotics and Prosthetics Board of Examiners consisting of seven members appointed by the**
22 **Governor.**

23 (2) **All members of the board shall be residents of Oregon. Of the members of the board:**

24 (a) **Two members shall be orthotists;**

25 (b) **Two members shall be prosthetists;**

26 (c) **One member shall be a licensed physician or a licensed podiatric physician and sur-**

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 geon; and

2 (d) Two members shall be members of the general public, one of whom uses a prosthetic
3 device and one of whom uses an orthotic device.

4 (3) A member of the board shall serve for a term of three years and is eligible for reap-
5 pointment. A member holds office until the appointment and qualification of a successor.
6 Vacancies shall be filled for the unexpired term only.

7 (4) A member of the board is entitled to compensation and expenses as provided in ORS
8 292.495.

9 **SECTION 3.** (1) The Orthotics and Prosthetics Board of Examiners shall elect one of its
10 members as chairperson and another as vice chairperson.

11 (2) A majority of the members of the board constitutes a quorum for the transaction of
12 business.

13 (3) Regular meetings of the board shall be held at such times and places as the Oregon
14 Health Licensing Agency prescribes. At least one regular meeting shall be held each year.

15 **SECTION 4.** The Orthotics and Prosthetics Board of Examiners shall:

16 (1) Determine the qualifications and fitness of applicants for licensure as an orthotist, a
17 prosthetist, an orthotist-prosthetist, an orthotist assistant, a prosthetist assistant and an
18 orthotist-prosthetist assistant.

19 (2) Establish minimum requirements for orthotist, prosthetist and orthotist-prosthetist
20 licenses and for orthotist assistant, prosthetist assistant and orthotist-prosthetist assistant
21 licenses.

22 (3) Establish standards, guidelines and procedures for the completion of clinical
23 internships.

24 (4) Supervise the examination of applicants.

25 (5) Establish basic requirements for continuing education.

26 (6) Provide for waivers of examinations, grandfathering requirements and temporary li-
27 censes as considered appropriate.

28 **SECTION 5.** The Oregon Health Licensing Agency shall:

29 (1)(a) Issue licenses to persons determined by the Orthotics and Prosthetics Board of
30 Examiners to be qualified; and

31 (b) Deny, revoke, suspend and renew licenses to practice as an orthotist, a prosthetist,
32 an orthotist-prosthetist, an orthotist assistant, a prosthetist assistant and an orthotist-
33 prosthetist assistant under sections 1 to 9 of this 2007 Act.

34 (2) Maintain a public record of persons licensed by the agency to practice orthotics or
35 prosthetics.

36 (3) Keep a record of its proceedings relating to the issuance, refusal, suspension and re-
37 vocation of licenses under sections 1 to 9 of this 2007 Act.

38 (4) Evaluate the qualifications of an applicant for licensure as an orthotist, a prosthetist,
39 an orthotist-prosthetist, an orthotist assistant, a prosthetist assistant or an orthotist-
40 prosthetist assistant.

41 (5) Keep a record of all complaints received, including the date of receipt, name and place
42 of business of each practitioner involved, the name and address of each complainant and the
43 nature of the complaint.

44 (6) Take any actions at the request of the chairperson of the board that may be neces-
45 sary or appropriate to achieve the purposes of sections 1 to 9 of this 2007 Act.

1 (7) Adopt rules for the administration of sections 1 to 9 of this 2007 Act.

2 **SECTION 6.** A person may not, unless the person holds a valid license issued under sec-
3 tion 5 of this 2007 Act:

4 (1) Engage or offer to engage in the practice of orthotics or prosthetics or claim to be a
5 licensed orthotist, prosthetist or orthotist-prosthetist; or

6 (2) Use in connection with the name of the person the word “orthotist,” “prosthetist”
7 or “orthotist-prosthetist” or any other words, letters, abbreviations or insignia tending to
8 indicate that the person is engaged in the practice of orthotics or prosthetics.

