

A-Engrossed
House Bill 4081

Ordered by the House February 18
Including House Amendments dated February 18

Sponsored by Representative MITCHELL, Senator STEINER HAYWARD; Representatives ALONSO LEON, GREENLICK, HOLVEY, KENY-GUYER, LIVELY, MEEK, PRUSAK, SCHOUTEN, Senators KNOPP, MONNES ANDERSON (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.

[Removes requirement that physician assistant practice under supervising physician. Requires physician assistant to enter into collaboration agreement with physician, podiatric physician or qualified physician assistant. Defines "collaboration agreement."]

Requires supervising physician, or supervising physician organization, to enter into practice agreement with physician assistant in order to use services of physician assistant. Prohibits Oregon Medical Board from requiring minimum number of hours during which supervising physician must be physically present to provide supervision. Requires that physician assistant have appropriate access to supervising physician. Requires physician assistant who prescribes and dispenses prescription drugs to maintain specified records and follow specified prescription labeling requirements.

Becomes operative January 1, 2021.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

5 **SECTION 1.** ORS 677.495 is amended to read:

6 677.495. As used in ORS 677.495 to 677.535[, *unless the context requires otherwise*]:

7 (1) "Physician assistant" means a person who is licensed in accordance with ORS 677.505 to
8 677.525.

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

12 (3) "Supervising physician" means a physician licensed under ORS 677.100 to 677.228, or a
13 podiatric physician and surgeon licensed under ORS 677.805 to 677.840, who supervises a physician
14 assistant.

15 (4) "Supervising physician organization" means a group of supervising physicians that collec-
16 tively supervises a physician assistant.

17 (5) "Supervision" means the acts of overseeing and accepting responsibility for the medical ser-
18 vices provided by a physician assistant in accordance with a practice agreement[, *including regular*
19 *and routine oversight and chart review*].

20 **SECTION 2.** ORS 677.510 is amended to read:

21 677.510. [(1) *A person licensed to practice medicine under this chapter may not use the services of*

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 *a physician assistant without the prior approval of the Oregon Medical Board.]*

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

4 *[(a) If the applicant is not a supervising physician organization, state the name and contact infor-*
5 *mation of the supervising physician;]*

6 *[(b) If the applicant is a supervising physician organization:]*

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

8 *[(B) State the name of the primary supervising physician required by subsection (5) of this*
9 *section;]*

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

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

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

14 *[(3) The board shall approve or reject an application within seven working days after the board*
15 *receives the application, unless the board is conducting an investigation of the supervising physician*
16 *or of any of the supervising physicians in a supervising physician organization applying to use the*
17 *services of a physician assistant.]*

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

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

23 *[(6)(a) A physician assistant may not practice medicine until the physician assistant enters into a*
24 *practice agreement with a supervising physician or supervising physician organization whose applica-*
25 *tion has been approved under subsection (3) of this section. The practice agreement must:]*

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

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

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

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

35 *[(E) Describe the prescriptive and medication administration privileges that the physician assistant*
36 *will exercise.]*

37 *[(F) Provide the list of settings and licensed facilities in which the physician assistant will provide*
38 *services.]*

39 *[(G) State that the physician assistant and each supervising physician is in full compliance with*
40 *the laws and regulations governing the practice of medicine by physician assistants, supervising phy-*
41 *sicians and supervising physician organizations and acknowledge that violation of laws or regulations*
42 *governing the practice of medicine may subject the physician assistant and supervising physician or*
43 *supervising physician organization to discipline.]*

44 *[(H) Be signed by the supervising physician or the primary supervising physician of the supervising*
45 *physician organization and by the physician assistant.]*

1 *[(I) Be updated at least every two years.]*

2 *[(b) The supervising physician or supervising physician organization shall provide the board with*
3 *a copy of the practice agreement within 10 days after the physician assistant begins practice with the*
4 *supervising physician or supervising physician organization. The supervising physician or supervising*
5 *physician organization shall keep a copy of the practice agreement at the practice location and make*
6 *a copy of the practice agreement available to the board on request. The practice agreement is not sub-*
7 *ject to board approval, but the board may request a meeting with a supervising physician or supervis-*
8 *ing physician organization and a physician assistant to discuss a practice agreement.]*

