

A-Engrossed
Senate Bill 952

Ordered by the Senate April 20
Including Senate Amendments dated April 20

Sponsored by COMMITTEE ON HEALTH CARE, HUMAN SERVICES AND RURAL HEALTH POLICY

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.

Permits supervising physician or supervising physician organization to apply to Oregon Medical Board for dispensing authority for physician assistant.

Removes limitation providing that Oregon State Board of Nursing may grant dispensing authority only to nurse practitioner in area that lacks readily available access to pharmacy services.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to dispensing of drugs; creating new provisions; amending ORS 677.510, 677.515, 677.545 and
3 678.390; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 677.495 to**
6 **677.545.**

7 **SECTION 2. (1)(a) A supervising physician or supervising physician organization may**
8 **apply to the Oregon Medical Board for authority for a physician assistant to dispense drugs**
9 **specified by the supervising physician or supervising physician organization.**

10 **(b) Notwithstanding paragraph (a) of this subsection, a physician assistant may not dis-**
11 **perse controlled substances classified in schedules I through IV under the federal Controlled**
12 **Substances Act, 21 U.S.C. 811 and 812, as modified under ORS 475.035.**

13 **(2) The board shall adopt rules establishing standards and qualifications for physician**
14 **assistants with dispensing authority. The rules must require:**

15 **(a) A physician assistant seeking dispensing authority to complete a drug dispensing**
16 **training program; and**

17 **(b) The supervising physician or supervising physician organization that applies for dis-**
18 **persing authority for a physician assistant to:**

19 **(A) Provide the board with a plan for drug delivery and control;**

20 **(B) Submit an annual report to the board on the physician assistant's use of dispensing**
21 **authority; and**

22 **(C) Submit a list of the drugs or classes of drugs that the supervising physician or**
23 **supervising physician organization proposes to authorize the physician assistant to dispense.**

24 **(3) The Oregon Medical Board, in collaboration with the State Board of Pharmacy, shall**
25 **develop a drug dispensing training program for physician assistants.**

26 **(4) Drugs dispensed by a physician assistant with dispensing authority under this section**

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 **must be personally dispensed by the physician assistant.**

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

4 677.510. (1) A person licensed to practice medicine under this chapter [shall] **may** not use the
5 services of a physician assistant without the prior approval of the Oregon Medical Board.

6 (2) A supervising physician or a supervising physician organization may apply to the board to
7 use the services of a physician assistant. The application [shall] **must**:

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

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

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

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

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

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

18 (e) State the education, training and experience of the physician assistant; and

19 (f) Provide such other information in such a form as the board may require.

20 (3) The board may approve or reject an application, or it may modify the proposed use of the
21 services of the physician assistant and approve the application as modified. The board may not re-
22 quire that a supervising physician be physically present at all times.

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

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

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

33 (7) A supervising physician may have a different specialty from the physician assistant.

34 (8)(a) A supervising physician organization may supervise any number of physician assistants.
35 The board may not adopt rules limiting the number of physician assistants that a supervising phy-
36 sician organization may supervise.

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

39 (9) If a physician assistant is not supervised by a supervising physician organization, the physi-
40 cian assistant may be supervised by no more than four supervising physicians. A supervising physi-
41 cian who is not acting as part of a supervising physician organization may supervise four physician
42 assistants. A supervising physician who is not acting as part of a supervising physician organization
43 may designate a physician to serve as the agent of the supervising physician for a predetermined
44 period of time.

45 (10) The board may review and approve applications from physicians serving federally desig-

1 nated underserved populations, or physicians in federally designated health professional shortage
2 areas, federally designated medically underserved areas or areas designated as medically disadvan-
3 tagged and in need of primary health care providers by the Director of the Oregon Health Authority
4 or the Office of Rural Health to supervise more than four physician assistants, and applications from
5 physician assistants to be supervised by more than four physicians.

6 (11) A physician assistant may render services in an emergency room and other hospital set-
7 tings, a nursing home, a corrections institution and any site included in the practice description.

8 *[(11) A licensed physician assistant may make application to the board for emergency drug dis-
9 pensing authority. The board shall consider the criteria adopted by the Physician Assistant Committee
10 under ORS 677.545 (4) in reviewing the application. Such emergency dispensing shall be of drugs
11 prepared or prepackaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet
12 authorized to do so under ORS chapter 689.]*

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

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

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

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

21 677.515. (1) This chapter does not prohibit a person from rendering medical services:

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

24 (b) If the services are rendered under the supervision and control of a supervising physician or
25 supervising physician organization and the use of the physician assistant's services has been ap-
26 proved by the board as provided by ORS 677.510; and

27 (c) If the person is licensed as a physician assistant as provided by ORS 677.495 and 677.505 to
28 677.525.

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

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

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

38 (a) Direct communication between the physician assistant and one or more supervising physi-
39 cians either in person or by telephone, radio, radiotelephone, television or similar means is main-
40 tained; and

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

44 (5) A supervising physician, upon the approval of the board and in accordance with the rules
45 established by the board, may delegate to the physician assistant the authority *[to administer and*

1 *dispense limited emergency medications and*] to prescribe medications pursuant to this section and
2 ORS 677.535 to 677.545. [*Neither*] The board [*nor*] **and** the Physician Assistant Committee [*shall*]
3 **may not** limit the privilege of administering, dispensing and prescribing to population groups
4 federally designated as underserved, or to geographic areas of the state that are federally designated
5 health professional shortage areas, federally designated medically underserved areas or areas des-
6 ignated as medically disadvantaged and in need of primary health care providers by the Director
7 of the Oregon Health Authority or the Office of Rural Health. All prescriptions written pursuant to
8 this subsection [*shall*] **must** bear the name, office address and telephone number of the supervising
9 physician.