9 **SECTION 7.** Sections 1 to 9 of this 2007 Act do not:

10 (1) Limit, preclude or otherwise interfere with the practices of health care providers and
11 other persons, including physical therapists and occupational therapists, licensed or regis-
12 tered in this state under any other statutes, or prevent health care providers and other
13 persons, including physical therapists and occupational therapists, from engaging in the
14 profession or occupation for which the health care provider or other person, including a
15 physical therapist or an occupational therapist, is licensed or registered;

16 (2) Prevent any person from practicing orthotics or prosthetics if the person is employed
17 as an orthotist, a prosthetist or an orthotist-prosthetist by the federal government or any
18 of its agencies;

19 (3) Preclude any person from pursuing a supervised course of study leading to a degree
20 or registration as an orthotist, a prosthetist or an orthotist-prosthetist in an accredited or
21 approved educational program if the person is identified by a title that clearly indicates stu-
22 dent or trainee status;

23 (4) Prevent any person from completing any supervised practical experience require-
24 ments established by the Oregon Health Licensing Agency by rule; or

25 (5) Prohibit any person from performing orthotic or prosthetic services in this state for
26 purposes of continuing education or consulting if the services are performed for no more
27 than 60 days in any calendar year and are performed in association with a licensed orthotist,
28 prosthetist or orthotist-prosthetist if the person is registered, certified or licensed and in
29 good standing as an orthotist, a prosthetist or an orthotist-prosthetist.

30 **SECTION 8.** In the manner prescribed in ORS chapter 183 for contested cases, the
31 Oregon Health Licensing Agency may impose discipline as described in ORS 676.612 against
32 a licensed orthotist, prosthetist or orthotist-prosthetist for any of the grounds listed in ORS
33 676.612 or for any violation of the provisions of sections 1 to 9 of this 2007 Act or the rules
34 adopted under sections 1 to 9 of this 2007 Act.

35 **SECTION 9.** (1) The Oregon Health Licensing Agency shall establish by rule and collect
36 fees related to the practice of orthotics and prosthetics under sections 1 to 9 of this 2007
37 Act.

38 (2) All moneys received by the Oregon Health Licensing Agency under this section shall
39 be paid into the General Fund of the State Treasury and credited to the Oregon Health Li-
40 censing Agency Account, and are appropriated continuously to and shall be used by the
41 agency only for the administration and enforcement of sections 1 to 9 of this 2007 Act.

42 (3) The fees established by the Oregon Health Licensing Agency under subsection (1) of
43 this section are subject to the prior approval of the Oregon Department of Administrative
44 Services. The fees may not exceed the cost of administering sections 1 to 9 of this 2007 Act
45 pertaining to the purpose for which the fee is established, as authorized by the Legislative

1 **Assembly within the budget of the agency, as that budget may be modified by the Emergency**
2 **Board.**

3 **(4) In addition to the fees established under subsection (1) of this section, the Oregon**
4 **Health Licensing Agency may assess fees for providing copies of official documents or re-**
5 **records and for recovering administrative costs associated with compiling, photocopying or**
6 **preparing and delivering the records.**

7 **SECTION 10.** ORS 676.606 is amended to read:

8 676.606. Pursuant to ORS 676.607, the Oregon Health Licensing Agency shall provide adminis-
9 trative and regulatory oversight and centralized service for the following boards, advisory councils
10 and program:

11 (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

12 (2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;

13 (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.570;

14 (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

15 (5) Respiratory Therapist Licensing Board, as provided in ORS 688.800 to 688.840;

16 (6) Environmental Health Registration Board, as provided in ORS chapter 700;

17 (7) Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, as
18 provided in ORS 690.350 to 690.430;

19 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.185; *[and]*

20 (9) Body piercing licensing program, as provided in ORS 690.500 to 690.570[.]; **and**

21 **(10) Orthotics and Prosthetics Board of Examiners, as provided in sections 1 to 9 of this**
22 **2007 Act.**

23 **SECTION 11.** ORS 676.612 is amended to read:

24 676.612. (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified
25 in ORS 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111 **and section**
26 **8 of this 2007 Act**, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend
27 or revoke or may place on probation or otherwise discipline a holder of a certificate, permit, license
28 or registration to practice issued by the agency for any of the following reasons:

29 (a) Fraud, misrepresentation, concealment of material facts or deception in applying for or ob-
30 taining an authorization to practice in this state, or in any written or oral communication to the
31 agency concerning the issuance or retention of the authorization.

32 (b) Using, causing or promoting the use of any advertising matter, promotional literature, testi-
33 monial, guarantee, warranty, label, insignia or any other representation, however disseminated or
34 published, that is false, misleading or deceptive.

35 (c) Making a representation that the certificate, permit, license or registration holder knew or
36 should have known is false or misleading regarding skill or the efficacy or value of treatment or
37 remedy administered by the holder.

38 (d) Practicing under a false, misleading or deceptive name, or impersonating another certificate,
39 permit, license or registration holder.

40 (e) Permitting a person other than the certificate, permit, license or registration holder to use
41 the certificate, permit, license or registration.

