

House Bill 3311

Sponsored by Representative ALONSO LEON

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**.

Removes requirement that physician assistant practice under supervision of supervising physician. Requires physician assistant to enter practice agreement with collaborating physician, practice group or health care team. Defines "collaborating physician."

Becomes operative January 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to physician assistants; creating new provisions; amending ORS 441.064, 677.495, 677.511,
3 677.515, 677.518, 688.510 and 743A.044; repealing ORS 677.510; and declaring an emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS 677.495**
6 **to 677.535.**

7 **SECTION 2. (1)(a) A physician assistant shall collaborate or consult with licensed health**
8 **care practitioners who comprise a patient's health care team as appropriate based on:**

9 (A) The patient's condition or diagnosis;

10 (B) The physician assistant's experience and training; and

11 (C) The relevant standard of care.

12 (b) The extent of the collaboration or consultation required under this subsection may
13 be determined by considering patient care decisions made by the physician assistant's em-
14 ployer or collaborating physician, the practice group within which the physician assistant is
15 involved and the health care facility or hospital that grants privileges to the physician as-
16 sistant.

17 (2) A physician assistant's relationship with a collaborating physician, practice group or
18 health care team must be established in a practice agreement. A practice agreement must:

19 (a) Set out the methods in which the physician assistant and the collaborating physician,
20 practice group or health care team will partner for the purposes of providing medical care;

21 (b) Generally describe the physician assistant's duties, including those related to the
22 prescription and administration of medication;

23 (c) State the physician assistant's professional development goals and describe how the
24 collaborating physician, practice group or health care team with which the physician assist-
25 ant interacts will contribute to and monitor the physician assistant's professional develop-
26 ment;

27 (d) Be signed by the physician assistant and an individual determined appropriate by the
28 Oregon Medical Board; and

29 (e) Be provided to the board upon the request of the board.

30 (3) A physician assistant is solely responsible for the care that the physician assistant

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 **provides.**

2 **SECTION 3. The Oregon Medical Board may refuse to grant, or may suspend or revoke,**
3 **a physician assistant license for a reason listed in ORS 677.190.**

4 **SECTION 4.** ORS 677.495 is amended to read:

5 677.495. As used in ORS 677.495 to 677.535[, *unless the context requires otherwise*]:

6 (1) **“Collaborating physician” means a physician licensed under ORS 677.100 to 677.228,**
7 **or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840.**

8 [(1)] (2) “Physician assistant” means a person who is licensed in accordance with ORS 677.505
9 to 677.525.

10 [(2)] (3) “Practice agreement” means a written agreement between a physician assistant and a
11 [*supervising physician or supervising physician organization*] **collaborating physician, practice**
12 **group or health care team** that describes the manner in which the [*services of the*] physician as-
13 sistant will [*be used*] **practice medicine.**

14 [(3)] “Supervising physician” means a physician licensed under ORS 677.100 to 677.228, or a
15 podiatric physician and surgeon licensed under ORS 677.805 to 677.840, who supervises a physician
16 assistant.]

17 [(4)] “Supervising physician organization” means a group of supervising physicians that collectively
18 supervises a physician assistant.]

19 [(5)] “Supervision” means the acts of overseeing and accepting responsibility for the medical services
20 provided by a physician assistant in accordance with a practice agreement, including regular and
21 routine oversight and chart review.]

22 **SECTION 5.** ORS 677.511 is amended to read:

23 677.511. (1)(a) A [*supervising physician or supervising physician organization*] **physician assist-**
24 **ant** may apply to the Oregon Medical Board for authority [*for a physician assistant*] to dispense
25 drugs specified [*by the supervising physician or supervising physician organization*] **in the physician**
26 **assistant’s application under this section.**

27 (b) Notwithstanding paragraph (a) of this subsection, and except as permitted under ORS 677.515
28 (4), a physician assistant may not dispense controlled substances classified in Schedule I or II under
29 the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified under ORS 475.035.