9 *[(7) A physician assistant's supervising physician shall ensure that the physician assistant is com-*
10 *petent to perform all duties delegated to the physician assistant. The supervising physician or super-*
11 *vising physician organization and the physician assistant are responsible for ensuring the competent*
12 *practice of the physician assistant.]*

13 *[(8) A supervising physician or the agent of a supervising physician must be competent to perform*
14 *the duties delegated to the physician assistant by the supervising physician or by a supervising physi-*
15 *cian organization.]*

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

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

20 *[(b) The proximity of a supervising physician and the methods and means of supervision be ap-*
21 *propriate to the practice setting and the patient conditions treated in the practice setting.]*

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

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

27 *[(11) If a physician assistant is not supervised by a supervising physician organization, the physi-*
28 *cian assistant may be supervised by no more than four supervising physicians, unless the board ap-*
29 *proves a request from the physician assistant, or from a supervising physician, for the physician*
30 *assistant to be supervised by more than four supervising physicians.]*

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

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

38 *[(14) A physician assistant may render services in any setting included in the practice agreement.]*

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

42 *[(a) A pain management education program approved by the board and developed in conjunction*
43 *with the Pain Management Commission established under ORS 413.570; or]*

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

45 **(1) A supervising physician may not use the services of a physician assistant unless the**

1 **supervising physician enters into a practice agreement described in subsection (5) of this**
2 **section.**

3 **(2) A supervising physician may not enter into a practice agreement if:**

4 **(a) The supervising physician is the subject of an investigation conducted by the Oregon**
5 **Medical Board; or**

6 **(b) An action of the board prohibits the supervising physician from entering into a**
7 **practice agreement.**

8 **(3) A supervising physician organization may enter into a practice agreement under this**
9 **section. A supervising physician organization shall designate in the practice agreement a**
10 **primary supervising physician.**

11 **(4) A physician assistant may not practice medicine unless the physician assistant enters**
12 **into a practice agreement with a supervising physician or supervising physician organization**
13 **under this section.**

14 **(5) A practice agreement must:**

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

17 **(b) Describe the degree and methods of supervision that the supervising physician or**
18 **supervising physician organization will use. The degree of supervision, whether general, di-**
19 **rect or personal, must be based on the level of education, competencies and experience of**
20 **the physician assistant as determined by the supervising physician or supervising physician**
21 **organization.**

22 **(c) Generally describe the medical duties within the physician assistant's scope of prac-**
23 **tice.**

24 **(d) State that the physician assistant and each supervising physician is in compliance**
25 **with the laws and rules of this state that govern the practice of medicine by physician as-**
26 **stants, supervising physicians and supervising physician organizations, and acknowledge**
27 **that violations of the laws or rules described in this paragraph may subject the physician**
28 **assistant and supervising physician or supervising physician organization to discipline.**

29 **(e) Be signed by the supervising physician, or the primary supervising physician desig-**
30 **ned under subsection (3) of this section, and the physician assistant.**

31 **(6) The practice agreement must be kept current, maintained at the physician assistant's**
32 **primary practice location and made available to the board upon request.**

33 **(7)(a) A supervising physician or supervising physician organization shall ensure that the**
34 **physician assistant with whom the supervising physician has entered into a practice agree-**
35 **ment under this section is competent to perform all duties described in the practice agree-**
36 **ment. The supervising physician, or supervising physician organization, and the physician**
37 **assistant are responsible for ensuring the competent practice of the physician assistant.**

38 **(b) The supervising physician, or primary supervising physician designated by the super-**
39 **vising physician organization, must be competent to perform the duties within the scope of**
40 **practice of the physician assistant.**

41 **(8) The board may not require a minimum number of hours during which a supervising**
42 **physician be physically present while the physician assistant is providing services.**

