

**Enrolled**  
**House Bill 3639**

Sponsored by Representative G SMITH (Presession filed.)

CHAPTER .....

AN ACT

Relating to student loan repayment program for providers of primary care; creating new provisions; amending ORS 348.117, 442.550, 442.555, 442.560, 442.568, 442.570, 677.141 and 677.415; appropriating money; and declaring an emergency.

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

**PRIMARY CARE SERVICES PROGRAM**

**SECTION 1.** ORS 442.550 is amended to read:

442.550. As used in ORS 442.550 to 442.570:

[(1) "*Commission*" means the Oregon Student Assistance Commission.]

(1) "**Barriers to accessing health care**" means being enrolled in Medicare or the state medical assistance program or not having health insurance coverage.

(2) "Dentist" means any person licensed to practice dentistry under ORS chapter 679.

(3) "**Naturopathic physician**" means any person who holds a degree of Doctor of Naturopathic Medicine and who is licensed to practice medicine under ORS chapter 685.

[(3)] (4) "Nurse practitioner" means any person licensed under ORS 678.375.

[(4)] (5) "Pharmacist" means any person licensed as a pharmacist under ORS chapter 689.

[(5)] (6) "Physician" means any person who holds a degree of Doctor of Medicine or Doctor of Osteopathy and who is licensed to practice medicine under ORS chapter 677.

[(6)] (7) "Physician assistant" means any person licensed under ORS 677.495 and 677.505 to 677.525.

[(7)] (8) "Qualifying loan" means any loan made to a **student of naturopathic medicine**, medical student, physician assistant student, dental student, pharmacy student or nursing student under:

(a) Common School Fund loan program under ORS 348.040 to 348.090;

(b) Programs under Title IV parts B, D and E, of the Higher Education Act of 1965, as amended; and

(c) The Health Professions Student Loan, Nursing Student Loan, Health Education Assistance Loan and Primary Care Loan programs administered by the United States Department of Health and Human Services.

[(8)] (9) "Qualifying practice site" means:

(a) A rural hospital as defined in ORS 442.470;

(b) A rural health clinic **as defined in 42 U.S.C. 1395x(aa)(2)**;

(c) A pharmacy that is located in a medically underserved rural community in Oregon or a federally designated health professional shortage area and that is not part of a group of six or more pharmacies under common ownership; [or]

(d) Another practice site in a medically underserved rural community in Oregon; or

(e) **An urban practice site at which the practitioner applying for or receiving loan repayments under ORS 442.550 to 442.570 attests a willingness to serve patients with barriers to accessing health care in at least the same proportion to the practitioner's total number of patients as the number of individuals with barriers to accessing health care residing in the county where the practice site is located, as determined by the Office of Rural Health, represents to the total number of residents in the county.**

**SECTION 2.** ORS 442.555 is amended to read:

442.555. (1) There is created the [*Rural Health*] **Primary Care Services Program**, to be administered by the [*Oregon Student Assistance Commission*] **Office of Rural Health**, pursuant to rules adopted by the [*commission*] **office**. The purpose of the program is to provide loan repayments on behalf of **naturopathic physicians**, physicians, physician assistants, dentists, pharmacists and nurse practitioners who agree to practice in a qualifying practice site.

(2) To be eligible to participate in the program, a prospective **naturopathic physician**, physician, physician assistant, dentist, pharmacist or nurse practitioner shall submit [*a letter of interest to the commission*] **an application to the office**. Applicants who are selected for participation according to criteria adopted by the [*commission in consultation with the Office of Rural Health*] **office** shall sign a [*letter of*] **primary care service** agreement stipulating that the applicant agrees to abide by the terms stated in ORS 442.560.

(3) Subject to available resources, the [*commission*] **office** may enter into [*agreements with not to exceed 10*] **primary care service agreements with** prospective **naturopathic physicians**, physicians, [*10 prospective*] physician assistants, [*10 prospective*] dentists, [*10 prospective*] pharmacists and [*10 prospective*] nurse practitioners [*each year. The commission*]. **The office** may give preference to prospective **naturopathic physicians**, physicians, physician assistants, dentists, pharmacists and nurse practitioners who agree to practice in a **qualifying practice site or a** community that has contributed funds to the [*Rural Health*] **Primary Care Services Fund**.

