House Bill 4130

Sponsored by Representatives BOWMAN, DEXTER, Senators CAMPOS, PATTERSON; Representatives LEVY E, LIVELY, OWENS, REYNOLDS, Senators DEMBROW, GOLDEN, GORSEK (Presession 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 as introduced. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Keeps people in charge of a company of doctors from running the company if the same people also run another company that has a contract with the company of doctors. Does not allow the company to get rid of the people in charge without a vote by those who are doctors. Does not allow companies to keep their workers from working for someone else, saying that the company is bad or speaking out about the company's bad acts. Does not allow a company to punish those who speak out. (Flesch Reading Score: 60.6).

Prohibits a shareholder, director or officer of a professional corporation organized for the purpose of practicing medicine, or a professional corporation organized for the purpose of allowing physicians, physician assistants and nurse practitioners to jointly render professional health care services, from participating in managing the professional corporation, or voting shares in the professional corporation on any issue or corporate action that bears on the ownership, management or governance of the professional corporation, if the shareholder, director or officer is simultaneously a shareholder, director, member, officer or employee of a management services organization with which the professional corporation has a contract.

Prohibits a professional corporation from removing a director or an officer by means other than majority vote of directors or officers, as appropriate, who are licensed to practice medicine in this state.

Applies to limited liability companies or limited liability partnerships that are organized for a medical purpose, or as holding entities, certain requirements that otherwise apply only to professional corporations.

Prohibits noncompetition agreements for physicians licensed to practice medicine in this state unless the physician executes an agreement as part of the sale of 25 percent or more of a medical practice or unless the physician owns or controls the person with which the physician has the agreement.

Prohibits a management services organization from taking disciplinary action against a physician licensed to practice medicine in this state for the physician's violation of a noncompetition agreement, a nondisclosure agreement or a nondisparagement agreement or for disclosing or reporting information that the physician in good faith believes is a violation of federal or state law, rules or regulations.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the practice of health care; creating new provisions; amending ORS 58.375, 58.376, 58.381, 60.754, 63.074 and 441.025; and prescribing an effective date.

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

SECTION 1. ORS 58.375 is amended to read:

58.375. (1) In a professional corporation organized for the purpose of practicing medicine:

(a) Physicians who are licensed in this state to practice medicine must hold the majority of each class of shares that are entitled to vote.

(b) Physicians who are licensed in this state to practice medicine must be a majority of the directors.

(c) All officers except the secretary and treasurer, if any, must be physicians who are licensed in this state to practice medicine. The same person may hold any two or more offices.

(d) Except as otherwise provided by law, the Oregon Medical Board may expressly require that

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.

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physicians who are licensed in this state to practice medicine hold more than a majority of each
class of shares that is entitled to vote.

  (e) Except as otherwise provided by law, the Oregon Medical Board may expressly require that
physicians who are licensed in this state to practice medicine be more than a majority of the di-
rectors.

  (f)(A) A shareholder, director or officer may not participate in managing the professional
corporation and may not vote shares in the professional corporation on any issue or corpo-
rate action that bears on the ownership, management or governance of the professional
corporation if the shareholder, director or officer is simultaneously a shareholder, director,
member, officer or employee of a management services organization with which the profes-
sional corporation has a contract.

  (B) Subparagraph (A) of this paragraph does not apply if a professional corporation or-
ganized for the purpose of practicing medicine owns a majority of the interest in the man-
agement services organization.

(2)(a) Except as provided in paragraph (b) of this subsection, a professional corporation
organized for the purpose of practicing medicine may not provide in the professional
corporation's articles of incorporation or bylaws, or by means of a contract or other agree-
ment or arrangement, for removing a director described in subsection (1)(b) of this section
from the professional corporation's board of directors, or an officer described in subsection
(1)(c) of this section from an office of the professional corporation, except by a majority vote
of the shareholders described in subsection (1)(a) of this section or, as appropriate, a ma-
jority vote of the directors described in subsection (1)(b) of this section.

