

A-Engrossed
Senate Bill 1062

Ordered by the Senate February 7
Including Senate Amendments dated February 7

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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.

[Increases allowable prehearing period of detention in hospital or nonhospital facility for intensive treatment of dementia.]

Eliminates requirement that drugs that may be prescribed by certain nurse practitioners and clinical nurse specialists be included in formulary established by Oregon State Board of Nursing.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health; amending ORS 678.370, 678.375, 678.390 and 689.765; repealing ORS 678.385; and
3 declaring an emergency.

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

5 **SECTION 1.** ORS 678.370 is amended to read:

6 678.370. (1) The Oregon State Board of Nursing shall issue a certification to act as a clinical
7 nurse specialist to any nurse who meets the requirements established by the board pursuant to ORS
8 678.372.

9 (2) A person may not act as a clinical nurse specialist, use the name, title, designation, initial
10 or abbreviation of clinical nurse specialist or otherwise hold oneself out as a clinical nurse spe-
11 cialist unless the person is certified as a clinical nurse specialist pursuant to subsection (1) of this
12 section.

13 (3) A certified clinical nurse specialist is authorized to prescribe drugs for the use of and ad-
14 ministration to other persons if approval has been given under ORS 678.390. The authority to pre-
15 scribe and dispense prescription drugs shall be included within the scope of practice of certified
16 clinical nurse specialists as defined by rules of the board *[subject to ORS 678.385]*.

17 **SECTION 2.** ORS 678.375 is amended to read:

18 678.375. (1) The Oregon State Board of Nursing is authorized to issue certificates of special
19 competency to licensed registered nurses to practice as nurse practitioners if they meet the re-
20 quirements of the board pursuant to ORS 678.380.

21 (2) No person shall practice as a nurse practitioner or hold oneself out to the public or to an
22 employer, or use the initials, name, title, designation or abbreviation as a nurse practitioner until
23 and unless such person is certified by the board.

24 (3) A registered nurse, certified as a nurse practitioner, is authorized to complete and sign death
25 certificates. Death certificates signed by a certified nurse practitioner shall be accepted as fulfilling

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 all the requirements of the laws dealing with death certificates. A certified nurse practitioner who
2 signs a death certificate must comply with all provisions of ORS 432.307.

3 (4) A registered nurse, certified as a nurse practitioner, is authorized to prescribe drugs for the
4 use of and administration to other persons if approval has been given under ORS 678.390. The drugs
5 which the nurse practitioner is authorized to prescribe shall be included within the certified nurse
6 practitioner's scope of practice as defined by rules of the board [*subject to ORS 678.385*].

7 (5) [*The dispensing of certain limited medications*] **A licensed pharmacist may fill and a li-**
8 **icensed pharmacist or an employee of the licensed pharmacist may dispense medications** pre-
9 scribed by a nurse practitioner in accordance with the [*formulary established under ORS 678.385 and*
10 *dispensed by a licensed pharmacist or an employee thereof may be filled by a pharmacist according to*
11 *the*] terms of the prescription. The filling of such a prescription [*shall*] **does** not constitute evidence
12 of negligence on the part of the pharmacist if the prescription was dispensed within the reasonable
13 and prudent practice of pharmacy.

14 (6) As used in this section:

15 (a) "Drug" means: [*medicines and preparations for internal or external use of human beings which*
16 *are recognized in the formulary adopted pursuant to ORS 678.385*]

17 **(A) Articles recognized as drugs in the official United States Pharmacopoeia, official**
18 **National Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any**
19 **supplement to any of them;**

20 **(B) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention**
21 **of disease in human beings;**

22 **(C) Articles other than food that are intended to affect the structure or any function of**
23 **the body of human beings; and**

24 **(D) Articles intended for use as a component of any articles specified in subparagraph**
25 **(A), (B) or (C) of this paragraph.**

26 (b) "Prescribe" means to direct, order or designate the preparation, use of or manner of using
27 by spoken or written words or other means.

28 **SECTION 3.** ORS 678.390 is amended to read:

29 678.390. (1) The Oregon State Board of Nursing may grant to a certified nurse practitioner or
30 certified clinical nurse specialist the privilege of writing prescriptions [*described in the formulary*
31 *under ORS 678.385*], **including prescriptions for controlled substances listed in schedules II,**
32 **III, III N, IV and V.**

33 (2) A certified nurse practitioner or certified clinical nurse specialist may submit an application
34 to the Oregon State Board of Nursing to dispense prescription drugs. The Oregon State Board of
35 Nursing shall provide immediate notice to the State Board of Pharmacy upon receipt and upon ap-
36 proval of an application from a certified nurse practitioner or certified clinical nurse specialist for
37 authority to dispense prescription drugs to the patients of the applicant.

38 (3) An application for the authority to dispense prescription drugs as authorized under sub-
39 section (1) of this section must include:

40 (a) Evidence of completion of a prescription drug dispensing training program jointly developed
41 and adopted by rule by the Oregon State Board of Nursing and the State Board of Pharmacy.

