

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 106

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Date: 5/2/2013

Measure Description:

Allows State Board of Chiropractic Examiners and State Board of Pharmacy to establish certain fees by rule.

Government Unit(s) Affected:

Board of Chiropractic Examiners, Board of Pharmacy

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

Senate Bill 106 removes statutory references and caps relating to the following fees for the Board of Chiropractic Examiners and the Board of Pharmacy:

Board of Chiropractic Examiners

- Application Fee
- Criminal Record Check Fee
- Examination Fee
- Chiropractic License Fee
- Certified Chiropractic Assistant Application Fee
- Certified Chiropractic Assistant Examination Fee
- Certified Chiropractic Assistant Certificate Fee
- Certified Chiropractic Assistant Renewal Fee
- Reciprocity Licensing Fee
- Annual Registration Fee
- Late Renewal Fees

Board of Pharmacy

- Examination Fee
- Pharmacist License Fee
- Reciprocity Licensing Fee
- Licensed Intern Fee
- Duplicate Pharmacist Certificate Fee
- Pharmacist License Late Renewal Fee
- Continuing Education Certification Fee
- Initial Drug Outlet Registration Fee
- Drug Outlet Registration Renewal Fee
- Non-Prescription Drug Outlet Registration Fee
- Re-inspection Fee
- Late Renewal Fees
- Renewal Fees

The bill applies to fees assessed on or after July 1, 2013. Passage of this bill would allow these two Boards to modify fees by administrative rule, subject to legislative approval. According to ORS 291.050 (commonly known as the SB 333 approval process), agencies must obtain legislative approval after administratively changing fees. If the changes are not ratified by the Legislature, the fees must return to their original levels.

Passage of this bill has no immediate direct fiscal impact to the Board of Chiropractic Examiners and the Board of Pharmacy. The Board of Pharmacy reports that it does not anticipate increasing fees during the 2013-15 and 2015-17 biennia. However, included in the 2013-15 budget request for the Board of Chiropractic Examiners is a policy package (#100) proposing four fee increases:

Proposed Fee Increases

- Chiropractic Annual Renewal from \$300 to \$350 (\$50 increase)
- Senior Active Renewal from \$445 to \$262.50 (\$37.50 increase)
- Chiropractic Assistant Application from \$25 to \$50 (\$25 increase)
- Chiropractic Assistant Renewal from \$50 to \$75 (\$25 increase)

Project Revenue

- \$121,540
- \$ 18,540
- \$ 21,465
- \$ 41,711
- TOTAL**

The Board of Chiropractic Examiners estimates that these proposed fee increases would generate \$203,256 in revenues. Passage of this bill would remove the caps and allow the proposed fee increases to be adopted. The Board proposes using this additional revenue to fund existing operations and the additional expenditures related to two proposed policy packages: Package #102 establishing a Health Care Investigator/Advisor position [\$83,192 Other Funds and 0.50 FTE]; and package #101 to cover attorney general costs [\$43,491 Other Funds]. The Legislative Fiscal Office notes that without an increase in fee revenue, the Board is projected to have a structural imbalance between revenues and expenditures resulting in an erosion of the Board's ending fund balance.

Senate Bill 106

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for State Board of Pharmacy and State Board of Chiropractic Examiners)

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**.

Allows State Board of Chiropractic Examiners and State Board of Pharmacy to establish certain fees by rule. Distinguishes chiropractic assistant from other ancillary personnel used by chiropractors.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to regulatory boards; creating new provisions; amending ORS 684.040, 684.050, 684.054,
3 684.060, 684.090, 684.155, 689.135, 689.285, 689.486, 689.490 and 689.615; and declaring an emer-
4 gency.

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

6 7 FEES COLLECTED BY STATE 8 BOARD OF CHIROPRACTIC EXAMINERS 9

10 **SECTION 1.** ORS 684.040, as amended by section 14, chapter 43, Oregon Laws 2012, is amended
11 to read:

12 684.040. (1) [*Any*] **A** person applying for a license to practice chiropractic in this state shall
13 [*make application to the State Board of Chiropractic Examiners, upon such form and in such manner*
14 *as may be provided*] **apply to the State Board of Chiropractic Examiners on a form and in the**
15 **manner prescribed** by the board. The application must be accompanied by **the following**
16 nonrefundable fees [*of*]:

17 [*(a) \$150; and*]

18 **(a) An application fee in an amount established by the board by rule; and**

19 **(b) The [*amount*] fee for a criminal records check in the amount** established by the board
20 by rule under ORS 181.534.