(b) A professional corporation organized for the purpose of practicing medicine may re-
move a director or officer by means other than a majority vote of the shareholders described
in subsection (1)(a) of this section or a majority vote of the directors described in subsection
(1)(b) of this section if the director or officer that is subject to removal:

  (A) Violated a duty of care, a duty of loyalty or another fiduciary duty to the professional
corporation;

  (B) Was the subject of a disciplinary proceeding by the Oregon Medical Board in which
the board suspended or revoked the director's or officer's license to practice medicine in this
state; or

  (C) Engaged in fraud, misfeasance or malfeasance with respect to the director's or
officer's performance of duties for or on behalf of the professional corporation.

(3)(a) Except as provided in paragraph (c) of this subsection, a professional corporation
organized for the purpose of practicing medicine may not provide in the professional
corporation's articles of incorporation or bylaws, by means of a contract or other agreement
or arrangement or by means of an agreement to restrict the transfer of shares of the pro-
fessional corporation, for relinquishing control or otherwise transferring control over the
professional corporation's assets, business operations or clinical decisions.

(b) The prohibition described in paragraph (a) of this subsection applies to any action in
which the professional corporation:

  (A) Sells, encumbers or transfers substantially all of the professional corporation's as-
sets;

  (B) Issues shares of stock in the professional corporation or pays dividends;

  (C) Hires, terminates, evaluates the performance of, or sets work schedules or compen-
sation or otherwise specifies terms of employment for, employees who are licensed to prac-
tice medicine in this state or who are licensed in this state as physician assistants or nurse
practitioners;

(D) Establishes staffing levels for any location that serves patients;

(E) Advertises the professional corporation’s services;

(F) Controls diagnostic coding decisions, establishes clinical standards and protocols or
makes policies for patient, client or customer billing and collection;

(G) Enters into, performs, enforces or terminates contracts with persons that are not
employees of the professional corporation; or

(H) Undertakes any other action that directly inhibits, conditions or interferes with the
clinical decisions or decision making processes of a physician, physician assistant or nurse
practitioner that the professional corporation employs or with whom the professional cor-
poration has a contract for services.

(c) A professional corporation organized for the purpose of practicing medicine may re-
linquish or transfer control over the professional corporation’s assets or business operations
or may cede control over the professional corporation’s clinical decisions only by means of
an executed shareholder agreement that:

(A) Is exclusively between or among and for the benefit of a majority of shareholders
who are physicians licensed in this state to practice medicine; and

(B) Complies with the provisions of ORS 60.265.

[(2)] (4) A professional corporation may be a shareholder of a professional corporation organized
for the purpose of practicing medicine solely for the purpose of effecting a reorganization as defined
in the Internal Revenue Code.

[(3)(a)] (5)(a) The provisions of subsections (1) and (2) to (4) of this section do not apply to:

(A) A nonprofit corporation that is organized under Oregon law the laws of this state to
provide medical services to migrant, rural, homeless or other medically underserved populations
under 42 U.S.C. 254b or 254c, as in effect on January 1, 2018 the effective date of this 2024
Act;

(B) A health center that is qualified under 42 U.S.C. 1396d(1)(2)(B), as in effect on January 1,
2018 the effective date of this 2024 Act, that operates in compliance with other applicable state
or federal law; or

(C) Except as provided in paragraph (b) of this subsection, a for-profit or nonprofit business enti-
ity that is incorporated or organized under the laws of this state, that provides the entirety of the
business entity’s medical services through one or more rural health clinics, as defined in 42 U.S.C.
1395x, as in effect on January 1, 2018 the effective date of this 2024 Act, and that operates in
compliance with state and federal laws that apply to rural health clinics.

(b) A business entity is exempt under this subsection for a period of up to one year after the
business entity establishes a rural health clinic, even though the rural health clinic that the busi-
ess entity establishes does not meet all of the elements of the definition set forth in 42 U.S.C.
1395x, as in effect on January 1, 2018 the effective date of this 2024 Act, if during the one-year
period an applicable certification for the rural health clinic is pending.