43 **(9) The physician assistant, while providing services, must have appropriate access to a**
44 **supervising physician:**

45 **(a) As indicated by the condition of the patient, the education, competencies and experi-**

1 **ence of the physician assistant and the community standard of care; and**

2 **(b) Through synchronous or asynchronous technology.**

3 **(10)(a) A supervising physician organization may supervise any number of physician as-**
4 **assistants. The board may not adopt rules to limit the number of physician assistants that a**
5 **supervising physician organization may supervise.**

6 **(b) A physician assistant supervised by a supervising physician organization may be**
7 **supervised by any of the supervising physicians in the supervising physician organization.**

8 **(c) A supervising physician organization shall provide to the board a list of the names**
9 **of the supervising physicians in the supervising physician organization.**

10 **(11) A supervising physician who enters into a practice agreement under this section**
11 **shall review the laws and rules of this state that relate to the practice of physician assistants**
12 **and to the role of a supervising physician.**

13 **(12) A physician assistant that enters into a practice agreement under this section on**
14 **or after January 2, 2006, shall submit to the board, within 24 months after entering into the**
15 **practice agreement, documentation of completion of:**

16 **(a) A pain management education program approved by the board and developed in con-**
17 **junction with the Pain Management Commission under ORS 413.570; or**

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

19 **SECTION 3.** ORS 677.511 is amended to read:

20 677.511. *[(1)(a) A supervising physician or supervising physician organization may apply to the*
21 *Oregon Medical Board for authority for a physician assistant to dispense drugs specified by the*
22 *supervising physician or supervising physician organization.]*

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

26 *[(2) The board shall adopt rules establishing standards and qualifications for physician assistants*
27 *with dispensing authority. The rules must require:]*

28 *[(a) A physician assistant seeking dispensing authority to complete a drug dispensing training*
29 *program; and]*

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

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

33 *[(B) Submit an annual report to the board on the physician assistant's use of dispensing*
34 *authority;]*

35 *[(C) Submit to the board a list of the drugs or classes of drugs that the supervising physician or*
36 *supervising physician organization proposes to authorize the physician assistant to dispense; and]*

37 *[(D) Submit to the board documentation showing that the supervising physician or supervising*
38 *physician organization has registered the facility from which the physician assistant will dispense*
39 *drugs as a drug outlet with the State Board of Pharmacy under ORS 689.305.]*

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

42 *[(4) A supervising physician or supervising physician organization that supervises a physician as-*
43 *stant with dispensing authority shall comply with rules adopted by the State Board of Pharmacy re-*
44 *lating to registration, acquisition, storage, integrity, security, access, dispensing and disposal of drugs,*
45 *record keeping and consultation with pharmacists.]*

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

6 *[(6) Drugs dispensed by a physician assistant with dispensing authority under this section must*
7 *be personally dispensed by the physician assistant.]*

8 **(1) Except as permitted under ORS 677.515, a physician assistant may not dispense con-**
9 **trolled substances classified in Schedule I or II under the federal Controlled Substances Act,**
10 **21 U.S.C. 811 and 812, as modified under ORS 475.035.**

11 **(2) Prescription drugs dispensed by a physician assistant must be personally dispensed**
12 **by the physician assistant. Nonjudgmental dispensing functions may be delegated to staff**
13 **assistants if the accuracy and completeness of the prescription is first verified by the phy-**
14 **sician assistant.**

15 **(3) The dispensing physician assistant shall maintain records of receipt and distribution**
16 **of prescription drugs. The records shall be readily accessible and subject to inspection by the**
17 **Oregon Medical Board.**

18 **(4) The dispensing physician assistant shall label prescription drugs with the following**
19 **information:**

20 **(a) The name of the patient;**

21 **(b) The name and address of the dispensing physician assistant;**

22 **(c) Date of dispensing;**

23 **(d) Cautionary statements, if any, as required by law;**

24 **(e) When applicable and as determined by the State Board of Pharmacy, an expiration**
25 **date after which the patient should not use the drug; and**