(4) The office [*of Rural Health*] shall adopt criteria to be applied to determine medically underserved **rural** communities and qualifying practice sites for purposes of ORS 442.550 to 442.570 and for the purposes of compliance with [*federal Public Law 95-210, establishing*] **42 U.S.C. 1395x(aa)(2), defining** rural health clinics.

(5) A qualifying practice site shall submit an application to the office [*of Rural Health to participate in the program*] **to request a designation as a qualifying practice site**. The office shall make a list of qualifying practice sites available to prospective **naturopathic physicians**, physicians, physician assistants, dentists, pharmacists and nurse practitioners.

**SECTION 3.** ORS 442.560 is amended to read:

442.560. (1) Prospective **naturopathic physicians**, physicians, physician assistants, dentists, pharmacists and nurse practitioners who wish to participate in the [*Rural Health*] **Primary Care Services Program** shall agree [*that:*]

[*(a) For each year of medical, physician assistant, dental, pharmacy or graduate school, the applicant designates an agreed amount, not to exceed \$25,000, as a qualifying loan subject to ORS 442.550 to 442.570.*]

[*(b) In the time period immediately following the completion of all residency requirements or the time period immediately following the execution of a Rural Health Services agreement with the Oregon Student Assistance Commission, whichever comes later, a physician or dentist agrees to practice for at least three full years in a rural hospital as defined in ORS 442.470, in a rural health clinic or in a medically underserved rural community in Oregon.*]

[*(c) For not less than three nor more than five years that a physician or dentist serves in a rural hospital as defined in ORS 442.470, in a rural health clinic or in a medically underserved rural com-*

community, the commission shall annually pay an amount that is a percentage of the total of all qualifying loans made to the physician or dentist through the programs described in ORS 442.550.]

[(d) In the time period immediately following the completion of physician assistant or graduate school or the time period immediately following the execution of a Rural Health Services agreement with the commission, whichever comes later, a physician assistant or nurse practitioner agrees to practice for at least two years in a rural hospital as defined in ORS 442.470, in a rural health clinic or in a medically underserved rural community in Oregon.]

[(e) For not less than two nor more than four years that a physician assistant or nurse practitioner practices in a rural hospital as defined in ORS 442.470, in a rural health clinic or in a medically underserved rural community, the commission shall annually pay an amount that is a percentage of the total of all qualifying loans made to the physician assistant or nurse practitioner through the programs described in ORS 442.550.]

[(f) In the time period immediately following the completion of all pharmacy residency requirements or the time period immediately following the execution of a Rural Health Services agreement with the commission, whichever comes later, a pharmacist agrees to practice for at least three full years in a rural hospital as defined in ORS 442.470, in a rural health clinic, in a medically underserved rural community in Oregon or in a pharmacy that is located in a medically underserved rural community in Oregon or a federally designated health professional shortage area and that is not part of a group of six or more pharmacies under common ownership.]

[(g) For not less than three nor more than five years that a pharmacist serves in a rural hospital as defined in ORS 442.470, in a rural health clinic, in a medically underserved rural community or in a pharmacy that is located in a medically underserved rural community or a federally designated health professional shortage area and that is not part of a group of six or more pharmacies under common ownership, the commission shall annually pay an amount that is a percentage of the total of all qualifying loans made to the pharmacist through the programs described in ORS 442.550.]

[(2) If the participant does not complete the full service obligation set forth in subsection (1)(b), (d) or (f) of this section, the commission shall collect 100 percent of any payments made by the commission to the participant under this program. In addition, a penalty equal to 50 percent of the qualifying loans and interest paid by the commission shall be assessed by the commission, to be credited to and deposited in the Rural Health Services Fund established under ORS 442.570.] **to practice in a qualifying practice site in Oregon for at least three full years following completion of any residency requirements or the execution of the primary care service agreement, whichever comes later.**

**(2) For not less than three and not more than six years, the Office of Rural Health shall annually pay each participant in the Primary Care Services Program an amount equal to one-third of the outstanding balances on qualifying loans made to the participant up to a maximum of \$25,000 each year. To the greatest extent practicable, 75 percent of the moneys available for the program shall be paid to participants practicing in rural areas and 25 percent of the moneys available for the program shall be paid to participants practicing in urban areas.**

**(3) If the participant does not complete the full service obligation under subsection (1) of this section, the participant shall be liable for the amount of all payments made under subsection (2) of this section and any penalty assessed according to criteria adopted by the office. Any amounts determined to be due under this section shall be collected by the Collections Unit in the Department of Revenue under ORS 293.250.**

[(3)] **(4) [The Oregon Student Assistance Commission, in consultation with the Office of Rural Health, shall establish rules to allow] The office shall adopt criteria for waiver of all or part of the fees and penalties owed to the [commission] office due to circumstances that prevent the participant from fulfilling the service obligation.**

**SECTION 4.** ORS 442.568 is amended to read:

442.568. (1) The Oregon Health and Science University shall develop and implement a program to focus recruitment efforts on students who reside in or who are interested in practicing in rural areas.