30 (2) The board shall adopt rules establishing standards and qualifications for physician assistants
31 with dispensing authority. The rules must require **a physician assistant seeking dispensing au-**
32 **thority to:**

33 (a) [*A physician assistant seeking dispensing authority to*] Complete a drug dispensing training
34 program; [*and*]

35 [(b)] *The supervising physician or supervising physician organization that applies for dispensing*
36 *authority for a physician assistant to:*

37 [(A)] (b) Provide the board with a plan for drug delivery and control;

38 [(B)] (c) Submit an annual report to the board on the physician assistant’s use of dispensing
39 authority;

40 [(C)] (d) Submit to the board a list of the drugs or classes of drugs that the [*supervising physi-*
41 *cian or supervising physician organization proposes to authorize the*] physician assistant **is applying**
42 **for authorization** to dispense; and

43 [(D)] (e) Submit to the board documentation showing that the [*supervising physician or super-*
44 *vising physician organization has registered the*] facility from which the physician assistant will dis-
45 pense drugs **is registered** as a drug outlet with the State Board of Pharmacy under ORS 689.305.

1 (3) The Oregon Medical Board and the State Board of Pharmacy shall jointly develop a drug
2 dispensing training program for physician assistants and adopt that program by rule.

3 (4) A *[supervising physician or supervising physician organization that supervises a]* physician
4 assistant with dispensing authority shall comply with rules adopted by the State Board of Pharmacy
5 relating to registration, acquisition, storage, integrity, security, access, dispensing and disposal of
6 drugs, record keeping and consultation with pharmacists.

7 (5) A physician assistant who dispenses a controlled substance classified in Schedule III or IV
8 under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified under ORS 475.035,
9 shall report the dispensing of the controlled substance to the Oregon Health Authority in a manner
10 consistent with the requirements for reporting by pharmacies as provided in ORS 431A.855 to
11 431A.900.

12 (6) Drugs dispensed by a physician assistant with dispensing authority under this section must
13 be personally dispensed by the physician assistant.

14 **SECTION 6.** ORS 677.515, as amended by section 17, chapter 50, Oregon Laws 2018, is amended
15 to read:

16 677.515. (1) A physician assistant licensed under ORS 677.512 may provide any medical service,
17 including prescribing and administering controlled substances in Schedules II through V under the
18 federal Controlled Substances Act:

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

21 *[(b)] (a)* That is within the scope of practice of the physician assistant;

22 *[(c) That is within the scope of practice of the supervising physician or supervising physician or-*
23 *ganization;]*

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

26 *[(e)] (b)* That is generally described in and in compliance with the practice agreement; and

27 *[(f)] (c)* For which the physician assistant has obtained informed consent as provided in ORS
28 677.097, if informed consent is required.

29 (2) This chapter does not prohibit a student enrolled in a program for educating physician as-
30 sistants approved by the **Oregon Medical** Board from rendering medical services if the services are
31 rendered in the course of the program.

32 (3) The degree of independent judgment that a physician assistant may exercise shall be deter-
33 mined by the *[supervising] collaborating* physician³⁴*[, or supervising physician organization,]* and the
34 physician assistant in accordance with the practice agreement.

35 (4) A *[supervising physician, upon the approval of the board and in accordance with the rules es-*
36 *tablished by the board, may delegate to the]* physician assistant *[the authority to]* **may** administer and
37 prescribe medications pursuant to this section and ORS 677.535. The board may not limit the privi-
38 lege of administering, dispensing and prescribing to population groups federally designated as
39 underserved, or to geographic areas of the state that are federally designated health professional
40 shortage areas, federally designated medically underserved areas or areas designated as medically
41 disadvantaged and in need of primary health care providers by the Director of the Oregon Health
42 Authority or the Office of Rural Health. All prescriptions written pursuant to this subsection must
43 bear the name, office address and telephone number of the *[supervising]* physician **assistant**.

44 (5) This chapter does not require or prohibit a physician assistant from practicing in a hospital
45 licensed pursuant to ORS 441.015 to 441.087.

1 (6) Prescriptions for medications prescribed by a physician assistant in accordance with this
 2 section and ORS 475.005, 677.010, 677.500[677.510] and 677.535 **and section 2 of this 2019 Act** and
 3 dispensed by a licensed pharmacist may be filled by the pharmacist according to the terms of the
 4 prescription, and the filling of such a prescription does not constitute evidence of negligence on the
 5 part of the pharmacist if the prescription was dispensed within the reasonable and prudent practice
 6 of pharmacy.