SECTION 2. ORS 58.376 is amended to read:

58.376. (1) As used in this section, “licensee” means an individual who has a license as a phy-
sician or a license as a physician assistant from the Oregon Medical Board or who has a license
as a nurse practitioner from the Oregon State Board of Nursing.
(2)(a) In a professional corporation that is organized for the purpose of allowing physicians, physician assistants and nurse practitioners to jointly render professional health care services, licensees must:

[(a)] (A) Hold a majority of each class of shares of the professional corporation that is entitled to vote; and

[(b)] (B) Be a majority of the directors of the professional corporation.

(b) All officers of a professional corporation described in paragraph (a) of this subsection, except the secretary and treasurer, if any, must be licensees. The same person may hold any two or more offices.

(3) An individual whom the professional corporation employs, or an individual who owns an interest in the professional corporation, may not direct or control the professional judgment of a licensee who is practicing within the professional corporation and within the scope of practice permitted under the licensee’s license.

(4) A licensee whom the professional corporation employs, or a licensee who owns an interest in the professional corporation, may not direct or control the services of another licensee who is practicing within the professional corporation unless the other licensee is also practicing within the scope of practice permitted under the licensee’s license.

(5)(a) A shareholder, director or officer of a professional corporation described in subsection (2)(a) of this section may not participate in managing the professional corporation and may not vote shares in the professional corporation on any issue or corporate action that bears on the ownership, management or governance of the professional corporation if the shareholder, director or officer is simultaneously a shareholder, director, member, officer or employee of a management services organization with which the professional corporation has a contract.

(b) Paragraph (a) of this subsection does not apply if a professional corporation described in subsection (2)(a) of this section owns a majority of the interest in the management services organization.

(6)(a) Except as provided in paragraph (b) of this subsection, a professional corporation described in subsection (2)(a) of this section may not provide in the professional corporation’s articles of incorporation or bylaws, or by means of a contract or other agreement or arrangement, for removing a director described in subsection (2)(a)(B) of this section from the professional corporation’s board of directors, or an officer described in subsection (2)(b) of this section from an office of the professional corporation, except by a majority vote of the shareholders described in subsection (2)(a)(A) of this section or, as appropriate, a majority vote of the directors described in subsection (2)(a)(B) of this section.

(b) A professional corporation described in subsection (2)(a) of this section may remove a director or officer by means other than a majority vote of the shareholders described in subsection (2)(a)(A) of this section or a majority vote of the directors described in subsection (2)(a)(B) of this section if the director or officer that is subject to removal:

(A) Violated a duty of care, a duty of loyalty or another fiduciary duty to the professional corporation;

(B) Was the subject of a disciplinary proceeding by the regulatory board that governs the director’s or officer’s practice as a licensee in which the board suspended or revoked the director’s or officer’s license; or

(C) Engaged in fraud, misfeasance or malfeasance with respect to the director’s or
officer's performance of duties for or on behalf of the professional corporation.

(7)(a) Except as provided in paragraph (c) of this subsection, a professional corporation described in subsection (2)(a) of this section may not provide in the professional corporation's articles of incorporation or bylaws, by means of a contract or other agreement or arrangement or by means of an agreement to restrict the transfer of shares of the public corporation, for relinquishing control or otherwise transferring control over the professional corporation's assets, business operations or clinical decisions.

(b) The prohibition described in paragraph (a) of this subsection applies to any action in which the professional corporation:

(A) Sells, encumbers or transfers substantially all of the professional corporation's assets;

(B) Issues shares of stock in the professional corporation or pays dividends;

(C) Hires, terminates, evaluates the performance of, or sets work schedules or compensation or otherwise specifies terms of employment for, employees who are licensed to practice medicine in this state or who are licensed in this state as physician assistants or nurse practitioners;

(D) Establishes staffing levels for any location that serves patients;

(E) Advertises the professional corporation's services;

(F) Controls diagnostic coding decisions, establishes clinical standards and protocols or makes policies for patient, client or customer billing and collection;

(G) Enters into, performs, enforces or terminates contracts with persons that are not employees of the professional corporation; or

(H) Undertakes any other action that directly inhibits, conditions or interferes with the clinical decisions or decision making processes of a physician, physician assistant or nurse practitioner that the professional corporation employs or with whom the professional corporation has a contract for services.

