

# Enrolled Senate Bill 224

Sponsored by Senator MONNES ANDERSON; Senators BATES, COURTNEY, KRUSE, Representatives COWAN, GREENLICK, KENNEMER, NATHANSON, ROBLAN, THOMPSON (Presession filed.)

CHAPTER .....

## AN ACT

Relating to physician assistants; creating new provisions; amending ORS 677.097, 677.495, 677.500, 677.510, 677.512, 677.515, 677.535 and 677.545; and declaring an emergency.

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

**SECTION 1.** ORS 677.495, as amended by section 1, chapter 43, Oregon Laws 2010, is amended to read:

677.495. As used in ORS 677.495 to 677.545, unless the context requires otherwise:

[(1) "Agent" means a physician designated by the supervising physician of a physician assistant who supervises the medical services of the physician assistant for a predetermined period of time.]

[(2) "Committee" means the Physician Assistant Committee created in ORS 677.540.]

[(3)] (1) "Physician assistant" means a person who is licensed in accordance with ORS 677.505 to 677.525.

(2) "Practice agreement" means a written agreement between a physician assistant and a supervising physician or supervising physician organization that describes the manner in which the services of the physician assistant will be used.

[(4)] (3) "Supervising physician" means a physician licensed to practice medicine under this chapter who supervises a physician assistant.

[(5)] (4) "Supervising physician organization" means a group of supervising physicians that collectively supervises a physician assistant.

[(6)] (5) "Supervision" means the [routine direction and regular review by the supervising physician or supervising physician organization, as determined to be appropriate by the Oregon Medical Board, of the medical services provided by the physician assistant] **acts of overseeing and accepting responsibility for the medical services provided by a physician assistant in accordance with a practice agreement, including regular and routine oversight and chart review.**

**SECTION 2.** ORS 677.500, as amended by section 2, chapter 43, Oregon Laws 2010, is amended to read:

677.500. It is the intent of the Legislative Assembly in requiring the licensure of physician assistants [that there be reasonable utilization of the physician assistant by the supervising physician or supervising physician organization] **to encourage appropriate use of physician assistants in the delivery of health care services to the extent of a physician assistant's education and experience.**

**SECTION 3.** ORS 677.510, as amended by section 3, chapter 43, Oregon Laws 2010, is amended to read:

677.510. (1) A person licensed to practice medicine under this chapter [*shall*] **may** not use the services of a physician assistant without the prior approval of the Oregon Medical Board.

(2) A supervising physician or a supervising physician organization may apply to the board to use the services of a physician assistant. The application shall:

(a) [*State the name of the physician assistant*] **If the applicant is not a supervising physician organization, state the name and contact information of the supervising physician;**

(b) If the applicant is a supervising physician organization:

(A) State the names **and contact information** of all supervising physicians; and

(B) State the name of the primary supervising physician required by subsection (5) of this section;

[*(c) Describe the manner and extent to which the physician assistant's services would be used and supervised;*]

[*(d) Include a practice description that provides for the maintenance of direct, verbal communication between the physician assistant and one or more supervising physicians either in person or by means described in ORS 677.515 (4);*]

[*(e) State the education, training and experience of the physician assistant; and*]

**(c) Generally describe the medical services provided by each supervising physician;**

**(d) Contain a statement acknowledging that each supervising physician has reviewed statutes and rules relating to the practice of physician assistants and the role of a supervising physician; and**

[*(f) (e) Provide such other information in such a form as the board may require.*]

(3) The board [*may*] **shall** approve or reject an application **within seven working days after the board receives the application, unless the board is conducting an investigation of the supervising physician or of any of the supervising physicians in a supervising physician organization applying to use the services of a physician assistant.** [*, or it may modify the proposed use of the services of the physician assistant and approve the application as modified. The board may not require that a supervising physician be physically present at all times.*]

(4) A supervising physician organization shall provide the board with a list of the supervising physicians in the supervising physician organization. The supervising physician organization shall continually update the list and notify the board of any changes.

(5) A supervising physician organization shall designate a primary supervising physician and notify the board in the manner prescribed by the board.