21 **(2) Each applicant shall furnish to the board:**

22 **(a) Evidence satisfactory to the board of the applicant's good moral character.**

23 **(b) A certificate of proficiency in the fundamental sciences (Part I, taken subsequent to January**
24 **1, 1971) issued to the applicant by the National Board of Chiropractic Examiners.**

25 **(c) Evidence of successful completion of at least two years of liberal arts and sciences study, in**
26 **any college or university accredited by either the Northwest Association of Schools and Colleges**
27 **or a like regional association or in any college or university in Oregon approved for granting de-**
28 **grees by the Oregon Student Access Commission.**

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 (d) A diploma and transcript, certified by the registrar, or other documents satisfactory to the
 2 State Board of Chiropractic Examiners evidencing graduation from a chiropractic school or college
 3 approved by the board under the board's academic standards, or from a school accredited by the
 4 Council on Chiropractic Education or its successor agency, under standards that are accepted and
 5 adopted biennially by the board in the version applied to that school by the accrediting agency.

6 (e) A statement of any other health care provider license in this state held by the applicant,
 7 with identifying information required by the State Board of Chiropractic Examiners.

8 (3) An applicant meets the requirements of subsection (2)(c) or (d) of this section if the applicant
 9 provides the State Board of Chiropractic Examiners with documentation of military training or ex-
 10 perience that the board determines is substantially equivalent to the education required by sub-
 11 section (2)(c) or (d) of this section.

12 (4) The State Board of Chiropractic Examiners may waive the requirements of subsection (2)(c)
 13 of this section for any applicant for a license to practice chiropractic if the applicant is licensed in
 14 another state and practiced chiropractic in that state, but the applicant must pass the examination
 15 authorized by ORS 684.050 or by ORS 684.052.

16 **SECTION 2.** ORS 684.050 is amended to read:

17 684.050. (1) *[Examinations for license to practice chiropractic shall be made by]* The State Board
 18 of Chiropractic Examiners **shall conduct examinations for a license to practice chiropractic in**
 19 **this state** according to the method deemed to be the most practicable to test the applicant's quali-
 20 fications.

21 (2) The board shall give an examination on subjects described in subsection (3) of this section.
 22 The board shall determine the passing score. *[The applicant shall, however, be given]* **The board**
 23 **shall give an applicant** credit for all sections passed. The board may authorize an applicant to re-
 24 take all or part of an examination upon payment of a fee *[not to exceed \$100]* **established by the**
 25 **board by rule.**

26 (3) The schedule of minimum educational requirements to enable *[any]* a person to practice
 27 chiropractic in this state includes:

28 (a) The basic science subjects of anatomy, physiology, chemistry, pathology and public health
 29 and hygiene; *[also]*

30 (b) The clinical subjects of physical diagnosis, differential diagnosis, laboratory diagnosis, theory
 31 and practice of chiropractic, nutrition and dietetics, physiotherapy, electrotherapy, hydrotherapy,
 32 chiropractic orthopedics, written and practical roentgenology, eye-ear-nose-throat, proctology,
 33 obstetrics and gynecology, minor surgery, jurisprudence, psychology[,] **and** office procedure; and

34 (c) Other subjects that the board may, from time to time, require, except internal medicine and
 35 major surgery.

36 (4) The minimum number of academic hours in an approved chiropractic college may not be less
 37 than 4,200 or the equivalent requirement in semester or quarter credits.

38 (5) The board may recognize a national chiropractic testing agency for grades received in both
 39 basic science and clinical subjects.

40 **SECTION 3.** ORS 684.054 is amended to read:

41 684.054. (1) Upon complying with ORS 684.040, and earning a passing grade on the examination
 42 authorized by ORS 684.050 or 684.052, an applicant shall be licensed as a chiropractic physician
 43 upon payment of a fee *[of \$100 unless the State Board of Chiropractic Examiners]* **established by the**
 44 **State Board of Chiropractic Examiners by rule, unless the board** refuses to grant the license
 45 on grounds specified in ORS 684.100.

1 (2) *[Every]* A chiropractic physician shall promptly notify the board of any change in the pro-
 2 fessional address of the chiropractic physician.