(c) A professional corporation described in subsection (2)(a) of this section may relinquish or transfer control over the professional corporation's assets or business operations or may cede control over the professional corporation's clinical decisions only by means of an executed shareholder agreement that:

(A) Is exclusively between or among and for the benefit of a majority of shareholders described in subsection (2)(a)(B) of this section; and

(B) Complies with the provisions of ORS 60.265.

 [[(5)] (8) A professional corporation that is subject to ORS 58.375 may elect to become subject to this section by amending the professional corporation's articles of incorporation or bylaws.

SECTION 3. ORS 58.381 is amended to read:

58.381. (1)(a) Except as provided in paragraph (b) of this subsection, a proxy to vote the shares of a professional corporation organized for the purpose of practicing medicine may be given under the following conditions:

[(a)] (A) If the shareholder granting the proxy is a physician licensed in this state to practice medicine, the proxy may be given only to a shareholder of the same corporation who is also a physician licensed in this state to practice medicine, or to an attorney licensed to practice law in this state or another person similarly licensed.

[(b)] (B) If the shareholder granting the proxy is not a physician licensed in this state to practice medicine, the proxy may be given only to another shareholder of the same corporation, whether
or not the other shareholder is a physician licensed in this state to practice medicine, or to an attorney licensed to practice law in this state or another person similarly licensed.

(b) A shareholder may not give a proxy to vote the shares of a professional corporation organized for the purpose of practicing medicine or a professional corporation organized for the purpose of allowing physicians, physician assistants and nurse practitioners to jointly render professional health care services if the shareholder is also a shareholder, director, member, officer or employee of a management services organization with which the professional corporation has a contract.

(2) [No] A voting trust may not be created to vote the shares of a professional corporation organized for the purpose of practicing medicine.

(3) Two or more shareholders of a professional corporation organized for the purpose of practicing medicine may enter into a voting agreement provided that the voting agreement does not transfer voting rights from a shareholder who is a physician licensed in this state to practice medicine to a shareholder who is not so licensed. Notwithstanding any provision of this subsection, voting rights may be transferred to an attorney licensed to practice law in this state or another person similarly licensed.

SECTION 4. Sections 5, 6 and 7 of this 2024 Act are added to and made a part of ORS chapter 58.

SECTION 5. As used in ORS 58.375, 58.376 and 58.381 and section 7 of this 2024 Act, “management services organization” means an entity that under a written agreement, and in return for compensation, provides any or all of the following management services to or on behalf of a professional corporation:

(1) Payroll;
(2) Human resources;
(3) Employment screening;
(4) Employee relations; or
(5) Any other administrative or business services that do not constitute the practice of medicine.

SECTION 6. (1) The Oregon Health Authority may refer to the Secretary of State, and may provide evidence concerning, a professional corporation's, limited liability company's or limited liability partnership's violation of the requirements of ORS 58.375, 58.376 or 58.381. The Secretary of State shall investigate any violation that the authority refers and, if the Secretary of State finds that a violation has occurred, the Secretary of State may commence a proceeding to, as appropriate:

(a) Administratively dissolve the professional corporation or the limited liability company that engaged in the violation; or
(b) Revoke the registration of the limited liability partnership that engaged in the violation.

(2) For the purposes of a proceeding under ORS 60.651, 63.651 or 67.660, a reinstatement under ORS 60.654, 63.654 or 67.665 or an appeal under ORS 60.657, 63.657 or 67.670:
(a) A violation of ORS 58.375, 58.376 or 58.381 is grounds under ORS 60.647 or 63.647 for a proceeding to administratively dissolve:
(A) A professional corporation organized for the purpose of practicing medicine or a professional corporation organized for the purpose of allowing physicians, physician assistants and nurse practitioners to jointly render professional medical services; or
(B) A limited liability company organized for a medical purpose, as defined in ORS 63.074 (3).