[*(6) When it appears to the board that the services of a physician assistant are being used in a manner inconsistent with the approval granted, the board may withdraw its approval. If a hearing is requested by the supervising physician, the supervising physician organization or the physician assistant upon the rejection of an application or upon the withdrawal of an approval, a hearing shall be conducted in accordance with ORS 677.200.*]

[*(7) A supervising physician may have a different specialty from the physician assistant.*]

**(6)(a) A physician assistant may not practice medicine until the physician assistant enters into a practice agreement with a supervising physician or supervising physician organization whose application has been approved under subsection (3) of this section. The practice agreement must:**

**(A) Include the name, contact information and license number of the physician assistant and each supervising physician.**

**(B) Describe the degree and methods of supervision that the supervising physician or supervising physician organization will use. The degree of supervision, whether general, direct or personal, must be based on the level of competency of the physician assistant as judged by the supervising physician.**

**(C) Generally describe the medical duties delegated to the physician assistant.**

**(D) Describe the services or procedures common to the practice or specialty that the physician assistant is not permitted to perform.**

(E) Describe the prescriptive and medication administration privileges that the physician assistant will exercise.

(F) Provide the list of settings and licensed facilities in which the physician assistant will provide services.

(G) State that the physician assistant and each supervising physician is in full compliance with the laws and regulations governing the practice of medicine by physician assistants, supervising physicians and supervising physician organizations and acknowledge that violation of laws or regulations governing the practice of medicine may subject the physician assistant and supervising physician or supervising physician organization to discipline.

(H) Be signed by the supervising physician or the primary supervising physician of the supervising physician organization and by the physician assistant.

(I) Be updated at least every two years.

(b) The supervising physician or supervising physician organization shall provide the board with a copy of the practice agreement within 10 days after the physician assistant begins practice with the supervising physician or supervising physician organization. The supervising physician or supervising physician organization shall keep a copy of the practice agreement at the practice location and make a copy of the practice agreement available to the board on request. The practice agreement is not subject to board approval, but the board may request a meeting with a supervising physician or supervising physician organization and a physician assistant to discuss a practice agreement.

(7) A physician assistant's supervising physician shall ensure that the physician assistant is competent to perform all duties delegated to the physician assistant. The supervising physician or supervising physician organization and the physician assistant are responsible for ensuring the competent practice of the physician assistant.

(8) A supervising physician or the agent of a supervising physician must be competent to perform the duties delegated to the physician assistant by the supervising physician or by a supervising physician organization.

(9) The board may not require that a supervising physician be physically present at all times when the physician assistant is providing services, but may require that:

(a) The physician assistant have access to personal or telephone communication with a supervising physician when the physician assistant is providing services; and

(b) The proximity of a supervising physician and the methods and means of supervision be appropriate to the practice setting and the patient conditions treated in the practice setting.

[(8)(a)] (10)(a) A supervising physician organization may supervise any number of physician assistants. The board may not adopt rules limiting the number of physician assistants that a supervising physician organization may supervise.

(b) A physician assistant who is supervised by a supervising physician organization may be supervised by any of the supervising physicians in the supervising physician organization.

[(9)] (11) If a physician assistant is not supervised by a supervising physician organization, the physician assistant may be supervised by no more than four supervising physicians[, **unless the board approves a request from the physician assistant, or from a supervising physician, for the physician assistant to be supervised by more than four supervising physicians.**

(12) A supervising physician who is not acting as part of a supervising physician organization may supervise four physician assistants[, **unless the board approves a request from the supervising physician or from a physician assistant for the supervising physician to supervise more than four physician assistants.**

(13) A supervising physician who is not acting as part of a supervising physician organization may designate a physician to serve as the agent of the supervising physician for a predetermined period of time.

[(10)] *The board may review and approve applications from physicians serving federally designated underserved populations, or physicians in federally designated health professional shortage areas,*

*federally designated medically underserved areas or areas designated as medically disadvantaged and in need of primary health care providers by the Director of the Oregon Health Authority or the Office of Rural Health to supervise more than four physician assistants, and applications from physician assistants to be supervised by more than four physicians.]*

(14) A physician assistant may render services in *[an emergency room and other hospital settings, a nursing home, a corrections institution and any site]* **any setting** included in the practice *[description]* **agreement**.

*[(11)]* (15) A *[licensed]* physician assistant may *[make application]* **apply** to the board for emergency drug dispensing authority. The board shall consider the criteria adopted by the Physician Assistant Committee under ORS 677.545 (4) in reviewing the application. *[Such emergency dispensing shall be of]* **A physician assistant with emergency drug dispensing authority may dispense only drugs that have been** prepared or prepackaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS chapter 689.

*[(12)]* (16) A physician assistant for whom an application under this section has been approved by the board on or after January 2, 2006, shall submit to the board, within 24 months after the approval, documentation of completion of:

(a) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under ORS 409.500; or

(b) An equivalent pain management education program, as determined by the board.