(2) The university shall reserve a number of admissions to each class at the medical school for qualified students who agree to participate in the [*Rural Health*] **Primary Care Services Program**. The number of admissions under this section is not required to exceed 15 percent of each class, but that figure is a goal consistent with the long term intention of the Legislative Assembly to encourage the availability of medical services in rural areas.

(3) In the event that the university is unable to recruit the number of qualified students required under subsection (2) of this section, after having made a reasonable effort to do so, the university is authorized to fill the remaining positions with other eligible candidates.

**SECTION 5.** ORS 442.570 is amended to read:

442.570. (1) There is established in the State Treasury a fund, separate and distinct from the General Fund, to be known as the [*Rural Health*] **Primary Care Services Fund. Moneys in the Primary Care Services Fund are continuously appropriated to the Oregon Department of Administrative Services for allocation to the Office of Rural Health,**] for investments as provided by ORS 293.701 to 293.820, for [*the payment of expenses of the Oregon Student Assistance Commission*] **expenses and payments by the office** in carrying out the purposes of ORS 315.613, 315.616, 315.619, 353.450, 442.470, 442.503 and 442.550 to 442.570. Interest earned by the [*account*] **fund** shall be credited to the [*account*] **fund**.

(2) The office [*of Rural Health*] shall seek matching funds **from the federal government and** from communities that benefit from placement of [*practitioners*] **participants** under ORS 442.550 to 442.570. The office shall establish a program to enroll interested communities in this program and deposit [*money proceeds from this effort in the Rural Health*] **moneys from the matching funds and from the Primary Care Services Program in the Primary Care Services Fund**. In addition, the office shall explore other funding sources including federal grant programs.

## TRANSFER

**SECTION 6.** All the duties, functions and powers of the Oregon Student Assistance Commission with respect to the Primary Care Services Program created in ORS 442.555 are imposed upon, transferred to and vested in the Office of Rural Health.

## RECORDS AND PROPERTY

**SECTION 7.** (1) The Oregon Student Assistance Commission shall deliver to the Office of Rural Health all records and property within the jurisdiction of the commission that relate to the duties, functions and powers transferred by section 6 of this 2010 Act.

(2) The Governor shall resolve any dispute between the Oregon Student Assistance Commission and the Office of Rural Health relating to transfers of records and property under this section, and the Governor's decision is final.

## UNEXPENDED REVENUES

**SECTION 8.** (1) The unexpended balances of amounts authorized to be expended by the Oregon Student Assistance Commission for the biennium beginning July 1, 2009, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 6 of this 2010 Act are transferred to the Oregon Department of Administrative Services and allocated to the Office of Rural Health for expenditure by the office for the biennium beginning July 1, 2011, for the purpose of administering and enforcing the duties, functions and powers transferred by section 6 of this 2010 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the commission remain applicable to expenditures by the office.

#### **ACTION, PROCEEDING, PROSECUTION**

**SECTION 9.** The transfer of duties, functions and powers to the Office of Rural Health by section 6 of this 2010 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the office is substituted for the Oregon Student Assistance Commission in the action, proceeding or prosecution.

#### **LIABILITY, DUTY, OBLIGATION**

**SECTION 10.** (1) Nothing in sections 6 to 11 of this 2010 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 6 of this 2010 Act. The Office of Rural Health may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Oregon Student Assistance Commission legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 6 of this 2010 Act are transferred to the office. For the purpose of succession to these rights and obligations, the office is a continuation of the commission and not a new authority.

#### **RULES**

**SECTION 11.** Notwithstanding the transfer of duties, functions and powers by section 6 of this 2010 Act, the rules of the Oregon Student Assistance Commission in effect on the operative date specified in section 17 of this 2010 Act continue in effect until superseded or repealed by rules of the Office of Rural Health. References in rules of the commission to the commission or an officer or employee of the commission are considered to be references to the office or an officer or employee of the office.

