

Enrolled House Bill 4096

Sponsored by Representative HAYDEN, Senator STEINER HAYWARD, Representative PRUSAK, Senator PATTERSON; Representatives ALONSO LEON, BONHAM, BYNUM, DEXTER, GRAYBER, MOORE-GREEN, NOBLE, SALINAS, SMITH DB, Senator SOLLMAN (Presession filed.)

CHAPTER

AN ACT

Relating to volunteer health care practitioners; creating new provisions; amending ORS 677.080, 677.135, 678.021, 679.025, 680.020, 683.020, 685.020 and 689.225; and prescribing an effective date.

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

SECTION 1. (1) **As used in this section:**

(a) **“Health care practitioner” means a person authorized in another state or United States territory to practice as a physician, physician assistant, nurse, nurse practitioner, clinical nurse specialist, dentist, dental hygienist, dental therapist, pharmacist, optometrist or naturopathic physician.**

(b) **“Health professional regulatory board” means the:**

- (A) Oregon Board of Dentistry;
- (B) Oregon Board of Naturopathic Medicine;
- (C) Oregon Board of Optometry;
- (D) Oregon Medical Board;
- (E) Oregon State Board of Nursing; and
- (F) State Board of Pharmacy.

(2) **A health care practitioner may practice, without compensation and in connection with a coordinating organization or other entity, the health care profession that the health care practitioner is authorized to practice for 30 days each calendar year or the number of days otherwise provided pursuant to subsection (8) of this section. A health care practitioner is not required to apply for licensure or other authorization from a health professional regulatory board in order to practice under this section.**

(3) **To practice under this section, a health care practitioner shall submit, at least 10 days prior to commencing practice in this state, to the health professional regulatory board substantially similar to the health care practitioner’s licensing agency:**

(a) **Proof that the health care practitioner is in good standing and is not the subject of an active disciplinary action;**

(b) **An acknowledgement that the health care practitioner may provide services only within the scope of practice of the health care profession that the health care practitioner is authorized to practice and will provide services pursuant to the scope of practice of this state or the health care practitioner’s licensing agency, whichever is more restrictive;**

(c) An attestation that the health care practitioner will not receive compensation for practice in this state;

(d) The name and contact information of the coordinating organization or other entity through which the health care practitioner will practice; and

(e) The dates on which the health care practitioner will practice in this state.

(4) Except as otherwise provided, a health care practitioner practicing under this section is subject to the laws and rules governing the health care profession that the health care practitioner is authorized to practice and to disciplinary action by the appropriate health professional regulatory board.

(5) A health care practitioner who is authorized to practice in more than one other jurisdiction shall provide to the appropriate health professional regulatory board proof, as determined sufficient by the health professional regulatory board, that the health care practitioner is in good standing and not subject to any active disciplinary actions in any jurisdiction in which the health care practitioner is authorized to practice.

(6)(a) The coordinating organization or other entity that uses the services of a health care practitioner shall confirm with the health care practitioner's licensing agency that the health care practitioner is:

(A) Authorized to practice the health care profession claimed by the health care practitioner;

(B) In good standing; and

(C) Not subject to any active disciplinary actions.

(b) The coordinating organization or other entity shall maintain:

(A) Records of the information described in paragraph (a) of this subsection related to a health care practitioner for two years after the termination of the health care practitioner's practice in this state.

(B) Records of patients to whom a health care practitioner provided services, in compliance with all patient confidentiality requirements of this state, except as those requirements are expressly prohibited by the law of any other state where a patient's medical records are maintained.

(c) A coordinating organization or other entity may pay or reimburse a health care practitioner for actual incurred travel costs associated with the health care practitioner's practice under this section.

(7) A hospital or other health care facility may not use the services of a health care practitioner in order to meet staffing needs during a labor dispute at the hospital or facility.

(8)(a) A health professional regulatory board may adopt by rule a duration longer than 30 days each calendar year during which a health care practitioner may practice under subsection (2) of this section.