3 (3) After meeting the standards of the board *[established under ORS 684.155 for ancillary per-*
 4 *sonnel, an applicant shall be certified as ancillary personnel upon payment of a fee of \$50. The annual*
 5 *renewal fee for the certificate is \$50. In addition, the board may charge an application fee of \$25 and*
 6 *an examination fee of \$35.] for a chiropractic assistant under ORS 684.155, a person shall be*
 7 **certified as a chiropractic assistant upon payment of an application fee, examination fee and**
 8 **initial certificate fee established by the board by rule. The certificate may be renewed an-**
 9 **nually upon payment of a fee established by the board by rule.**

10 **SECTION 4.** ORS 684.060 is amended to read:

11 684.060. (1) A person licensed to practice chiropractic under the laws of *[any other]* **another**
 12 state who demonstrates to the satisfaction of the State Board of Chiropractic Examiners that the
 13 person possesses qualifications at least equal to those required of persons eligible for licensing un-
 14 der this chapter and who meets the requirements of ORS 684.040 may be issued a license to practice
 15 **chiropractic** in this state without examination upon payment of a fee *[of \$100. In addition,]* **estab-**
 16 **lished by the board by rule.**

17 (2) The board may fix the minimum number of years of practice **under the laws of another**
 18 **state** required to qualify for a license under this section.

19 **SECTION 5.** ORS 684.090 is amended to read:

20 684.090. (1) In addition to meeting the requirements of ORS 684.092, *[each]* a person practicing
 21 chiropractic *[within]* **in** this state shall, on or before the renewal date of each year after a license
 22 is issued to the person, pay to the State Board of Chiropractic Examiners an annual registration fee
 23 in an amount *[determined by rule of the State Board of Chiropractic Examiners]* **established by the**
 24 **board by rule** and approved by the Oregon Department of Administrative Services.

25 *[(2) The maximum annual registration fee for a person actively practicing chiropractic may not*
 26 *exceed \$300.]*

27 *[(3) The maximum annual registration fee for a person not actively practicing chiropractic may not*
 28 *exceed \$175.]*

29 *[(4) (2) The maximum annual registration fee for an active senior may not exceed 75 percent*
 30 *of the annual [active] registration fee.*

31 *[(5) (3) The board, at least 30 days prior to the renewal date, shall mail to the last-known pro-*
 32 *essional address of each [licensed chiropractor in this state] licensee a notice of the requirements*
 33 *of ORS 684.092 and that the annual registration fee will be due on or before the renewal date next*
 34 *following.*

35 *[(6) (4) The annual registration fee is payable only by personal, corporate or certified check,*
 36 *[by] money order, [or by] credit card or other electronic method.*

37 *[(7) (5) [The failure, neglect or refusal of any] If a person holding a license or certificate to*
 38 *practice under this chapter fails to pay the annual registration fee and to show compliance with*
 39 *or exemption from the requirement of ORS 684.092 [during the time the license remains in force shall*
 40 *cause the license to expire after a period of 30 days from the renewal date of the year for which the*
 41 *failure occurs.] before the renewal date, the license or certificate expires 30 days after the*
 42 **renewal date.**

43 *[(8) (6)(a) [The licenses not renewed on time shall] A license or certificate that is not renewed*
 44 **on time may** not be renewed except:

45 (A) Upon written application and *[a]* payment to the board of *[the fee for the license category plus*

1 *a delinquent fee of \$100 for each week or portion thereof, not to exceed \$500,] a fee established by*
 2 **the board by rule for the late renewal of the license or certificate; and**

3 **(B)** Upon compliance with or exemption from the requirements of ORS 684.092.

4 **(b)** A licensee who pays the annual renewal fee and shows compliance or exemption within 12
 5 months of the expiration date of the license [*shall*] **may** not be required to submit to an examination
 6 for the reissuance of a license.

7
 8 **CHIROPRACTIC ASSISTANTS**

9
 10 **SECTION 6.** ORS 684.155 is amended to read:

11 684.155. In addition to any other powers granted by this chapter, the State Board of Chiropractic
 12 Examiners may:

13 (1) Adopt necessary and proper rules:

14 (a) [*Establishing*] **To establish** standards and tests to determine the moral, intellectual, educa-
 15 tional, scientific, technical and professional qualifications of applicants for licenses to practice in
 16 this state.