**SECTION 12.** The Oregon Student Assistance Commission and the Office of Rural Health may take any action before the operative date specified in section 17 of this 2010 Act that is necessary to enable the commission and office to exercise, on and after the operative date specified in section 17 of this 2010 Act, the duties, functions and powers of the commission and office pursuant to sections 6 to 11 of this 2010 Act and the amendments to ORS 442.550, 442.555, 442.560, 442.568 and 442.570 by sections 1 to 5 of this 2010 Act.

#### **CONFORMING AMENDMENTS**

**SECTION 13.** ORS 348.117 is amended to read:

348.117. (1) Student borrowers under ORS 348.115 shall be required to pay at least seven percent interest per annum on the unpaid balance from the date of the loan as provided in subsection (5) of this section.

(2) Repayment of the principal and accruing and deferred interest on loans shall be commenced not later than 12 months after the student's completion of the nursing program or other termination of the student's education.

(3) Repayment of loans shall be deferred upon application therefor for up to three years during which:

(a) The student borrower is enrolled as at least a half-time student in a subsequent nursing program leading to a nursing degree higher than that attained in the initial program; or

(b) The student borrower shows inability to locate suitable employment.

(4) Repayment commences under the usual terms if the student borrower ceases to be employed as a nurse in this state before completing the practice requirements set forth in ORS 348.115 (4).

(5) Repayment shall be completed in a maximum of 120 months from the time repayment is commenced. However, nothing in this subsection is intended to prevent repayment without penalty at an earlier date than provided in this subsection or to prohibit the Oregon Student Assistance Commission from extending the repayment period to a date other than specified by this subsection.

(6) A student who borrows under ORS 348.115 shall have 100 percent of principal and accrued interest on loans under this section, ORS 348.115, 353.450, 442.470, 442.520[, 442.550 to 442.570] and 656.256 canceled if it can be documented that, within five years of graduation:

(a) The student has completed one calendar year of full-time employment as a nurse in the State of Oregon for each academic year in which a loan was received; or

(b) The student has completed two calendar years of half-time employment as a nurse in the State of Oregon for each academic year in which a loan was received.

(7) A student who borrows under this section, ORS 348.115, 353.450, 442.470, 442.520[, 442.550 to 442.570] and 656.256 and completes at least one calendar year of the practice obligation described in subsection (6) of this section shall have the amount of principal and accrued interest on loans under this section, ORS 348.115, 353.450, 442.470 442.520[, 442.550 to 442.570] and 656.256 canceled for each calendar year of qualifying practice that is:

(a) For full-time practice, equal to the principal and accrued interest on the loan borrowed for the comparable academic year of award; or

(b) For half-time practice, equal to half of the principal and accrued interest on the loan borrowed for the comparable academic year of the award.

(8) Repayment of any remaining principal and interest shall be waived upon the death or total and permanent disability of the student borrower.

**SECTION 14.** ORS 677.141 is amended to read:

677.141. (1) A physician issued a license under ORS 677.139 is subject to all the provisions of this chapter and to all the rules of the Oregon Medical Board. A physician issued a license under ORS 677.139 has the same duties and responsibilities and is subject to the same penalties and sanctions as any other physician licensed under this chapter.

(2) A physician issued a license under ORS 677.139 may not:

(a) Act as a dispensing physician as defined in ORS 677.010;

(b) Administer controlled substances for the treatment of intractable pain to a person located within this state;

(c) Employ a physician assistant as defined in ORS 677.495 to treat a person located within this state;

(d) Claim the tax deduction provided by ORS 316.076;

(e) Participate in the [*Rural Health*] **Primary Care** Services Program under ORS 442.550 to 442.570; or

(f) Assert a lien for services under ORS 87.555.

(3) A physician licensed under ORS 677.139 shall comply with all patient confidentiality requirements of this state, except as those requirements are expressly prohibited by the law of any other state of the United States where a person's medical records are maintained.

**SECTION 15.** ORS 677.415 is amended to read:

677.415. (1) As used in this section:

(a) "Health care facility" means a facility licensed under ORS 441.015 to 441.087.

(b) "Official action" means a restriction, limitation, loss or denial of privileges of a licensee to practice medicine, or any formal action taken against a licensee by a government agency or a health care facility based on a finding of medical incompetence, unprofessional conduct, physical incapacity or impairment.