(b) A violation of ORS 58.375, 58.376 or 58.381 is grounds under ORS 67.655 for a proceeding to revoke the registration of a limited liability partnership organized for a medical purpose, as defined in section 10 of this 2024 Act.

(c) A professional corporation described in ORS 58.375 or 58.376 is a corporation that is subject to the Secretary of State’s administrative dissolution authority.

(d) A limited liability company organized for a medical purpose or a holding entity, as defined in ORS 63.074 (3)(a), is a limited liability company that is subject to the Secretary of State’s administrative dissolution authority.

(e) A limited liability partnership described in section 10 (2) of this 2024 Act is subject to the Secretary of State’s administrative dissolution authority.

(3) Notwithstanding the 45-day period set forth in ORS 60.651, 63.651 and 67.660 within which a corporation, limited liability company or limited liability partnership must take action to remove grounds for dissolution or a revocation of registration, the Secretary of State may negotiate a longer period of not more than seven years after the date on which the Secretary of State commenced the proceeding within which the professional corporation or limited liability company must remove the grounds for administrative dissolution or a limited liability partnership must remove the grounds for revoking registration.

SECTION 7. (1) As used in this section, “professional medical entity” means:

(a) A professional corporation described in ORS 58.375;

(b) A professional corporation described in ORS 58.376;

(c) A limited liability company organized for a medical purpose, as defined in ORS 63.074 (3)(a); or

(d) A limited liability partnership organized for a medical purpose, as defined in section 10 of this 2024 Act.

(2) A professional medical entity shall disclose to the Oregon Health Authority the identity of each person that owns 10 percent or more of the outstanding shares of the professional medical entity or that under the articles of incorporation, articles of organization or bylaws of the professional medical entity or under a contract, agreement or other arrangement, has the power to manage or exercise significant control over the operations and policies of the professional medical entity.

(3) The authority by rule shall prescribe the form, format, contents and manner of the disclosure required under this section and may compel compliance with the requirements of this section as provided in ORS chapter 183.

(4) The authority shall make the information that a professional medical entity discloses under this section publicly available on the authority’s website.

SECTION 8. ORS 63.074 is amended to read:

63.074. (1) Except as otherwise provided by the laws of the state and in this section, a limited liability company formed under this chapter may conduct or promote any lawful business or purpose that a partnership, corporation or professional corporation as defined in ORS 58.015 may conduct or promote, unless the articles of organization set forth a more limited purpose. A person may not organize a limited liability company under this chapter for any illegal purpose or with an intent to fraudulently conceal any business activity from another person or a governmental agency.