17 (b) To enforce the provisions of this chapter and to exercise general supervision over the prac-
 18 tice of chiropractic within this state.

19 (c)[(A)] To establish standards and procedures [*to certify ancillary personnel*] **for certifying**
 20 **chiropractic assistants** as qualified to provide physiotherapy, electrotherapy or hydrotherapy un-
 21 der the direction of a chiropractic physician, and to establish continuing education requirements as
 22 a condition of maintaining such certification.

23 [(B)] **(d) To establish standards for the use of ancillary personnel.** As used in this para-
 24 graph, “ancillary personnel” means a chiropractic physician’s [*staff*] personnel who are directed or
 25 designated, by spoken or written words or other means, to follow and carry out the chiropractic
 26 physician’s orders or directions.

27 (2) Issue, deny, suspend and revoke licenses and limited licenses, assess costs of proceedings and
 28 place persons on probation as provided in this chapter.

29 (3) Without the necessity of prior administrative proceedings or hearing and entry of an order
 30 or at any time during such proceedings if they have been commenced, institute proceedings to enjoin
 31 the practice of any person operating in violation of this chapter.

32 (4) Make its personnel and facilities available to other regulatory agencies of this state, or other
 33 bodies interested in the development and improvement of the practice of chiropractic in this state,
 34 upon such terms and conditions for reimbursement as are agreed to by the board and the other
 35 agency or body.

36 (5) Determine the chiropractic schools, colleges and institutions and the training acceptable in
 37 connection with licensing under this chapter and approve residency, internship and other training
 38 programs carried on by chiropractic schools, colleges or institutions or chiropractic facilities.

39 (6) Prescribe the time, place, method, manner, scope and subjects of examinations under this
 40 chapter.

41 (7) Prescribe all forms that it considers appropriate for the purposes of this chapter, and require
 42 the submission of photographs and relevant personal history data by applicants for licenses to
 43 practice chiropractic in this state.

44 (8) For the purpose of requesting a state or nationwide criminal records check under ORS
 45 181.534 require each applicant for a license or certification, or renewal of a license or certification,

1 to be fingerprinted.

2 (9) Subject to ORS 684.150, administer oaths, issue notices and subpoenas in the name of the
 3 board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such
 4 other acts as are reasonably necessary to carry out its duties under this chapter.

5 (10) Establish specialty certificate requirements within the practice of chiropractic, adopt rules
 6 applicable to specialty certification and require specialty certification for chiropractic physicians
 7 engaging in practices identified by the board as requiring specialty certification.

8
 9 **FEES COLLECTED BY**
 10 **STATE BOARD OF PHARMACY**

11
 12 **SECTION 7.** ORS 689.135 is amended to read:

13 689.135. (1) The State Board of Pharmacy shall *[have such other duties, powers and authority as*
 14 *may be necessary to the enforcement of this chapter and to the enforcement of board rules made pur-*
 15 *suant thereto, which shall include, but are]* **exercise the duties, powers and authority necessary**
 16 **to enforce this chapter and to enforce board rules adopted pursuant to this chapter, includ-**
 17 **ing but** not limited to[,] the following:

18 (a) *[Cause to have printed and circulated annually]* **Annual printing and circulation of** copies
 19 of any changes in the laws relating to pharmacy, controlled substances, drugs and poisons and the
 20 rules adopted to enforce *[such]* **the** laws, and *[set]* **establishment of** reasonable charges *[therefor]*
 21 **for the copies.**

22 (b) *[Appoint]* **Appointment of** advisory committees.

23 (2) The board may join *[such]* professional organizations and associations organized exclusively
 24 to promote the improvement of the standards of the practice of pharmacy for the protection of the
 25 health and welfare of the public and whose activities assist and facilitate the work of the board.

26 (3) In addition to any statutory requirements, the board may require *[such]* surety bonds as it
 27 deems necessary to guarantee the performance and discharge of the duties of any officer or em-
 28 ployee receiving and disbursing funds.

29 (4) The executive director of the board shall keep the seal of the board and shall affix it only
 30 in *[such]* **the** manner *[as may be]* prescribed by the board.

31 (5) The board shall determine within 30 days prior to the beginning of each state fiscal year the
 32 fees to be collected for:

33 (a) Examinations and reexaminations[, *which fee shall not exceed \$400*].

