

SENATE AMENDMENTS TO SENATE BILL 880

By COMMITTEE ON HEALTH AND HUMAN SERVICES

March 28

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and insert “677.190,
2 677.470, 677.474 and 677.480; and repealing ORS 677.485.”.

3 On page 2, delete lines 23 through 29 and insert:

4 “**SECTION 4.** ORS 677.190 is amended to read:

5 “677.190. The Board of Medical Examiners for the State of Oregon may refuse to grant, or may
6 suspend or revoke a license to practice for any of the following reasons:

7 “(1)(a) Unprofessional or dishonorable conduct.

8 “(b) For purposes of this subsection, the use of an alternative medical treatment shall not by
9 itself constitute unprofessional conduct. For purposes of this paragraph:

10 “(A) ‘Alternative medical treatment’ means:

11 “(i) A treatment that the treating physician, based on the physician’s professional experience,
12 has an objective basis to believe has a reasonable probability for effectiveness in its intended use
13 even if the treatment is outside recognized scientific guidelines, is unproven, is no longer used as
14 a generally recognized or standard treatment or lacks the approval of the United States Food and
15 Drug Administration;

16 “(ii) A treatment that is supported for specific usages or outcomes by at least one other physi-
17 cian licensed by the Board of Medical Examiners; and

18 “(iii) A treatment that poses no greater risk to a patient than the generally recognized or
19 standard treatment.

20 “(B) ‘Alternative medical treatment’ does not include use by a physician of controlled substances
21 in the treatment of a person for chemical dependency resulting from the use of controlled sub-
22 stances.

23 “(2) Employing any person to solicit patients for the licensee. However, a managed care organ-
24 ization, independent practice association, preferred provider organization or other medical service
25 provider organization may contract for patients on behalf of physicians.

26 “(3) Representing to a patient that a manifestly incurable condition of sickness, disease or injury
27 can be cured.

28 “(4) Obtaining any fee by fraud or misrepresentation.

29 “(5) Willfully or negligently divulging a professional secret without the written consent of the
30 patient.

31 “(6) Conviction of any offense punishable by incarceration in a Department of Corrections in-
32 stitution or in a federal prison, subject to ORS 670.280. A copy of the record of conviction, certified
33 to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

34 “(7) Habitual or excessive use of intoxicants, drugs or controlled substances.

35 “(8) Fraud or misrepresentation in applying for or procuring a license to practice in this state,

1 or in connection with applying for or procuring registration.

2 “(9) Making statements that the licensee knows, or with the exercise of reasonable care should
3 know, are false or misleading, regarding skill or the efficacy or value of the medicine, treatment or
4 remedy prescribed or administered by the licensee or at the direction of the licensee in the treat-
5 ment of any disease or other condition of the human body or mind.

6 “(10) Impersonating another licensee licensed under this chapter or permitting or allowing any
7 person to use the license.

8 “(11) Aiding or abetting the practice of medicine or podiatry by a person not licensed by the
9 board, when the licensee knows, or with the exercise of reasonable care should know, that the per-
10 son is not licensed.

11 “(12) Using the name of the licensee under the designation ‘doctor,’ ‘Dr.,’ ‘D.O.’ or ‘M.D.,’
12 ‘D.P.M.,’ ‘Acupuncturist,’ ‘P.A.’ or any similar designation in any form of advertising that is
13 untruthful or is intended to deceive or mislead the public.

14 “(13) Insanity or mental disease as evidenced by an adjudication or voluntary commitment to
15 an institution for the treatment of a mental disease that affects the ability of the licensee to safely
16 practice medicine, or as determined by an examination conducted by three impartial psychiatrists
17 retained by the board.

18 “(14) Gross negligence or repeated negligence in the practice of medicine or podiatry.

19 “(15) Incapacity to practice medicine or podiatry. If the board has evidence indicating incapac-
20 ity, the board may order a licensee to submit to a standardized competency examination. The
21 licensee shall have access to the result of the examination and to the criteria used for grading and
22 evaluating the examination. If the examination is given orally, the licensee shall have the right to
23 have the examination recorded.

24 “(16) Disciplinary action by another state of a license to practice, based upon acts by the
25 licensee similar to acts described in this section. A certified copy of the record of the disciplinary
26 action of the state is conclusive evidence thereof.

27 “(17) Failing to designate the degree appearing on the license under circumstances described in
28 ORS 677.184 (3).

29 “(18) Willfully violating any provision of this chapter or any rule adopted by the board, board
30 order, or failing to comply with a board request pursuant to ORS 677.320.

31 “(19) Failing to report the change of the location of practice of the licensee as required by ORS
32 677.172.

33 “(20) Adjudication of or admission to a hospital for mental illness or imprisonment as provided
34 in ORS 677.225.

35 “(21) Making a fraudulent claim.

36 “(22)(a) Performing psychosurgery.

37 “(b) For purposes of this subsection and ORS 426.385, ‘psychosurgery’ means any operation de-
38 signed to produce an irreversible lesion or destroy brain tissue for the primary purpose of altering
39 the thoughts, emotions or behavior of a human being. ‘Psychosurgery’ does not include procedures
40 which may produce an irreversible lesion or destroy brain tissues when undertaken to cure well-
41 defined disease states such as brain tumor, epileptic foci and certain chronic pain syndromes.

42 “(23) Refusing an invitation for an informal interview with the board requested under ORS
43 677.415.

44 “(24) Violation of the federal Controlled Substances Act.

45 “(25) Prescribing controlled substances without a legitimate medical purpose, or prescribing

1 controlled substances without following accepted procedures for examination of patients, or pre-
2 scribing controlled substances without following accepted procedures for record keeping [*or without*
3 *giving the notice required under ORS 677.485*].

4 “(26) Failure by the licensee to report to the board any adverse action taken against the
5 licensee by another licensing jurisdiction or any peer review body, health care institution, profes-
6 sional or medical society or association, governmental agency, law enforcement agency or court for
7 acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as
8 described in this section.

9 “(27) Failure by the licensee to notify the board of the licensee’s voluntary resignation from the
10 staff of a health care institution or voluntary limitation of a licensee’s staff privileges at the insti-
11 tution if that action occurs while the licensee is under investigation by the institution or a com-
12 mittee thereof for any reason related to medical incompetence, unprofessional conduct or mental or
13 physical impairment.

14 **“SECTION 5. ORS 677.485 is repealed.”**
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