42 (f) Practicing with a physical or mental condition that presents an unreasonable risk of harm
43 to the practitioner or to the person or property of others in the course of performing the practi-
44 tioner's duties.

45 (g) Practicing while under the influence of alcohol, controlled substances or other skill-impairing

1 substances, or engaging in the illegal use of controlled substances or other skill-impairing sub-
2 stances so as to create a risk of harm to the person or property of others in the course of per-
3 forming the practitioner's duties.

4 (h) Failing to properly and reasonably accept responsibility for the actions of employees.

5 (i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered per-
6 son to practice a regulated occupation or profession subject to the authority of the boards, councils
7 and programs listed in ORS 676.606.

8 (j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from
9 or failure to conform to standards of practice in performing services or practicing in a regulated
10 occupation or profession subject to the authority of the boards, councils and programs listed under
11 ORS 676.606.

12 (k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of con-
13 viction, certified by the clerk of the court entering the conviction, is conclusive evidence of the
14 conviction. A plea of no contest or an admission of guilt shall be considered a conviction for pur-
15 poses of this paragraph.

16 (L) Failing to report any adverse action, as required by statute or rule, taken against the cer-
17 tificate, permit, license, or registration holder by another regulatory jurisdiction or any peer review
18 body, health care institution, professional association, governmental agency, law enforcement agency
19 or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary
20 action as described in this section.

21 (m) Violation of a statute regulating an occupation or profession subject to the authority of the
22 boards, councils and programs listed in ORS 676.606.

23 (n) Violation of any rule regulating an occupation or profession subject to the authority of the
24 boards, councils and programs listed in ORS 676.606.

25 (o) Failing to cooperate with the agency in any investigation, inspection or request for infor-
26 mation.

27 (2) The agency may refuse to issue or renew, may suspend or revoke or may place on probation
28 or otherwise sanction a holder of a certificate, permit, license or registration to practice issued by
29 the agency for failure to pay an outstanding civil penalty or fee that is due or for failure to meet
30 the terms of any order issued by the agency that has become final.

31 (3) For the purpose of requesting a state or nationwide criminal records check under ORS
32 181.534, the agency may require the fingerprints of a person who is:

33 (a) Applying for a certificate, permit, license or registration that is issued by the agency;

34 (b) Applying for renewal of a certificate, permit, license or registration that is issued by the
35 agency; or

36 (c) Under investigation by the agency.

37 (4) If the agency places a holder of a certificate, permit, license or registration on probation
38 under subsection (1) of this section, the agency, in consultation with the appropriate board, council
39 or program, may determine and at any time modify the conditions of the probation.

40 (5) If a certificate, permit, license or registration is suspended, the holder may not practice
41 during the term of suspension. Upon the expiration of the term of suspension, the certificate, permit,
42 license or registration may be reinstated by the agency if the conditions of suspension no longer
43 exist and the holder has satisfied all requirements in the relevant statutes or administrative rules
44 for issuance, renewal or reinstatement.

45 **SECTION 12. (1) Notwithstanding the term of office specified by section 2 of this 2007**

1 **Act, of the members first appointed to the Orthotics and Prosthetics Board of Examiners:**

2 (a) **Two members shall serve for terms ending January 1, 2009.**

3 (b) **Two members shall serve for terms ending January 1, 2010.**

4 (c) **Three members shall serve for terms ending January 1, 2011.**

5 (2) **A board member appointed under this section who is a practitioner of orthotics or**
6 **prosthetics, as defined in section 1 of this 2007 Act, must meet all requirements for licensure**
7 **under section 5 of this 2007 Act and shall obtain a license within 12 months of appointment.**

8 **SECTION 13. (1) Any person actively engaged in the practice of orthotics or prosthetics**
9 **on the effective date of this 2007 Act is considered licensed under sections 1 to 9 of this 2007**
10 **Act if the person submits an application for a license and the appropriate fee as determined**
11 **by rule as provided under sections 1 to 9 of this 2007 Act.**

12 (2) **A person described in subsection (1) of this section must submit an application for a**
13 **license and the appropriate fee within 90 days after the operative date of section 4 of this**
14 **2007 Act.**

15 **SECTION 14. The members of the Orthotics and Prosthetics Board of Examiners shall**
16 **meet as soon as possible after appointment to the board to carry out their duties under**
17 **section 4 of this 2007 Act.**

18 **SECTION 15. Sections 1, 4 to 6, 8 and 9 of this 2007 Act become operative on January 1,**
19 **2008.**

20 **SECTION 16. This 2007 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
22 **on its passage.**