34 *[(b) Pharmacist licenses, which fee shall not exceed \$250.]*

35 *[(c) Pharmacist licensing by reciprocity, which fee shall not exceed \$300.]*

36 **(b) A pharmacist license.**

37 **(c) A pharmacist license acquired through reciprocity.**

38 (d) **An** intern license[, *which fee shall not exceed \$50*].

39 (e) **A** duplicate pharmacist certificate[, *which fee shall not exceed \$50*].

40 (f) **Late renewal of a** pharmacist license[, *delinquent renewal fee, which fee shall not exceed*
 41 *\$50*].

42 (g) Certification of *[approved providers]* **an approved provider** of continuing education
 43 courses[, *which fee shall not exceed \$300*].

44 (h) Registration of *[drug outlets other than pharmacies]* **a drug outlet other than a pharmacy**
 45 and renewal of **the** registration[, *which fee shall not exceed \$500*].

1 (i) Initial **registration of a pharmacy or an institutional drug outlet**, *which fee shall not exceed*
2 *\$300*.

3 (j) Annual **renewal of a pharmacy or an institutional drug outlet registration**, *which fee shall*
4 *not exceed \$300*.

5 (k) **Late renewal of a pharmacy or an institutional drug outlet registration** [*delinquent renewal*
6 *fee, which fee shall not exceed \$200*].

7 [*L Nonprescription drug outlets, which fee shall not exceed \$50.*]

8 **(L) Registration of a nonprescription drug outlet.**

9 (m) **Late renewal of a nonprescription drug outlet registration** [*delinquent renewal fee, which*
10 *fee shall not exceed \$50*].

11 (n) Reinspection [*fee, which fee shall not exceed \$100*].

12 [*o Drug outlets, other than pharmacies or institutional drug outlets, delinquent renewal fee, which*
13 *fee shall not exceed \$100.*]

14 **(o) Late renewal of registration of a drug outlet, other than a pharmacy or an institu-**
15 **tional drug outlet.**

16 (6) All moneys received under ORS 435.010 to 435.130 and 453.185 and this chapter shall be paid
17 into the State Treasury and placed to the credit of the State Board of Pharmacy Account to be used
18 only for the administration and enforcement of ORS 435.010 to 435.130 and this chapter.

19 (7) The board may receive and expend funds, in addition to its biennial appropriation, from
20 parties other than the state, provided:

21 (a) [*Such*] **The** moneys are awarded for the pursuit of a specific objective [*which*] **that** the board
22 is authorized to accomplish by this chapter, or [*which*] **that** the board is qualified to accomplish by
23 reason of its jurisdiction or professional expertise;

24 (b) [*Such*] **The** moneys are expended for the pursuit of the objective for which they are awarded;

25 (c) Activities connected with or occasioned by the expenditures of [*such*] **the** funds do not in-
26 terfere with or impair the performance of the board's duties and responsibilities and do not conflict
27 with the exercise of the board's powers as specified by this chapter;

28 (d) [*Such*] **The** moneys are kept in a separate, special state account; and

29 (e) Periodic reports are made to the Governor concerning the board's receipt and expenditure
30 of [*such*] **the** moneys.

31 (8) The board may assign to each drug outlet under its jurisdiction, a uniform state number,
32 coordinated where possible with all other states [*which*] **that** adopt the same uniform numbering
33 system.

34 (9) The board or its authorized representatives shall [*also*] have **the** power to investigate and
35 gather evidence concerning alleged violations of the provisions of this chapter or of the rules of the
36 board.

37 (10) The president and vice president of the board may administer oaths in connection with the
38 duties of the board.

39 (11) The books, registers and records of the board as made and kept by the executive director,
40 or under the supervision of the executive director, subject to the direction of the board, [*shall be*]
41 **are** prima facie evidence of the matter recorded [*therein,*] **in the books, registers and records,** in
42 any court of law.

43 (12) The board may administer oaths, issue notices and subpoenas in the name of the board,
44 enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other
45 acts as are reasonably necessary to carry out its duties under this chapter.