42 (b) Except when a certified nurse practitioner is seeking authority to dispense prescription
43 drugs at a qualified institution of higher education as defined in ORS 399.245, demonstration of a
44 lack of readily available access to pharmacy services in the practice area of the applicant and that
45 the lack of access would be corrected by granting authority to dispense prescription drugs by the

1 applicant. Lack of readily available access to pharmacy services for patients may be established by
2 evidence:

3 (A) That the patients of the applicant are located:

4 (i) Outside the boundaries of a metropolitan statistical area;

5 (ii) Thirty or more highway miles from the closest hospital within the major population center
6 in a metropolitan statistical area; or

7 (iii) In a county with a population of less than 75,000; or

8 (B) Of financial barrier to access, including but not limited to receiving services from a health
9 care safety net clinic or eligibility for participation in a patient assistance program of a pharma-
10 ceutical company.

11 (c) Any other information required by the Oregon State Board of Nursing.

12 (4) The Oregon State Board of Nursing shall adopt rules requiring:

13 (a) Drugs dispensed by certified nurse practitioners and certified clinical nurse specialists to be
14 [*in the formulary established under ORS 678.385 and be*] either prepackaged by a manufacturer reg-
15 istered with the State Board of Pharmacy or repackaged by a pharmacist licensed by the State
16 Board of Pharmacy under ORS chapter 689;

17 (b) Labeling requirements for drugs dispensed by certified nurse practitioners and certified
18 clinical nurse specialists that are the same as labeling requirements required of pharmacies licensed
19 under ORS chapter 689;

20 (c) Record keeping requirements for prescriptions and drug dispensing by a certified nurse
21 practitioner and a certified clinical nurse specialist that are the same as the record keeping re-
22 quirements required of pharmacies licensed under ORS chapter 689;

23 (d) A dispensing certified nurse practitioner and a dispensing certified clinical nurse specialist
24 to have available at the dispensing site a hard copy or electronic version of prescription drug re-
25 ference works commonly used by professionals authorized to dispense prescription medications; and

26 (e) A dispensing certified nurse practitioner and a dispensing certified clinical nurse specialist
27 to allow representatives of the State Board of Pharmacy, upon receipt of a complaint, to inspect a
28 dispensing site after prior notice to the Oregon State Board of Nursing.

29 (5) The Oregon State Board of Nursing has sole disciplinary authority regarding certified nurse
30 practitioners and certified clinical nurse specialists who have drug dispensing authority.

31 (6) The privilege of writing prescriptions and dispensing drugs may be denied, suspended or re-
32 voked by the Oregon State Board of Nursing upon proof that the privilege has been abused. The
33 procedure shall be a contested case under ORS chapter 183. Disciplinary action under this sub-
34 section is grounds for discipline of the certified nurse practitioner or certified clinical nurse spe-
35 cialist in the same manner as a licensee may be disciplined under ORS 678.111.

36 **SECTION 4.** ORS 689.765 is amended to read:

37 689.765. (1) No drugs shall be dispensed to the public by means of automatic vending machines.

38 (2) As used in this section, "automatic vending machine" means any mechanical device or
39 contrivance whereby the purchaser is able to secure drugs.

40 (3) No person shall adulterate for the purpose of sale any drug in such manner as to render it
41 injurious to health, or knowingly sell or offer for sale any adulterated drug.

42 (4) No person shall manufacture, compound or sell or offer for sale or cause to be manufactured,
43 compounded, sold or offered for sale any drug, compound or preparation for internal or external use
44 under or by a name recognized in the United States Pharmacopoeia, Homeopathic Pharmacopoeia
45 or National Formulary which differs from the standard of strength and purity specified therein as

1 official at the time of manufacture, compounding, sale or offering for sale.

2 (5) No person shall manufacture, compound, sell or offer for sale, or cause to be manufactured,
3 sold or offered for sale, any drug, the strength and purity of which falls below the professed standard
4 of strength and purity under which it is sold.

5 (6) No person shall sell, give away, barter, dispense, distribute, buy, receive or possess any
6 prescription drug except as authorized by law.

7 (7) No manufacturer or wholesaler shall sell or otherwise distribute, or offer to sell or otherwise
8 distribute, any drug or device except to a person legally authorized to resell, dispense or otherwise
9 redistribute such drug or device. The board may grant an exemption from the requirement of this
10 subsection in the form of a special permit if the board finds that an exemption is in the best interest
11 of the public health and safety.

12 (8) Any practitioner who receives any complimentary samples of any controlled substance, as
13 defined in ORS 475.005, shall keep the samples in a securely locked, substantially constructed cabi-
14 net and shall maintain a record of receipts and withdrawals from each inventory of samples. The
15 record requirements shall be specified by rule of the licensing board that has jurisdiction over the
16 practitioner's license. The licensing board may inspect the records and the inventory of samples.

17 (9)(a) No person may sell, purchase or trade or offer to sell, purchase or trade any drug sample.

18 (b) As used in paragraph (a) of this subsection, "drug sample" means a unit of a drug, subject
19 to this chapter, that is not intended to be sold and is intended to promote the sale of the drug, and
20 includes a coupon or other form which may be redeemed for a drug.

21 (10) For purposes of this section and ORS 678.375, distribution of prepackaged complimentary
22 samples of medications by a nurse practitioner or clinical nurse specialist with prescription writing
23 authority shall not constitute dispensing when the sample medication is within the [*established*
24 *formulary for*] **prescriptive authority granted to** that nurse practitioner or clinical nurse special-
25 ist.

26 **SECTION 5. ORS 678.385 is repealed.**

27 **SECTION 6. This 2008 Act being necessary for the immediate preservation of the public**
28 **peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect**
29 **on its passage.**

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