(b) A health professional regulatory board may adopt other rules necessary to carry out this section, including rules requiring a health care practitioner to receive approval of and confirmation from the health professional regulatory board that the health care practitioner is authorized to practice under this section.

(9) This section does not create a private right of action against a health professional regulatory board or limit the liability of a health professional regulatory board under any other provision of law.

SECTION 2. ORS 677.080 is amended to read:

677.080. [No person shall] **A person may not:**

(1) Knowingly make any false statement or representation on a matter, or willfully conceal any fact material to the right of the person to practice medicine or to obtain a license under this chapter.

(2) Sell or fraudulently obtain or furnish any medical and surgical diploma, license, record or registration, or aid or abet in the same.

(3) Impersonate anyone to whom a license has been granted by the Oregon Medical Board.

(4) Except as provided in ORS 677.060 and section 1 of this 2022 Act, practice medicine in this state without a license required by this chapter.

SECTION 3. ORS 677.135 is amended to read:

677.135. As used in ORS 677.135 to 677.141[,]:

(1) “The practice of medicine across state lines” means:

[(1)] (a) The rendering directly to a person of a written or otherwise documented medical opinion concerning the diagnosis or treatment of that person located within this state for the purpose of patient care by a physician or physician assistant located outside this state as a result of the transmission of individual patient data by electronic or other means from within this state to that physician, the physician’s agent or a physician assistant; or

[(2)] (b) The rendering of medical treatment directly to a person located within this state by a physician or a physician assistant located outside this state as a result of the outward transmission of individual patient data by electronic or other means from within this state to that physician, the physician’s agent or a physician assistant.

(2) “The practice of medicine across state lines” does not include the practice of medicine by a person practicing in this state under section 1 of this 2022 Act.

SECTION 4. ORS 678.021 is amended to read:

678.021. **Except as provided in section 1 of this 2022 Act**, it [shall be] is unlawful for any person to practice nursing or offer to practice nursing in this state or to use any title or abbreviation, sign, card or device to indicate the person is practicing either practical or registered nursing unless the person is licensed under ORS 678.010 to 678.410 at the level for which the indication of practice is made and the license is valid and in effect.

SECTION 5. ORS 679.025 is amended to read:

679.025. (1) A person may not practice dentistry or purport to be a dentist without a valid license to practice dentistry issued by the Oregon Board of Dentistry.

(2) Subsection (1) of this section does not apply to:

(a) Dentists licensed in another state or country making a clinical presentation sponsored by a bona fide dental society or association or an accredited dental educational institution approved by the board.

(b) Bona fide full-time students of dentistry who, during the period of their enrollment and as a part of the course of study in an Oregon accredited dental education program, engage in clinical studies on the premises of such institution or in a clinical setting located off the premises of the institution if the facility, the instructional staff and the course of study to be pursued at the off-premises location meet minimum requirements prescribed by the rules of the board and the clinical study is performed under the indirect supervision of a member of the faculty.

(c) Bona fide full-time students of dentistry who, during the period of their enrollment and as a part of the course of study in a dental education program located outside of Oregon that is accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, engage in community-based or clinical studies as an elective or required rotation in a clinical setting located in Oregon if the community-based or clinical studies meet minimum requirements prescribed by the rules of the board and are performed under the indirect supervision of a member of the faculty of the Oregon Health and Science University School of Dentistry.

(d) Candidates who are preparing for a licensure examination to practice dentistry and whose application has been accepted by the board or its agent, if the clinical preparation is conducted in a clinic located on premises approved for that purpose by the board and if the procedures are limited to examination only. This exception shall exist for a period not to exceed two weeks immediately prior to a regularly scheduled licensure examination.

(e) Dentists practicing in the discharge of official duties as employees of the United States Government and any of its agencies.

(f) Instructors of dentistry, whether full- or part-time, while exclusively engaged in teaching activities and while employed in accredited dental educational institutions.

(g) Dentists **who are** employed by public health agencies **and** who are not engaged in the direct delivery of clinical dental services to patients.

(h) Persons licensed to practice medicine in the State of Oregon in the regular discharge of their duties.