1 (13)(a) Notwithstanding anything in this chapter to the contrary, whenever a duly authorized
2 representative of the board finds or has probable cause to believe that any drug or device is
3 adulterated, misbranded or a new drug, as defined in Section 201(p) of the Federal Food, Drug and
4 Cosmetic Act, for which there is no approval in effect pursuant to Section 505(b) of the federal Act
5 nor an approved notice of claimed investigational exemption pursuant to Section 505(i) of the federal
6 Act, or otherwise rendered unsafe for use as a result of fire, flood or other natural disaster, the
7 representative shall affix to such drug or device a tag or other appropriate marking giving notice
8 that such article is or is suspected of being adulterated, misbranded, or otherwise rendered unsafe
9 and has been detained or embargoed and warning all persons not to remove or dispose of such ar-
10 ticle by sale or otherwise until provision for removal or disposal is given by the board, its agent or
11 the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise
12 without the permission of the board or its agent or, after summary proceedings have been instituted,
13 without permission from the court.

14 (b) When a drug or device detained or embargoed under paragraph (a) of this subsection has
15 been declared by such representative to be adulterated, misbranded or a new drug, or rendered un-
16 safe, the board shall, as soon as practical thereafter, petition the judge of the circuit court in whose
17 jurisdiction the article is detained or embargoed for an order for condemnation of such article. If
18 the judge determines that the drug or device so detained or embargoed is not adulterated or mis-
19 branded or rendered unsafe, the board shall direct the immediate removal of the tag or other
20 marking.

21 (c) If the court finds the detained or embargoed drug or device is adulterated or misbranded or
22 rendered unsafe, such drug or device, after entry of the judgment, shall be destroyed at the expense
23 of the owner under the supervision of a board representative and all court costs and fees, storage
24 and other proper expense shall be borne by the owner of such drug or device. When the
25 adulteration or misbranding can be corrected by proper labeling or processing of the drug or device,
26 the court, after entry of the judgment and after such costs, fees and expenses have been paid and
27 a good and sufficient bond has been posted, may direct that such drug or device be delivered to the
28 owner thereof for such labeling or processing under the supervision of a board representative. Ex-
29 pense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of
30 the drug or device on representation to the court by the board that the drug or device is no longer
31 in violation of the embargo and the expense of supervision has been paid.

32 (d) It is the duty of the Attorney General to whom the board reports any violation of this sub-
33 section to cause appropriate proceedings to be instituted in the proper court without delay and to
34 be prosecuted in the manner required by law. Nothing in this subsection shall be construed to re-
35 quire the board to report violations whenever the board believes the public's interest will be ade-
36 quately served in the circumstances by a suitable written notice or warning.

37 (14) Except as otherwise provided to the contrary, the board shall exercise all of its duties,
38 powers and authority in accordance with ORS chapter 183.

39 **SECTION 8.** ORS 689.285 is amended to read:

40 689.285. (1) The Legislative Assembly finds and declares that:

41 (a) The continuous introduction of new medical agents and the changing concepts of the delivery
42 of health care services in the practice of pharmacy make it essential that a pharmacist undertake
43 a continuing education program in order to maintain professional competency and improve profes-
44 sional skills;

45 (b) The state has a basic obligation to regulate and control the profession of pharmacy in order

1 to protect the public health and welfare of its citizens; and

2 (c) It is the purpose of this chapter to protect the health and welfare of Oregon citizens and to
3 ensure uniform qualifications and continued competency of licensed pharmacists by requiring par-
4 ticipation in a continuing pharmacy education program as a condition for renewal of licenses to
5 practice pharmacy.

6 (2) All pharmacists licensed in the State of Oregon on and after October 3, 1979, shall satisfac-
7 torily complete courses of study and satisfactorily continue their education by other means as de-
8 termined by the State Board of Pharmacy in subjects relating to the practice of the profession of
9 pharmacy in order to be eligible for renewal of licenses.

10 (3) In accordance with applicable provisions of ORS chapter 183, the board shall *[make]* **adopt**
11 reasonable rules:

12 (a) Prescribing the procedure and criteria for approval of continuing pharmacy education pro-
13 grams, including the number of hours of courses of study necessary to constitute a continuing
14 pharmacy education unit and the number of continuing pharmacy education units required annually
15 for renewal of a pharmacist license.

16 (b) Prescribing the scope of the examinations given by the board including grading procedures.

17 (c) Prescribing the content of the form to be submitted to the board certifying completion of an
18 approved continuing pharmacy education program.

