

HB 4096-7
(LC 116)
2/11/22 (SCT/ps)

Requested by HOUSE COMMITTEE ON HEALTH CARE (at the request of Representative Rachel Prusak)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4096**

1 On page 1 of the printed bill, line 2, delete “677.137,”.

2 Delete line 3 and insert “677.080, 677.135, 678.021, 679.025, 680.020, 683.020,
3 685.020 and 689.225; and prescribing an effective date.”.

4 Delete lines 5 through 28 and delete pages 2 through 7 and insert:

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

6 **“(a) ‘Health care practitioner’ means a person authorized in an-**
7 **other state or United States territory to practice as a physician, phy-**
8 **sician assistant, nurse, nurse practitioner, clinical nurse specialist,**
9 **dentist, dental hygienist, dental therapist, pharmacist, optometrist or**
10 **naturopathic physician.**

11 **“(b) ‘Health professional regulatory board’ means the:**

12 **“(A) Oregon Board of Dentistry;**

13 **“(B) Oregon Board of Naturopathic Medicine;**

14 **“(C) Oregon Board of Optometry;**

15 **“(D) Oregon Medical Board;**

16 **“(E) Oregon State Board of Nursing; and**

17 **“(F) State Board of Pharmacy.**

18 **“(2) A health care practitioner may practice, without compensation**
19 **and in connection with a coordinating organization or other entity, the**
20 **health care profession that the health care practitioner is authorized**
21 **to practice for 30 days each calendar year or the number of days oth-**

1 otherwise provided pursuant to subsection (8) of this section. A health
2 care practitioner is not required to apply for licensure or other au-
3 thorization from a health professional regulatory board in order to
4 practice under this section.

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

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

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

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

19 “(d) The name and contact information of the coordinating organ-
20 ization or other entity through which the health care practitioner will
21 practice; and

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

24 “(4) Except as otherwise provided, a health care practitioner prac-
25 ticing under this section is subject to the laws and rules governing the
26 health care profession that the health care practitioner is authorized
27 to practice and to disciplinary action by the appropriate health pro-
28 fessional regulatory board.

29 “(5) A health care practitioner who is authorized to practice in
30 more than one other jurisdiction shall provide to the appropriate

1 health professional regulatory board proof, as determined sufficient
2 by the health professional regulatory board, that the health care
3 practitioner is in good standing and not subject to any active discipli-
4 nary actions in any jurisdiction in which the health care practitioner
5 is authorized to practice.

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

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

12 “(B) In good standing; and

13 “(C) Not subject to any active disciplinary actions.

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

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

18 “(B) Records of patients to whom a health care practitioner pro-
19 vided services, in compliance with all patient confidentiality require-
20 ments of this state, except as those requirements are expressly
21 prohibited by the law of any other state where a patient’s medical re-
22 cords are maintained.

23 “(c) A coordinating organization or other entity may pay or reim-
24 burse a health care practitioner for actual incurred travel costs asso-
25 ciated with the health care practitioner’s practice under this section.

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

29 “(8)(a) A health professional regulatory board may adopt by rule a
30 duration longer than 30 days each calendar year during which a health

1 **care practitioner may practice under subsection (2) of this section.**

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

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

10 **“SECTION 2.** ORS 677.080 is amended to read:

11 **“677.080. [No person shall] A person may not:**

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

15 **“(2) Sell or fraudulently obtain or furnish any medical and surgical di-**
16 **ploma, license, record or registration, or aid or abet in the same.**

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

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

21 **“SECTION 3.** ORS 677.135 is amended to read:

22 **“677.135. As used in ORS 677.135 to 677.141[,]:**

23 **“(1) ‘The practice of medicine across state lines’ means:**

24 **“[(1)] (a) The rendering directly to a person of a written or otherwise**
25 **documented medical opinion concerning the diagnosis or treatment of that**
26 **person located within this state for the purpose of patient care by a physi-**
27 **cian or physician assistant located outside this state as a result of the**
28 **transmission of individual patient data by electronic or other means from**
29 **within this state to that physician, the physician’s agent or a physician as-**
30 **stant; or**

1 “[2] (b) The rendering of medical treatment directly to a person located
2 within this state by a physician or a physician assistant located outside this
3 state as a result of the outward transmission of individual patient data by
4 electronic or other means from within this state to that physician, the
5 physician’s agent or a physician assistant.

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

9 “SECTION 4. ORS 678.021 is amended to read:

10 “678.021. **Except as provided in section 1 of this 2022 Act,** it [*shall*
11 *be*] **is** unlawful for any person to practice nursing or offer to practice nursing
12 in this state or to use any title or abbreviation, sign, card or device to in-
13 dicate the person is practicing either practical or registered nursing unless
14 the person is licensed under ORS 678.010 to 678.410 at the level for which the
15 indication of practice is made and the license is valid and in effect.

16 “SECTION 5. ORS 679.025 is amended to read:

17 “679.025. (1) A person may not practice dentistry or purport to be a den-
18 tist without a valid license to practice dentistry issued by the Oregon Board
19 of Dentistry.

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

21 “(a) Dentists licensed in another state or country making a clinical pres-
22 entation sponsored by a bona fide dental society or association or an ac-
23 credited dental educational institution approved by the board.

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

1 supervision of a member of the faculty.

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

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

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

20 “(f) Instructors of dentistry, whether full- or part-time, while exclusively
21 engaged in teaching activities and while employed in accredited dental edu-
22 cational institutions.