7 **SECTION 7.** ORS 677.518 is amended to read:

8 677.518. A physician assistant, practicing [*under the supervision of a supervising physician or a*
 9 *supervising physician organization*] **in accordance with section 2 of this 2019 Act**, is authorized
 10 to complete and sign reports of death. Reports of death signed by a physician assistant shall be ac-
 11 cepted as fulfilling all of the laws dealing with reports of death. A physician assistant who prepares
 12 a report of death must comply with all provisions of ORS 432.133.

13 **SECTION 8.** ORS 441.064 is amended to read:

14 441.064. (1) As used in this section:

- 15 (a) "Nurse practitioner" has the meaning given that term in ORS 678.010;
- 16 (b) "Physician" has the meaning given that term in ORS 677.010; and
- 17 (c) "Physician assistant" has the meaning given that term in ORS 677.495.

18 (2) The rules of any hospital in this state may grant privileges to nurse practitioners and phy-
 19 sician assistants for purposes of patient care.

20 (3) Rules must be in writing and may include, but need not be limited to:

- 21 (a) Limitations on the scope of privileges;
- 22 (b) Monitoring and supervision of nurse practitioners and physician assistants in the hospital
- 23 by physicians who are members of the medical staff;
- 24 (c) A requirement that a nurse practitioner or physician assistant co-admit patients with a
- 25 physician who is a member of the medical staff; and
- 26 (d) Qualifications of nurse practitioners and physician assistants to be eligible for privileges in-
- 27 cluding but not limited to requirements of prior clinical and hospital experience.

28 (4) The rules may:

- 29 (a) Regulate the credentialing and conduct of nurse practitioners and physician assistants while
- 30 using the facilities of the hospital;
- 31 (b) Prescribe the procedures for suspension or termination of a nurse practitioner's or physician
- 32 assistant's privileges;
- 33 (c) Allow the hospital to refuse privileges to a nurse practitioner, but only on the same basis
- 34 that the hospital refuses privileges to other medical providers; and
- 35 (d) Allow the hospital to refuse privileges to a physician assistant based on the refusal of priv-
- 36 ileges to the physician assistant's [*supervising*] **collaborating** physician.

37 (5) Notwithstanding subsection (3) of this section, rules adopted by a hospital that grant privi-
 38 leges to licensed registered nurses who are certified by the Oregon State Board of Nursing as nurse
 39 midwife nurse practitioners must:

- 40 (a) Include admitting privileges;
- 41 (b) Be consistent with the privileges of the other medical staff; and
- 42 (c) Permit the nurse midwife nurse practitioner to exercise the voting rights of the other mem-
- 43 bers of the medical staff.

44 (6) Rules described in this section are subject to hospital and medical staff bylaws and rules
 45 governing credentialing and staff privileges.

1 **SECTION 9.** ORS 688.510 is amended to read:

2 688.510. (1) As used in this section:

3 **(a) “Collaborating physician” means a physician licensed under ORS chapter 677 who has**
 4 **entered into a practice agreement with a physician assistant as described in section 2 of this**
 5 **2019 Act.**

6 [(a)] **(b) “Fluoroscopy” means a technique for generating X-ray images and for presenting the**
 7 **X-ray images simultaneously and continuously as a visible image.**

8 [(b)] **(c) “Physician assistant” means a physician assistant licensed under ORS 677.505 to**
 9 **677.525.**

10 [(c) *“Supervising physician” means a physician licensed under ORS chapter 677 who has entered*
 11 *into a practice agreement with a physician assistant as described in ORS 677.510.*]

12 **(d) “To practice fluoroscopy” means to initiate the generation of X-rays and to acquire visible**
 13 **images for the purpose of medical diagnosis.**

14 **(2) Except as provided in subsection (7) of this section, a physician assistant may not practice**
 15 **fluoroscopy on a person unless the physician assistant:**

16 **(a) Holds an active certificate issued by the Board of Medical Imaging under this section;**

17 **(b) Operates fluoroscopic X-ray equipment in compliance with this section and rules adopted by**
 18 **the board under this section; and**

19 **(c) Fluoroscopy is among the medical duties delegated to the physician assistant pursuant to a**
 20 **practice agreement described in [ORS 677.510] section 2 of this 2019 Act.**

21 **(3) The board shall issue a certificate to practice fluoroscopy to a physician assistant who:**