(2) The Oregon Medical Board on the board's own motion may investigate any evidence that appears to show that a licensee licensed by the board is or may be medically incompetent or is or

may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with a physical incapacity or an impairment as defined in ORS 676.303.

(3) A licensee licensed by the Oregon Medical Board, the Oregon Medical Association, Inc., or any component society thereof, the Osteopathic Physicians and Surgeons of Oregon, Inc. or the Oregon Podiatric Medical Association shall report within 10 working days, and any other person may report, to the board any information such licensee, association, society or person may have that appears to show that a licensee is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with a physical incapacity.

(4) A licensee shall self-report within 10 working days any official action taken against the licensee.

(5) A health care facility shall report to the Oregon Medical Board any official action taken against a licensee within 10 business days of the date of the official action.

(6) A licensee's voluntary withdrawal from the practice of medicine or podiatry, voluntary resignation from the staff of a health care facility or voluntary limitation of the licensee's staff privileges at such a health care facility shall be promptly reported to the Oregon Medical Board by the health care facility and the licensee if the licensee's voluntary action occurs while the licensee is under investigation by the health care facility or a committee thereof for any reason related to possible medical incompetence, unprofessional conduct or physical incapacity or impairment as defined in ORS 676.303.

(7)(a) A report made in accordance with subsection (3) of this section shall contain:

(A) The name, title, address and telephone number of the person making the report; and

(B) Information that appears to show that a licensee is or may be medically incompetent, is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with a physical incapacity.

(b) The Oregon Medical Board may not require in a report made in accordance with subsection (5) or (6) of this section more than:

(A) The name, title, address and telephone number of the licensee making the report or the name, address and telephone number of the health care facility making the report;

(B) The date of an official action taken against the licensee or the licensee's voluntary action under subsection (6) of this section; and

(C) A description of the official action or the licensee's voluntary action, as appropriate to the report, including:

(i) The specific restriction, limitation, suspension, loss or denial of the licensee's medical staff privileges and the effective date or term of the restriction, limitation, suspension, loss or denial; or

(ii) The fact that the licensee has voluntarily withdrawn from the practice of medicine or podiatry, voluntarily resigned from the staff of a health care facility or voluntarily limited the licensee's privileges at a health care facility and the effective date of the withdrawal, resignation or limitation.

(c) The Oregon Medical Board may not require in a report made in accordance with subsection (4) of this section more than:

(A) The name, title, address and telephone number of the licensee making the report; and

(B) The specific restriction, limitation, suspension, loss or denial of the licensee's staff privileges and the effective date or term of the restriction, limitation, suspension, loss or denial.

(8) A report made in accordance with this section may not include any data that is privileged under ORS 41.675.

(9) If, in the opinion of the Oregon Medical Board, it appears that information provided to it under this section is or may be true, the board may order an informal interview with the licensee subject to the notice requirement of ORS 677.320.

(10)(a) A health care facility's failure to report an official action as required under subsection (5) of this section constitutes a violation of this section. The health care facility is subject to a penalty of not more than \$10,000 for each violation. The Oregon Medical Board may impose the penalty in accordance with ORS 183.745 and, in addition to the penalty, may assess reasonable costs

the board incurs in enforcing the requirements of this section against the health care facility if the enforcement results in the imposition of a civil penalty.

(b) The Attorney General may bring an action in the name of the State of Oregon in a court of appropriate jurisdiction to recover a civil penalty and costs assessed under this subsection.

(c) A civil penalty assessed or recovered in accordance with this subsection shall be paid to the State Treasury and the State Treasurer shall credit the amount of the payment to the [Rural Health] Primary Care Services Fund established under ORS 442.570.

(11) A person who reports in good faith to the Oregon Medical Board as required by this section is immune from civil liability by reason of making the report.

**UNIT CAPTIONS**

**SECTION 16.** The unit captions used in this 2010 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2010 Act.

**OPERATIVE DATE**

**SECTION 17.** Sections 6 to 11 of this 2010 Act and the amendments to ORS 442.550, 442.555, 442.560, 442.568, 442.570, 677.141 and 677.415 by sections 1 to 5, 14 and 15 of this 2010 Act become operative on July 1, 2011.

**EMERGENCY DECLARATION**

**SECTION 18.** This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by House February 23, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 24, 2010

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President of Senate

Received by Governor:

.....M.,....., 2010

Approved:

.....M.,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2010

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Secretary of State