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

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

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

29 “(j)(A) Dentists licensed in another [*state or*] country and in good stand-
30 ing, while practicing dentistry without compensation for no more than five

1 consecutive days in any 12-month period, provided the dentist submits an
2 application to the board at least 10 days before practicing dentistry under
3 this [*paragraph*] **subparagraph** and the application is approved by the board.

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

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

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

10 “(m) A person licensed as a denturist under ORS 680.500 to 680.565 en-
11 gaged in the practice of denture technology.

12 “(n) An expanded practice dental hygienist who renders services author-
13 ized by a permit issued by the board pursuant to ORS 680.200.

14 “**SECTION 6.** ORS 680.020 is amended to read:

15 “680.020. (1) It is unlawful for any person not otherwise authorized by law
16 to practice dental hygiene or purport to be a dental hygienist without a valid
17 license to practice dental hygiene issued by the Oregon Board of Dentistry.

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

19 “(a) Dental hygienists licensed in another state making a clinical pres-
20 entation sponsored by a bona fide dental or dental hygiene society or asso-
21 ciation or an accredited dental or dental hygiene education program
22 approved by the board.

23 “(b) Bona fide students of dental hygiene who engage in clinical studies
24 during the period of their enrollment and as a part of the course of study in
25 an Oregon dental hygiene education program. The program must be accred-
26 ited by the Commission on Dental Accreditation of the American Dental
27 Association, or its successor agency, and approved by the board. The clinical
28 study may be conducted on the premises of the program or in a clinical set-
29 ting located off the premises. The facility, the instructional staff and the
30 course of study at the off-premises location must meet minimum requirements

1 prescribed by the rules of the board, and the clinical study at the off-
2 premises location must be performed under the indirect supervision of a
3 member of the faculty.

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

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

13 “(B) Be performed under the indirect supervision of a member of the fac-
14 ulty of the Oregon Health and Science University School of Dentistry or
15 another Oregon institution with an accredited dental hygiene education
16 program approved by the board.

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

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

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

29 “(g) Instructors of dental hygiene, whether full- or part-time, while ex-
30 clusively engaged in teaching activities and while employed in accredited

1 dental hygiene educational programs.

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

5 “(i) Counselors and health assistants who have been trained in the ap-
6 plication of fluoride varnishes to the teeth of children and who apply
7 fluoride varnishes only to the teeth of children enrolled in or receiving ser-
8 vices from the Women, Infants and Children Program, the Oregon
9 prekindergarten program or a federal Head Start grant program.

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

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

19 “**SECTION 7.** ORS 683.020 is amended to read:

20 “683.020. [*No person shall*] **Except as provided in section 1 of this 2022**
21 **Act, a person may not** engage in the practice of optometry or purport in
22 any way to be an optometrist or an expert in the field of optometry without
23 having first obtained a license from the Oregon Board of Optometry as pro-
24 vided for in ORS 683.010 to 683.340. In any prosecution for the violation of
25 this section, the use of test cards, test lenses or of trial frames is prima facie
26 evidence of the practice of optometry.

27 “**SECTION 8.** ORS 685.020 is amended to read:

28 “685.020. (1) Except as provided in subsection (3) of this section, [*no per-*
29 *son shall*] **a person may not** practice, attempt to practice, or claim to
30 practice naturopathic medicine in this state without first complying with the

1 provisions of this chapter.

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

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

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

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

16 “**SECTION 9.** ORS 689.225 is amended to read:

17 “689.225. (1) A person may not engage in the practice of pharmacy unless
18 the person is licensed under this chapter **or authorized in another state**
19 **or United States territory and is practicing under section 1 of this 2022**
20 **Act.** Nothing in this section prevents physicians, dentists, veterinarians or
21 other practitioners of the healing arts who are licensed under the laws of
22 this state from dispensing and administering prescription drugs to their pa-
23 tients in the practice of their respective professions where specifically au-
24 thorized to do so by law of this state.

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

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

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

5 “(4) The State Board of Pharmacy shall adopt rules relating to the use
6 of pharmacy technicians working under the supervision, direction and con-
7 trol of a pharmacist. For retail and institutional drug outlets, the board shall
8 adopt rules which include requirements for training, including provisions for
9 appropriate on-the-job training, guidelines for adequate supervision, stan-
10 dards and appropriate ratios for the use of pharmacy technicians. Improper
11 use of pharmacy technicians is subject to the reporting requirements of ORS
12 689.455.

13 “(5) The mixing of intravenous admixtures by pharmacy technicians
14 working under the supervision, direction and control of a pharmacist is au-
15 thorized and does not constitute the practice of pharmacy by the pharmacy
16 technicians.

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

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

22 **“(2) The Oregon Board of Dentistry, Oregon Board of Naturopathic**
23 **Medicine, Oregon Board of Optometry, Oregon Medical Board, Oregon**
24 **State Board of Nursing and State Board of Pharmacy may take any**
25 **action before the operative date specified in subsection (1) of this sec-**
26 **tion that is necessary to enable the boards to exercise, on and after**
27 **the operative date specified in subsection (1) of this section, all of the**
28 **duties, functions and powers conferred on the boards by section 1 of**
29 **this 2022 Act and the amendments to ORS 677.080, 677.135, 678.021,**
30 **679.025, 680.020, 683.020, 685.020 and 689.225 by sections 2 to 9 of this 2022**

1 **Act.**

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

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