22 **(a) Completes a fluoroscopy education program approved by the board;**

23 **(b) Submits an examination application to the board in a form and manner prescribed by the**
 24 **board;**

25 **(c) Pays an examination fee established by the board by rule;**

26 **(d) Passes an examination on fluoroscopy approved by the board;**

27 **(e) Submits a certificate application to the board in a form and manner prescribed by the board;**

28 **(f) Pays a certificate application fee established by the board by rule; and**

29 **(g) Meets the standards of ethical and professional conduct established by a credentialing or-**
 30 **ganization or professional society related to the practice of medical imaging.**

31 **(4) The board shall renew the certificate to practice fluoroscopy of a physician assistant who:**

32 **(a) Submits a renewal application to the board in a form and manner prescribed by the board;**

33 **(b) Pays a renewal fee established by the board by rule; and**

34 **(c) Completes continuing education requirements approved by the board.**

35 **(5) A [supervising] collaborating physician may delegate fluoroscopy procedures only to a phy-**
 36 **sician assistant who holds a certificate issued pursuant to this section.**

37 **(6)(a) A physician assistant who holds a certificate issued pursuant to this section may practice**
 38 **fluoroscopy only as authorized by this section.**

39 **(b) A physician assistant may practice fluoroscopy only if:**

40 **(A) The [supervising] collaborating physician with whom the physician assistant has entered**
 41 **into a practice agreement is in the room where the fluoroscopic procedure is taking place at the**
 42 **time that the procedure is taking place; or**

43 **(B) The [supervising] collaborating physician with whom the physician assistant has entered**
 44 **into a practice agreement is in the building where the fluoroscopic procedure is taking place at the**
 45 **time that the procedure is taking place and a medical imaging licensee who specializes in the med-**

1 ical imaging modality of radiography is in the room where the procedure is taking place at the time
 2 that the procedure is taking place.

3 (c) The board may adopt by rule an exception to the requirements of paragraph (b) of this sub-
 4 section if the board determines that the exception does not create a risk of harm to the public
 5 health and safety.

6 (7) A physician assistant may practice fluoroscopy before being issued a certificate under this
 7 section for the purpose of completing a fluoroscopy training program. A physician assistant must
 8 be supervised, as determined by the board by rule, when practicing fluoroscopy under this sub-
 9 section.

10 (8) Subject to the provisions of ORS chapter 183, the board may refuse to issue or renew a
 11 certificate under this section or may suspend or revoke a certificate under this section if the ap-
 12 plicant or certificate holder violates a provision of this section or any rule adopted by the board
 13 under this section.

14 **SECTION 10.** ORS 743A.044 is amended to read:

15 743A.044. (1) An insurer may not refuse a claim solely on the ground that the claim was sub-
 16 mitted by a physician assistant rather than by a [*supervising*] **collaborating** physician for the phy-
 17 sician assistant.

18 (2) This section is exempt from ORS 743A.001.

19 **SECTION 11.** ORS 677.510 is repealed.

20 **SECTION 12.** The amendments to ORS 743A.044 by section 10 of this 2019 Act apply to
 21 claims submitted on and after the operative date of this 2019 Act.

22 **SECTION 13.** (1) Sections 2 and 3 of this 2019 Act, the amendments to ORS 441.064,
 23 677.495, 677.511, 677.515, 677.518, 688.510 and 743A.044 by sections 4 to 10 of this 2019 Act and
 24 the repeal of ORS 677.510 by section 11 of this 2019 Act become operative on January 1, 2020.

25 (2) The Board of Medical Imaging, the Oregon Medical Board and the State Board of
 26 Pharmacy may take any action before the operative date specified in subsection (1) of this
 27 section that is necessary to enable the boards to exercise, on and after the operative date
 28 specified in subsection (1) of this section, all of the duties, functions and powers conferred
 29 on the boards by sections 2 and 3 of this 2019 Act, the amendments to ORS 441.064, 677.495,
 30 677.511, 677.515, 677.518, 688.510 and 743A.044 by sections 4 to 10 of this 2019 Act and the re-
 31 peal of ORS 677.510 by section 11 of this 2019 Act.

32 **SECTION 14.** This 2019 Act being necessary for the immediate preservation of the public
 33 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
 34 on its passage.