

Senate Bill 224

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

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 **as introduced**.

Modifies provisions relating to regulation of physician assistants.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to physician assistants; creating new provisions; amending ORS 677.097, 677.495, 677.500,
3 677.510, 677.512, 677.515, 677.535 and 677.545; and declaring an emergency.

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

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

7 677.495. As used in ORS 677.495 to 677.545, unless the context requires otherwise:

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

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

11 [(3)] (1) "Physician assistant" means a person who is licensed in accordance with ORS 677.505
12 to 677.525.

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

16 [(4)] (3) "Supervising physician" means a physician licensed to practice medicine under this
17 chapter who supervises a physician assistant.

18 [(5)] (4) "Supervising physician organization" means a group of supervising physicians that col-
19 lectively supervises a physician assistant.

20 [(6)] (5) "Supervision" means the [*routine direction and regular review by the supervising physi-
21 cian or supervising physician organization, as determined to be appropriate by the Oregon Medical
22 Board, of the medical services provided by the physician assistant*] **acts of overseeing and accepting
23 responsibility for the medical services provided by a physician assistant in accordance with
24 a practice agreement.**

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

27 677.500. It is the intent of the Legislative Assembly in requiring the licensure of physician as-
28 sistants [*that there be reasonable utilization of the physician assistant by the supervising physician or
29 supervising physician organization*] **to encourage appropriate use of physician assistants in the
30 delivery of health care services.**

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

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 to read:

2 677.510. (1) A person licensed to practice medicine under this chapter [*shall*] **may** not use the
3 services of a physician assistant without the prior approval of the Oregon Medical Board.

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

6 (a) State the name of the physician assistant;

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

8 (A) State the names of all supervising physicians; and

9 (B) State the name of the primary supervising physician required by subsection (5) of this sec-
10 tion;

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

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

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

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

18 (3) The board may approve or reject an application. [*or it may modify the proposed use of the*
19 *services of the physician assistant and approve the application as modified. The board may not require*
20 *that a supervising physician be physically present at all times.]*

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

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

26 **(6)(a) A supervising physician or supervising physician organization shall enter into a**
27 **practice agreement with each physician assistant that the physician or organization super-**
28 **vises. The practice agreement must:**

29 **(A) Describe the degree of supervision that the supervising physician or supervising**
30 **physician organization will exercise over the physician assistant;**

31 **(B) Generally describe the medical duties delegated to the physician assistant;**

32 **(C) Be signed by the supervising physician or the primary supervising physician of the**
33 **supervising physician organization and the physician assistant; and**

34 **(D) Be updated at least annually.**

35 **(b) The board may adopt rules requiring a supervising physician or supervising physician**
36 **organization to provide the board with a copy of the practice agreement, but the practice**
37 **agreement is not subject to board review or approval.**

38 [(6)] (7) When it appears to the board that the services of a physician assistant are being used
39 in a manner inconsistent with the approval granted, the board may withdraw its approval. If a
40 hearing is requested by the supervising physician, the supervising physician organization or the
41 physician assistant upon the rejection of an application or upon the withdrawal of an approval, a
42 hearing shall be conducted in accordance with ORS 677.200.

43 [(7)] (8) A supervising physician may have a different specialty from the physician assistant.

44 **(9) The board may not require that a supervising physician be physically present at all**
45 **times when the physician assistant is providing services.**

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

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

6 **(11) A physician assistant may be supervised by any number of supervising physicians.**

7 [(9)] **(12)** *[If a physician assistant is not supervised by a supervising physician organization, the*
 8 *physician assistant may be supervised by no more than four supervising physicians. A supervising*
 9 *physician who is not acting as part of a supervising physician organization may supervise four physi-*
 10 *cian assistants.]* A supervising physician who is not acting as part of a supervising physician or-
 11 ganization may designate a physician to serve as the agent of the supervising physician for a
 12 predetermined period of time.

13 [(10) *The board may review and approve applications from physicians serving federally designated*
 14 *underserved populations, or physicians in federally designated health professional shortage areas,*
 15 *federally designated medically underserved areas or areas designated as medically disadvantaged and*
 16 *in need of primary health care providers by the Director of the Oregon Health Authority or the Office*
 17 *of Rural Health to supervise more than four physician assistants, and applications from physician as-*
 18 *stants to be supervised by more than four physicians.]*

19 **(13)** A physician assistant may render services in an emergency room and other hospital set-
 20 tings, a nursing home, a corrections institution and any site included in the practice *[description]*
 21 **agreement.**

22 [(11)] **(14)** A *[licensed]* physician assistant may *[make application]* **apply** to the board for emer-
 23 gency drug dispensing authority. The board shall consider the criteria adopted by the Physician
 24 Assistant Committee under ORS 677.545 (4) in reviewing the application. *[Such emergency dispensing*
 25 *shall be of]* **A physician assistant with emergency drug dispensing authority may dispense only**
 26 **drugs that have been** prepared or prepackaged by a licensed pharmacist, manufacturing drug outlet
 27 or wholesale drug outlet authorized to do so under ORS chapter 689.