**SECTION 4.** ORS 677.512 is amended to read:

677.512. (1) A person seeking licensure as a physician assistant shall complete an application form provided by the Oregon Medical Board and submit the form to the board, accompanied by nonrefundable fees for the application and for the license in amounts determined by rule of the board.

(2) *[Upon application,]* The board may issue a license to a physician assistant who *[meets the requirements for licensure under ORS 677.495 and 677.505 to 677.525]:*

(a) **Submits an application as required by the board by rule;**

(b) **Pays the application fee established by the board by rule;**

(c) **Has completed an educational program accredited by a nationally recognized accreditation organization for physician assistant educational programs;**

(d) **Has passed the initial national examination required of physician assistants to become nationally certified;**

(e) **Is mentally and physically able to engage safely in practice as a physician assistant;**

(f) **Has not had been disciplined by a physician assistant licensing board in another state, unless the board considers the discipline and determines that the person is competent to practice as a physician assistant; and**

(g) **Is of good moral character as determined by the board.**

(3) **The board may issue a license by reciprocity to a person who is licensed as a physician assistant in another state and meets the requirements of subsection (2)(c) and (d) of this section.**

*[(3)]* (4) The board shall adopt necessary and proper rules to govern the renewal of licenses issued under this section.

**SECTION 5.** ORS 677.515, as amended by section 4, chapter 43, Oregon Laws 2010, is amended to read:

677.515. *[(1) This chapter does not prohibit a person from rendering medical services:]*

*[(a) If the person has satisfactorily completed an educational program for physician assistants approved by the Oregon Medical Board;]*

*[(b) If the services are rendered under the supervision and control of a supervising physician or supervising physician organization and the use of the physician assistant's services has been approved by the board as provided by ORS 677.510; and]*

*[(c) If the person is licensed as a physician assistant as provided by ORS 677.495 and 677.505 to 677.525.]*

(1) A physician assistant licensed under ORS 677.512 may provide any medical service, including prescribing and administering controlled substances in schedules II through V under the federal Controlled Substances Act:

(a) That is delegated by the physician assistant's supervising physician or supervising physician organization;

(b) That is within the scope of practice of the physician assistant;

(c) That is within the scope of practice of the supervising physician or supervising physician organization;

(d) That is provided under the supervision of the supervising physician or supervising physician organization;

(e) That is generally described in and in compliance with the practice agreement; and

(f) For which the physician assistant has obtained informed consent as provided in ORS 677.097, if informed consent is required.

(2) This chapter does not prohibit a student enrolled in an [approved] program for educating physician assistants **approved by the board** from rendering medical services if the services are rendered in the course of the program.

(3) [Notwithstanding subsections (1) and (2) of this section,] The degree of independent judgment that a physician assistant may exercise shall be determined by the supervising physician, or supervising physician organization, and the physician assistant in accordance with [a practice description approved by the board] **the practice agreement**.

[4] A physician assistant may provide medical services to patients in a setting where a supervising physician does not regularly practice if the following conditions exist:]

(a) Direct communication between the physician assistant and one or more supervising physicians either in person or by telephone, radio, radiotelephone, television or similar means is maintained; and]

(b) The medical services provided by the physician assistant are reviewed by a supervising physician or supervising physician organization on a regularly scheduled basis as determined by the board.]

[5] (4) A supervising physician, upon the approval of the board and in accordance with the rules established by the board, may delegate to the physician assistant the authority to administer and dispense limited emergency medications and to prescribe medications pursuant to this section and ORS 677.535 to 677.545. Neither the board nor the Physician Assistant Committee shall limit the privilege of administering, dispensing and prescribing to population groups federally designated as underserved, or to geographic areas of the state that are federally designated health professional shortage areas, federally designated medically underserved areas or areas designated as medically disadvantaged and in need of primary health care providers by the Director of the Oregon Health Authority or the Office of Rural Health. All prescriptions written pursuant to this subsection shall bear the name, office address and telephone number of the supervising physician.

[6] (5) [Nothing in] This chapter [is intended to] **does not** require or prohibit a physician assistant from practicing in a hospital licensed pursuant to ORS 441.015 to 441.089.

[7] (6) Prescriptions for medications prescribed by a physician assistant in accordance with this section and ORS 475.005, 677.010, 677.500, 677.510 and 677.535 to 677.545 and dispensed by a licensed pharmacist may be filled by the pharmacist according to the terms of the prescription, and the filling of such a prescription [shall] **does not** constitute evidence of negligence on the part of the pharmacist if the prescription was dispensed within the reasonable and prudent practice of pharmacy.