19 (d) Necessary to carry out the provisions of this chapter.

20 (e) Prescribing the completion of:

21 (A) A pain management education program approved by the board and developed in conjunction
22 with the Pain Management Commission established under ORS 413.570; or

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

24 (4) In adopting rules pursuant to subsection (3) of this section, the board shall consider:

25 (a) The need for formal regularly scheduled pharmacy education programs.

26 (b) Alternate methods of study including home-study courses, seminars or other such programs
27 for those persons who, upon written application to the board and for good cause shown, demonstrate
28 their inability to attend regularly scheduled formal classroom programs.

29 (c) The necessity for examinations or other evaluation methods used to ensure satisfactory
30 completion of the continuing pharmacy education program.

31 (5) The board may contract for the providing of educational programs to fulfill the requirements
32 of this chapter. The board is further authorized to treat funds set aside for the purpose of continuing
33 education as state funds for the purpose of accepting any funds made available under federal law
34 on a matching basis for the promulgation and maintenance of programs of continuing education. In
35 no instance shall the board require a greater number of hours of study than it provides or approves
36 in the State of Oregon and which are available on the same basis to all licensed pharmacists.

37 (6) The board may levy an additional fee *[of up to \$10]*, **established by the board by rule**, for
38 each license renewal to carry out the provisions of this chapter.

39 **SECTION 9.** ORS 689.486 is amended to read:

40 689.486. (1) It shall be unlawful for any person to perform the duties of a pharmacy technician
41 or use the title of pharmacy technician unless licensed to do so under the provisions of this chapter.

42 (2) To be licensed to perform the duties of a pharmacy technician, a person shall:

43 (a) Submit a license application in the manner prescribed by the State Board of Pharmacy; and

44 (b) Pay the license fee established by the board.

45 (3) The license application prescribed by the board shall include, but not be limited to:

- 1 (a) The name and address of the applicant;
- 2 (b) The educational qualifications of the applicant;
- 3 (c) The work history of the applicant; and
- 4 (d) The applicant's criminal offender record of any conviction or of any arrest less than one year
- 5 old on which there has been no acquittal or dismissal.

6 (4) A license under this section expires annually. To renew a license to perform the duties of a
7 pharmacy technician, a person shall:

- 8 (a) Submit the application for renewal of a license in the form prescribed by the board;
- 9 (b) Pay the license renewal fee established by the board;
- 10 (c) Pay the fee for [*delinquent*] **late** license renewal, if applicable;
- 11 (d) Provide updated information regarding educational qualifications, work history and criminal
- 12 arrest and conviction history; and
- 13 (e) Comply with all other requirements for license renewal established by the board.

14 (5) No person may employ an individual to perform the duties of a pharmacy technician unless
15 the individual is licensed to perform the duties of a pharmacy technician under this chapter.

16 (6) A person licensed to perform the duties of a pharmacy technician may perform the duties
17 of a pharmacy technician only under the supervision, direction and control of a licensed pharmacist.

18 **SECTION 10.** ORS 689.490, as amended by section 23, chapter 43, Oregon Laws 2012, is
19 amended to read:

20 689.490. (1) In accordance with any applicable provisions of ORS chapter 183, the State Board
21 of Pharmacy, by rule, shall establish a licensing system for persons who perform the duties of a
22 pharmacy technician. The licensing system shall include but not be limited to the following pro-
23 visions:

24 (a) Prescribing the form and content of and the procedures for submitting an application for the
25 issuance or renewal of a technician license.

26 (b) Prescribing the fee for [*the original license and for renewal of a license in an amount not to*
27 *exceed \$50 and the fee for delinquent license renewal in an amount not to exceed \$50*] **a license, for**
28 **renewal of a license and for late renewal of a license.**

29 (c) Allowing an applicant to meet educational and experience requirements by providing the
30 board with documentation of military training or experience that is substantially equivalent to the
31 education or experience required by the board.

32 (2) The board may refuse to issue or renew, or may suspend, revoke or restrict a technician li-
33 cense:

- 34 (a) For any reason listed under ORS 689.405 (1);
- 35 (b) If the applicant is not authorized to work for hire under Oregon law; or
- 36 (c) For any other grounds that the board, in its discretion, believes would disqualify the appli-
37 cant for a license.