(i) Persons qualified to perform services relating to general anesthesia or sedation under the direct supervision of a licensed dentist.

(j)(A) Dentists licensed in another [state or] country and in good standing, while practicing dentistry without compensation for no more than five consecutive days in any 12-month period, provided the dentist submits an application to the board at least 10 days before practicing dentistry under this [paragraph] **subparagraph** and the application is approved by the board.

(B) Dentists licensed in another state or United States territory and practicing in this state under section 1 of this 2022 Act.

(k) Persons practicing dentistry upon themselves as the patient.

(L) Dental hygienists, dental assistants or dental technicians performing services under the supervision of a licensed dentist in accordance with the rules adopted by the board.

(m) A person licensed as a denturist under ORS 680.500 to 680.565 engaged in the practice of denture technology.

(n) An expanded practice dental hygienist who renders services authorized by a permit issued by the board pursuant to ORS 680.200.

SECTION 6. ORS 680.020 is amended to read:

680.020. (1) It is unlawful for any person not otherwise authorized by law to practice dental hygiene or purport to be a dental hygienist without a valid license to practice dental hygiene issued by the Oregon Board of Dentistry.

(2) Subsection (1) of this section does not apply to:

(a) Dental hygienists licensed in another state making a clinical presentation sponsored by a bona fide dental or dental hygiene society or association or an accredited dental or dental hygiene education program approved by the board.

(b) Bona fide students of dental hygiene who engage in clinical studies during the period of their enrollment and as a part of the course of study in an Oregon dental hygiene education program. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association, or its successor agency, and approved by the board. The clinical study may be conducted on the premises of the program or in a clinical setting located off the premises. The facility, the instructional staff and the course of study at the off-premises location must meet minimum requirements prescribed by the rules of the board, and the clinical study at the off-premises location must be performed under the indirect supervision of a member of the faculty.

(c) Bona fide students of dental hygiene who engage in community-based or clinical studies as an elective or required rotation in a clinical setting located in Oregon during the period of their enrollment and as a part of the course of study in a dental hygiene education program located outside of Oregon. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency. The community-based or clinical studies must:

(A) Meet minimum requirements prescribed by the rules of the board; and

(B) Be performed under the indirect supervision of a member of the faculty of the Oregon Health and Science University School of Dentistry or another Oregon institution with an accredited dental hygiene education program approved by the board.

(d) Students of dental hygiene or graduates of dental hygiene programs who engage in clinical studies as part of a course of study or continuing education course offered by an institution with a dental or dental hygiene program. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.

(e) Candidates who are preparing for licensure examination to practice dental hygiene and whose application has been accepted by the board or its agent, if the clinical preparation is conducted in a clinic located on premises approved for that purpose by the board and if the procedures are limited to examination only.

(f) Dental hygienists practicing in the discharge of official duties as employees of the United States Government and any of its agencies.

(g) Instructors of dental hygiene, whether full- or part-time, while exclusively engaged in teaching activities and while employed in accredited dental hygiene educational programs.

(h) Dental hygienists **who are** employed by public health agencies **and** who are not engaged in direct delivery of clinical dental hygiene services to patients.

(i) Counselors and health assistants who have been trained in the application of fluoride varnishes to the teeth of children and who apply fluoride varnishes only to the teeth of children enrolled in or receiving services from the Women, Infants and Children Program, the Oregon prekindergarten program or a federal Head Start grant program.

(j) Persons acting in accordance with rules adopted by the State Board of Education under ORS 336.213 to provide dental screenings to students.

(k) Dental hygienists licensed in another state [*and in good standing, while practicing dental hygiene without compensation for no more than five consecutive days in any 12-month period, provided the dental hygienist submits an application to the Oregon Board of Dentistry at least 10 days before practicing dental hygiene under this paragraph and the application is approved by the board*] **or United States territory and practicing in this state under section 1 of this 2022 Act.**

SECTION 7. ORS 683.020 is amended to read:

683.020. [*No person shall*] **Except as provided in section 1 of this 2022 Act, a person may not** engage in the practice of optometry or purport in any way to be an optometrist or an expert in the field of optometry without having first obtained a license from the Oregon Board of Optometry as provided for in ORS 683.010 to 683.340. In any prosecution for the violation of this section, the use of test cards, test lenses or of trial frames is prima facie evidence of the practice of optometry.