**SECTION 6.** ORS 677.535, as amended by section 6, chapter 43, Oregon Laws 2010, is amended to read:

677.535. The Oregon Medical Board may grant a limited license to a physician assistant if:]

(1) the applicant meets the qualifications of the board, the application file is complete and no derogatory information has been submitted but board approval is pending.]; or]

*[(2) The physician assistant is changing employment or changing supervising physicians or supervising physician organizations.]*

**SECTION 7.** ORS 677.545, as amended by section 7, chapter 43, Oregon Laws 2010, is amended to read:

677.545. The Physician Assistant Committee shall:

*[(1) Review all applications for physician assistants' licensure and for renewal thereof.]*

**(1) Review and make recommendations to the Oregon Medical Board regarding all matters relating to physician assistants, including but not limited to:**

- (a) Applications for licensure;**
- (b) Disciplinary proceedings; and**
- (c) Renewal requirements.**

(2) Review applications of physician assistants for dispensing privileges.

(3) Recommend approval or disapproval of applications submitted under subsection (1) or (2) of this section to the [*Oregon Medical*] board.

(4) Recommend criteria to be used in granting dispensing privileges under ORS 677.515.

(5) [*Recommend the formulary*] **Review the criteria** for prescriptive privileges that may include all or parts of Schedules II, III, IV and V controlled substances and the procedures for physician assistants, supervising physicians and supervising physician organizations to follow in exercising the prescriptive privileges.

*[(6) Recommend the approval, disapproval or modification of the application for prescriptive privileges for any physician assistant. An application for]* **A statement regarding** Schedule II controlled substances prescriptive privileges must be [*submitted to the Oregon Medical Board by the physician assistant's supervising physician or supervising physician organization and must be accompanied by*] **included in** the practice [*description of the physician assistant*] **agreement**. The Schedule II controlled substances prescriptive privileges of a physician assistant shall be limited by the practice [*description approved by the board*] **agreement** and may be restricted further by the supervising physician or supervising physician organization at any time. The supervising physician or supervising physician organization shall notify the physician assistant and the board of any additional restrictions imposed by the supervising physician or supervising physician organization[, *and the practice description on file with the board shall be amended to reflect the additional restrictions imposed*]. To be eligible for Schedule II controlled substances prescriptive privileges, a physician assistant must be certified by the National Commission on Certification of Physician Assistants and must complete all required continuing medical education coursework.

**SECTION 8.** ORS 677.097 is amended to read:

677.097. (1) In order to obtain the informed consent of a patient, a physician [*or*], podiatric physician and surgeon **or physician assistant** shall explain the following:

- (a) In general terms the procedure or treatment to be undertaken;
- (b) That there may be alternative procedures or methods of treatment, if any; and
- (c) That there are risks, if any, to the procedure or treatment.

(2) After giving the explanation specified in subsection (1) of this section, the physician [*or*], podiatric physician and surgeon **or physician assistant** shall ask the patient if the patient wants a more detailed explanation. If the patient requests further explanation, the physician [*or*], podiatric physician and surgeon **or physician assistant** shall disclose in substantial detail the procedure, the viable alternatives and the material risks unless to do so would be materially detrimental to the patient. In determining that further explanation would be materially detrimental the physician [*or*], podiatric physician and surgeon **or physician assistant** shall give due consideration to the standards of practice of reasonable medical or podiatric practitioners in the same or a similar community under the same or similar circumstances.

**SECTION 9.** Notwithstanding the amendments to ORS 677.097, 677.495, 677.500, 677.510, 677.512, 677.515, 677.535 and 677.545 by sections 1 to 8 of this 2011 Act:

**(1) A physician assistant practicing under a practice description approved by the Oregon Medical Board under ORS 677.510 as in effect immediately before the operative date of the**

amendments to ORS 677.510 by section 3 of this 2011 Act may continue to practice in accordance with the practice description and is not required to enter into a practice agreement under ORS 677.510.

(2) A physician assistant licensed under ORS 677.512 as in effect immediately before the operative date of the amendments to ORS 677.512 by section 4 of this 2011 Act may renew the physician assistant's license without meeting the requirements of ORS 677.512 (2)(c) and (d).

**SECTION 10.** (1) The amendments to ORS 677.097, 677.495, 677.500, 677.510, 677.512, 677.515, 677.535 and 677.545 by sections 1 to 8 of this 2011 Act become operative on January 1, 2012.

(2) The Oregon Medical Board may take any action on or before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 677.097, 677.495, 677.500, 677.510, 677.512, 677.515, 677.535 and 677.545 by sections 1 to 8 of this 2011 Act.

**SECTION 11.** This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by Senate June 14, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 20, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State