10 (6) Nothing in this chapter is intended to require or prohibit a physician assistant from prac-
11 ticing 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 not constitute evidence of negligence on the part of the pharmacist if
16 the prescription was dispensed within the reasonable and prudent practice of pharmacy.

17 **SECTION 5.** ORS 677.545, as amended by section 7, chapter 43, Oregon Laws 2010, is amended
18 to read:

19 677.545. The Physician Assistant Committee shall:

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

21 [(2) *Review applications of physician assistants for dispensing privileges.*]

22 [(3)] (2) Recommend approval or disapproval of applications submitted under subsection (1) [*or*]
23 (2)] of this section to the Oregon Medical Board.

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

25 [(5)] (3) Recommend the formulary for prescriptive privileges that may include all or parts of
26 Schedules II, III, IV and V controlled substances and the procedures for physician assistants,
27 supervising physicians and supervising physician organizations to follow in exercising the
28 prescriptive privileges.

29 [(6)] (4) Recommend the approval, disapproval or modification of the application for prescriptive
30 privileges for any physician assistant. An application for Schedule II controlled substances
31 prescriptive privileges must be submitted to the Oregon Medical Board by the physician assistant's
32 supervising physician or supervising physician organization and must be accompanied by the prac-
33 tice description of the physician assistant. The Schedule II controlled substances prescriptive privi-
34 leges of a physician assistant [*shall be*] **are** limited by the practice description approved by the
35 board and may be restricted further by the supervising physician or supervising physician organ-
36 ization at any time. The supervising physician or supervising physician organization shall notify the
37 physician assistant and the board of any additional restrictions imposed by the supervising physician
38 or supervising physician organization, and the practice description on file with the board shall be
39 amended to reflect the additional restrictions imposed. To be eligible for Schedule II controlled
40 substances prescriptive privileges, a physician assistant must be certified by the National Commis-
41 sion on Certification of Physician Assistants and must complete all required continuing medical ed-
42 ucation coursework.

43 **SECTION 6.** ORS 678.390 is amended to read:

44 678.390. (1) The Oregon State Board of Nursing may grant to a certified nurse practitioner or
45 certified clinical nurse specialist the privilege of writing prescriptions, including prescriptions for

1 controlled substances listed in schedules II, III, III N, IV and V.

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

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

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

11 *[(b) Except when a certified nurse practitioner is seeking authority to dispense prescription drugs*
12 *at a qualified institution of higher education as defined in ORS 399.245, demonstration of a lack of*
13 *readily available access to pharmacy services in the practice area of the applicant and that the lack*
14 *of access would be corrected by granting authority to dispense prescription drugs by the applicant.*
15 *Lack of readily available access to pharmacy services for patients may be established by evidence:]*

16 *[(A) That the patients of the applicant are located:]*

17 *[(i) Outside the boundaries of a metropolitan statistical area;]*

18 *[(ii) Thirty or more highway miles from the closest hospital within the major population center in*
19 *a metropolitan statistical area; or]*

20 *[(iii) In a county with a population of less than 75,000; or]*

21 *[(B) Of financial barrier to access, including but not limited to receiving services from a health care*
22 *safety net clinic or eligibility for participation in a patient assistance program of a pharmaceutical*
23 *company.]*

24 *[(c)] (b) Any other information required by the Oregon State Board of Nursing.*

25 (4) Prescription drugs dispensed by a certified nurse practitioner or certified clinical nurse
26 specialist *[shall]* **must** be personally dispensed by the certified nurse practitioner or certified clin-
27 ical nurse specialist, except that nonjudgmental dispensing functions may be delegated to staff as-
28 sistants when:

29 (a) The accuracy and completeness of the prescription is verified by the certified nurse practi-
30 tioner or certified clinical nurse specialist; and

31 (b) The prescription drug is labeled with the name of the patient to whom it is being dispensed.

32 (5) The Oregon State Board of Nursing shall adopt rules requiring:

33 (a) Drugs dispensed by certified nurse practitioners and certified clinical nurse specialists to be
34 either prepackaged by a manufacturer registered with the State Board of Pharmacy or repackaged
35 by a pharmacist licensed by the State Board of Pharmacy under ORS chapter 689;

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

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

42 (d) A dispensing certified nurse practitioner and a dispensing certified clinical nurse specialist
43 to have available at the dispensing site a hard copy or electronic version of prescription drug ref-
44 erence works commonly used by professionals authorized to dispense prescription medications; and

45 (e) A dispensing certified nurse practitioner and a dispensing certified clinical nurse specialist

1 to allow representatives of the State Board of Pharmacy, upon receipt of a complaint, to inspect a
2 dispensing site after prior notice to the Oregon State Board of Nursing.

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

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

10 **SECTION 7. (1) Section 2 of this 2011 Act and the amendments to ORS 677.510, 677.515,**
11 **677.545 and 678.390 by sections 3 to 6 of this 2011 Act become operative on September 1, 2011.**

12 **(2) The Oregon Medical Board, the State Board of Pharmacy and the Oregon State Board**
13 **of Nursing may take any action on or before the operative date specified in subsection (1)**
14 **of this section that is necessary to enable the boards to exercise, on and after the operative**
15 **date specified in subsection (1) of this section, all of the duties, functions and powers con-**
16 **ferred on the boards by section 2 of this 2011 Act and the amendments to ORS 677.510,**
17 **677.515, 677.545 and 678.390 by sections 3 to 6 of this 2011 Act.**

18 **SECTION 8. This 2011 Act being necessary for the immediate preservation of the public**
19 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
20 **on its passage.**

21