26 **(f) The name of the drug. If the dispensed drug does not have a brand name, the pre-**
27 **scription label must indicate the generic name of the drug dispensed, the name of the drug**
28 **distributor or manufacturer, its quantity per unit and the directions for its use. If the drug**
29 **is a compound, the quantity per unit need not be stated.**

30 **(5) Prescription drugs must be dispensed in containers complying with the federal Poison**
31 **Prevention Packaging Act unless the patient requests a noncomplying container.**

32 **SECTION 4.** ORS 677.515 is amended to read:

33 677.515. (1) A physician assistant [*licensed under ORS 677.512*] may provide any medical service,
34 including prescribing and administering controlled substances in Schedules II through V under the
35 federal Controlled Substances Act:

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

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

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

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

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

44 *[(f)]* **(b)** For which the physician assistant has obtained informed consent as provided in ORS
45 677.097, if informed consent is required.

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

4 (3) The degree of independent judgment that a physician assistant may exercise shall be deter-
5 mined by the supervising physician, or supervising physician organization, and the physician assist-
6 ant [*in accordance with the practice agreement*] **and must be within the physician assistant's**
7 **scope of practice and generally described in the practice agreement entered into under ORS**
8 **677.510.**

9 (4)(a) [*A supervising physician, upon the approval of the board and in accordance with the rules*
10 *established by the board, may delegate to the physician assistant the authority to administer and pre-*
11 *scribe medications pursuant to this section and ORS 677.535.*] **A physician assistant may prescribe,**
12 **dispense and administer prescription drugs in accordance with this section, ORS 677.511 and**
13 **rules adopted by the board.**

14 (b) The board may not limit the privilege of administering, dispensing and prescribing **pre-**
15 **scription drugs** to population groups federally designated as underserved, or to geographic areas
16 of the state that are federally designated health professional shortage areas, federally designated
17 medically underserved areas or areas designated as medically disadvantaged and in need of primary
18 health care providers by the Director of the Oregon Health Authority or the Office of Rural Health.
19 All prescriptions written pursuant to this subsection must bear the name, office address and tele-
20 phone number of the [*supervising*] physician **assistant.**

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

23 (6) Prescriptions for medications prescribed by a physician assistant in accordance with this
24 section and ORS 475.005, 677.010, 677.500, [677.510] **677.511** and 677.535 and dispensed by a licensed
25 pharmacist may be filled by the pharmacist according to the terms of the prescription, and the filling
26 of such a prescription does not constitute evidence of negligence on the part of the pharmacist if
27 the prescription was dispensed within the reasonable and prudent practice of pharmacy.

28 **SECTION 5.** ORS 677.518 is amended to read:

29 677.518. A physician assistant[, *practicing under the supervision of a supervising physician or a*
30 *supervising physician organization, is authorized to*] **may** complete and sign reports of death. Reports
31 of death signed by a physician assistant shall [*be accepted as fulfilling*] **fulfill** all of the laws dealing
32 with reports of death. A physician assistant who prepares a report of death [*must*] **shall** comply with
33 all provisions of ORS 432.133.

34 **SECTION 6.** **A physician assistant practicing under a practice agreement that was en-**
35 **tered into or updated before the operative date specified in section 7 of this 2020 Act may**
36 **continue to practice under the practice agreement until the date on which the practice**
37 **agreement must be updated.**

38 **SECTION 7.** (1) The amendments to ORS 677.495, 677.510, 677.511, 677.515 and 677.518 by
39 sections 1 to 5 of this 2020 Act become operative on January 1, 2021.

40 (2) The Oregon Medical Board may take any action before the operative date specified in
41 subsection (1) of this section that is necessary to enable the board to exercise, on and after
42 the operative date specified in subsection (1) of this section, all of the duties, functions and
43 powers conferred on the board by the amendments to ORS 677.495, 677.510, 677.511, 677.515
44 and 677.518 by sections 1 to 5 of this 2020 Act.

45 **SECTION 8.** This 2020 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**
2 **on its passage.**

3