28 [(12)] **(15)** A physician assistant for whom an application under this section has been approved
 29 by the board on or after January 2, 2006, shall submit to the board, within 24 months after the ap-
 30 proval, documentation of completion of:

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

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

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

35 677.512. (1) A person seeking licensure as a physician assistant shall complete an application
 36 form provided by the Oregon Medical Board and submit the form to the board, accompanied by
 37 nonrefundable fees for the application and for the license in amounts determined by rule of the
 38 board.

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

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

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

43 **(c)(A) Has completed an educational program for physician assistants accredited by an**
 44 **accreditation organization approved by the board by rule; or**

45 **(B) Has other experience or qualifications satisfactory to the board;**

1 (d) **Has passed an examination approved by the board by rule;**

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

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

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

7 (3) The board shall adopt necessary and proper rules to govern the renewal of licenses issued
 8 under this section.

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

11 677.515. [(1) *This chapter does not prohibit a person from rendering medical services:*]

12 [(a) *If the person has satisfactorily completed an educational program for physician assistants ap-*
 13 *proved by the Oregon Medical Board;*]

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

17 [(c) *If the person is licensed as a physician assistant as provided by ORS 677.495 and 677.505 to*
 18 *677.525.*]

19 (1) **A physician assistant licensed under ORS 677.512 may provide any medical service:**

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

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

23 (c) **That is within the scope of practice of the supervising physician or supervising phy-**
 24 **sician organization;**

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

27 (e) **That is in compliance with the practice agreement; and**

28 (f) **For which the physician assistant has obtained informed consent as provided in ORS**
 29 **677.097.**

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

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

37 (4) A physician assistant may provide medical services to patients in a setting where a super-
 38 vising physician does not regularly practice if the following conditions exist:

39 (a) Direct communication between the physician assistant and one or more supervising physi-
 40 cians either in person or by [*telephone, radio, radiotelephone, television or similar means*] **electronic**
 41 **means as described in the practice agreement** is maintained; and

42 (b) The medical services provided by the physician assistant are reviewed by a supervising
 43 physician or supervising physician organization on a regularly scheduled basis as [*determined by the*
 44 *board*] **described in the practice agreement.**

45 (5) A supervising physician, upon the approval of the board and in accordance with the rules

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

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

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

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

20 677.535. The Oregon Medical Board may grant a limited license to a physician assistant if[.]

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

23 *[(2) The physician assistant is changing employment or changing supervising physicians or super-*
 24 *vising physician organizations.]*

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

27 677.545. The Physician Assistant Committee shall:

28 (1) Review all applications for physician assistants' licensure and for renewal thereof.

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

30 (3) Recommend approval or disapproval of applications submitted under subsection (1) or (2) of
 31 this section to the Oregon Medical Board.

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

33 (5) Recommend the formulary for prescriptive privileges that may include all or parts of Sched-
 34 ules II, III, IV and V controlled substances and the procedures for physician assistants, supervising
 35 physicians and supervising physician organizations to follow in exercising the prescriptive privi-
 36 leges.

37 (6) Recommend the approval, disapproval or modification of the application for prescriptive
 38 privileges for any physician assistant. An application for Schedule II controlled substances
 39 prescriptive privileges must be submitted to the Oregon Medical Board by the physician assistant's
 40 supervising physician or supervising physician organization and must be accompanied by **a copy of**
 41 the practice *[description of the physician assistant]* **agreement**. The Schedule II controlled sub-
 42 stances prescriptive privileges of a physician assistant shall be limited by the practice *[description*
 43 *approved by the board]* **agreement** and may be restricted further by the supervising physician or
 44 supervising physician organization at any time. The supervising physician or supervising physician
 45 organization shall notify the physician assistant and the board of any additional restrictions imposed

1 by the supervising physician or supervising physician organization[, *and the practice description on*
2 *file with the board shall be amended to reflect the additional restrictions imposed*]. To be eligible for
3 Schedule II controlled substances prescriptive privileges, a physician assistant must be certified by
4 the National Commission on Certification of Physician Assistants and must complete all required
5 continuing medical education coursework.

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

7 677.097. (1) In order to obtain the informed consent of a patient, a physician [*or*], podiatric
8 physician and surgeon **or physician assistant** shall explain the following:

9 (a) In general terms the procedure or treatment to be undertaken;

10 (b) That there may be alternative procedures or methods of treatment, if any; and

11 (c) That there are risks, if any, to the procedure or treatment.

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

21 **SECTION 9.** (1) **The amendments to ORS 677.097, 677.495, 677.500, 677.510, 677.512, 677.515,**
22 **677.535 and 677.545 by sections 1 to 8 of this 2011 Act become operative on January 1, 2012.**

23 **(2) The Oregon Medical Board may take any action on or before the operative date**
24 **specified in subsection (1) of this section that is necessary to enable the board to exercise,**
25 **on and after the operative date specified in subsection (1) of this section, all of the duties,**
26 **functions and powers conferred on the board by the amendments to ORS 677.097, 677.495,**
27 **677.500, 677.510, 677.512, 677.515, 677.535 and 677.545 by sections 1 to 8 of this 2011 Act.**

28 **SECTION 10.** **This 2011 Act being necessary for the immediate preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
30 **on its passage.**

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