38 (3) Denial of a license under subsection (2) of this section [*shall be considered*] **is** a contested
39 case under ORS chapter 183.

40 **SECTION 11.** ORS 689.615 is amended to read:

41 689.615. (1) The holder of any certificate or license granted under this chapter shall display it
42 conspicuously in the pharmacy or place of business to which it applies.

43 (2) All pharmacist certificates issued by the State Board of Pharmacy shall bear the signatures
44 of all members and officers of the board.

45 (3) On payment by the applicant of the fee [*prescribed in*] **established by the board by rule**

1 **under** ORS 689.135, the board may issue a new certificate to a pharmacist if the applicant has lost
 2 the certificate or the certificate has been destroyed.

3
 4 **OPERATIVE DATE**

5
 6 **SECTION 12.** (1) The amendments to ORS 684.040, 684.050, 684.054, 684.060, 684.090,
 7 684.155, 689.135, 689.285, 689.486, 689.490 and 689.615 by sections 1 to 11 of this 2013 Act become
 8 operative on July 1, 2013.

9 (2) The State Board of Chiropractic Examiners may take any action before the operative
 10 date specified in subsection (1) of this section that is necessary to enable the board to exer-
 11 cise, on and after the operative date specified in subsection (1) of this section, all the duties,
 12 functions and powers conferred on the board by the amendments to ORS 684.040, 684.050,
 13 684.054, 684.060, 684.090 and 684.155 by sections 1 to 6 of this 2013 Act.

14 (3) The State Board of Pharmacy may take any action before the operative date specified
 15 in subsection (1) of this section that is necessary to enable the board to exercise, on and
 16 after the operative date specified in subsection (1) of this section, all the duties, functions
 17 and powers conferred on the board by the amendments to ORS 689.135, 689.285, 689.486,
 18 689.490 and 689.615 by sections 7 to 11 of this 2013 Act.

19
 20 **APPLICABILITY**

21
 22 **SECTION 13.** (1) The amendments to ORS 684.040, 684.050, 684.054, 684.060 and 684.090 by
 23 sections 1 to 5 of this 2013 Act apply to fees assessed by the State Board of Chiropractic
 24 Examiners on or after the operative date specified in section 12 of this 2013 Act.

25 (2) The amendments to ORS 689.135, 689.285, 689.486, 689.490 and 689.615 by sections 7 to
 26 11 of this 2013 Act apply to fees assessed by the State Board of Pharmacy on or after the
 27 operative date specified in section 12 of this 2013 Act.

28
 29 **UNIT CAPTIONS**

30
 31 **SECTION 14.** The unit captions used in this 2013 Act are provided only for the conven-
 32 ience of the reader and do not become part of the statutory law of this state or express any
 33 legislative intent in the enactment of this 2013 Act.

34
 35 **EMERGENCY CLAUSE**

36
 37 **SECTION 15.** This 2013 Act being necessary for the immediate preservation of the public
 38 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
 39 on its passage.

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Without Recommendation as to Passage and Be Referred to the Committee on Ways and Means by prior reference
Vote:	5 - 0 - 0
Yeas:	Knopp, Kruse, Shields, Steiner Hayward, Monnes Anderson
Nays:	0
Exc.:	0
Prepared By:	Sandy Thiele-Cirka, Administrator
Meeting Dates:	2/5, 2/12

WHAT THE MEASURE DOES: Allows Oregon Board of Chiropractic Examiners and Oregon Board of Pharmacy to establish certain fees by rule. Distinguishes chiropractic assistant from other ancillary personnel used by chiropractors. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Current Board of Chiropractic Examiners proposed budget
- Progressive increase of complaints since 2010
- Complexity of complaints
- Board of Chiropractic Examiners and Board of Pharmacy only boards that have fee schedule set in statute
- Current fee process for Board of Nursing, Oregon Medical Board and Board of Dentistry

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Currently, many of the health professional licensing boards have statutory language allowing them to set appropriate licensing, application, registration and other fees by administrative rule. The Board of Pharmacy (BOP) and the Oregon Board of Chiropractic Examiners (OBCE) are the two health boards which have fees and fee maximums established in statute. Senate Bill 106 allows BOP and the OBCE to establish certain fees by rule.

Additionally, “ancillary personnel” is referenced in the OBCE governing statutes. Senate Bill 106 deletes that term and replaces it with “chiropractic assistant.”