SECTION 8. ORS 685.020 is amended to read:

685.020. (1) Except as provided in subsection (3) of this section, [*no person shall*] **a person may not** practice, attempt to practice, or claim to practice naturopathic medicine in this state without first complying with the provisions of this chapter.

(2) Only licensees under this chapter may use any or all of the following terms, consistent with academic degrees earned: “Doctor of Naturopathy” or its abbreviation, “N.D.,” “Naturopath” or “Naturopathic Physician.” However, none of these terms, or any combination of them, shall be so used as to convey the idea that the physician who uses them practices anything other than naturopathic medicine.

(3) Subsection (1) of this section does not apply to:

(a) A bona fide student of naturopathic medicine who, during the period of the student’s enrollment and as part of a doctoral course of study in an Oregon accredited naturopathic educational institution, engages in clinical training under the supervision of institution faculty, if the clinical training facility and level of supervision meet the standards adopted by the Oregon Board of Naturopathic Medicine by rule.

(b) A person authorized to practice under section 1 of this 2022 Act.

SECTION 9. ORS 689.225 is amended to read:

689.225. (1) A person may not engage in the practice of pharmacy unless the person is licensed under this chapter **or authorized in another state or United States territory and is practicing under section 1 of this 2022 Act.** Nothing in this section prevents physicians, dentists, veterinarians or other practitioners of the healing arts who are licensed under the laws of this state from dispensing and administering prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by law of this state.

(2) A person may not take, use or exhibit the title of pharmacist or the title of druggist or apothecary, or any other title or description of like import unless the person is licensed to practice pharmacy under this chapter.

(3) A pharmacist may not possess personally or store drugs other than in a licensed pharmacy except for those drugs legally prescribed for the personal use of the pharmacist or when the

pharmacist possesses or stores the drugs in the usual course of business and within the pharmacist's scope of practice. An employee, agent or owner of any registered manufacturer, wholesaler or pharmacy may lawfully possess legend drugs if the person is acting in the usual course of the business or employment of the person.

(4) The State Board of Pharmacy shall adopt rules relating to the use of pharmacy technicians working under the supervision, direction and control of a pharmacist. For retail and institutional drug outlets, the board shall adopt rules which include requirements for training, including provisions for appropriate on-the-job training, guidelines for adequate supervision, standards and appropriate ratios for the use of pharmacy technicians. Improper use of pharmacy technicians is subject to the reporting requirements of ORS 689.455.

(5) The mixing of intravenous admixtures by pharmacy technicians working under the supervision, direction and control of a pharmacist is authorized and does not constitute the practice of pharmacy by the pharmacy technicians.

(6) Any person who is found to have unlawfully engaged in the practice of pharmacy is guilty of a Class A misdemeanor.

SECTION 10. (1) Section 1 of this 2022 Act and the amendments to ORS 677.080, 677.135, 678.021, 679.025, 680.020, 683.020, 685.020 and 689.225 by sections 2 to 9 of this 2022 Act become operative on January 1, 2023.

(2) The Oregon Board of Dentistry, Oregon Board of Naturopathic Medicine, Oregon Board of Optometry, Oregon Medical Board, Oregon State Board of Nursing and State Board of Pharmacy may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the boards to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the boards by section 1 of this 2022 Act and the amendments to ORS 677.080, 677.135, 678.021, 679.025, 680.020, 683.020, 685.020 and 689.225 by sections 2 to 9 of this 2022 Act.

SECTION 11. This 2022 Act takes effect on the 91st day after the date on which the 2022 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House February 21, 2022

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate February 28, 2022

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2022

Approved:

.....M.,....., 2022

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2022

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Shemia Fagan, Secretary of State