(2)(a) Subject to the laws of the state, the rules and regulations of a regulatory board of a
profession, if any, and the standards of professional conduct of the profession, if any, a limited li-
ability company or members of the limited liability company may render professional service in this
state.
(b) Notwithstanding any other law, members of a limited liability company, including members
who are managers, and who are also professionals, as defined in ORS 58.015, are personally liable
as members of the limited liability company to the same extent and in the same manner as provided
for shareholders of a professional corporation in ORS 58.185 and 58.187 and as otherwise provided
in this chapter.
(3)(a) As used in this subsection:
(A) “Holding entity” means a business entity that is organized for the purpose of holding
or owning a majority of the ownership interests in:
(i) A professional corporation;
(ii) A limited liability company that is organized for a medical purpose; or
(iii) A limited liability partnership that is organized for a medical purpose.
(B) “Medical purpose” means, as appropriate:
(i) The purpose of practicing medicine; or
(ii) The purpose of allowing physicians, physician assistants and nurse practitioners to
jointly render professional health care services.
(C) “Professional corporation” means, as appropriate:
(i) A professional corporation described in ORS 58.375; or
(ii) A professional corporation described in ORS 58.376.
(b) A limited liability company that is organized for a medical purpose, or as a holding
entity, is subject to ORS 58.375 or 58.376, as appropriate, and must comply with the require-
ments specified for, and the limitations imposed upon, a professional corporation and the
shareholders, directors and officers of a professional corporation, with respect to the limited
liability company’s or holding entity’s ownership, control, governance and management and
the qualifications of the limited liability company’s members or managers or the holding
entity’s shareholders, members, directors, officers or managers.
(c) For the purposes described in paragraph (b) of this subsection and the purposes of
determining the management and control of a limited liability company organized for a
medical purpose, or of a holding entity:
(A) A member or manager of a limited liability company organized for a medical purpose,
and a shareholder, member, director, officer or manager of a holding entity, is equivalent to
a shareholder in a professional corporation; and
(B) The rights and obligations of a member or manager of a limited liability company
organized for a medical purpose, and the rights of a shareholder, member, director, officer
or manager in the holding entity, are equivalent to the rights and obligations of a share-
holder, director or officer in a professional corporation.
[(3)] (4) A business that is subject to regulation under another statute of the state may not be
organized under this chapter if the business is required to be organized only under the other statute.
SECTION 9. Section 10 of this 2024 Act is added to and made a part of ORS chapter 67.
SECTION 10. (1) As used in this section:
(a) “Holding entity” means a limited liability partnership that is organized for the pur-
pose of holding or owning a majority of the ownership interests in:
(A) A professional corporation;
(B) A limited liability company that is organized for a medical purpose; or

(C) A limited liability partnership that is organized for a medical purpose.

(b) “Medical purpose” means, as appropriate:

(A) The purpose of practicing medicine; or

(B) The purpose of allowing physicians, physician assistants and nurse practitioners to jointly render professional health care services.

(c) “Professional corporation” means, as appropriate:

(A) A professional corporation described in ORS 58.375; or

(B) A professional corporation described in ORS 58.376.

(2) A limited liability partnership that is organized for a medical purpose, or as a holding entity, is subject to ORS 58.375 or 58.376, as appropriate, and must comply with the requirements specified for, and the limitations imposed upon, a professional corporation and the shareholders, directors and officers of a professional corporation, with respect to the limited liability partnership’s or holding entity’s ownership, control, governance and management and the qualifications of the limited liability partnership’s or holding entity’s general partners.

(3) For the purposes described in subsection (2) of this section and the purposes of determining the management and control of a limited liability partnership organized for a medical purpose, or of a holding entity:

(a) A general partner in a limited liability partnership organized for a medical purpose, or as a holding entity, is equivalent to a shareholder in a professional corporation; and

(b) A general partner’s rights and obligations in the limited liability partnership or holding entity are equivalent to the rights and obligations of a shareholder in a professional corporation.

SECTION 11. Sections 12 and 13 of this 2024 Act are added to and made a part of ORS chapter 677.

SECTION 12. (1) As used in this section and section 13 of this 2024 Act:

(a) “Disciplinary action” means discrimination, dismissal, demotion, transfer, reassignment, supervisory reprimand, warning of possible dismissal or withholding of work, even if the action does not affect or will not affect a licensee’s compensation.

(b) “Management services organization” means an entity that under a written agreement and in return for compensation provides to or on behalf of a licensee business management services including, but not limited to, payroll, human resources, employment screening, employee relations and other similar or related services that do not constitute the practice of medicine.

(c) “Noncompetition agreement” means a written agreement between a licensee and another person under which the licensee agrees that the licensee, either alone or as an employee, associate or affiliate of a third person, will not compete with the other person in providing products, processes or services that are similar to the other person’s products, processes or services for a period of time or within a specified geographic area after termination of employment or termination of a contract under which the licensee supplied goods to or performed services for the other person.

(d) “Nondisclosure agreement” means a written agreement under the terms of which a licensee must refrain from disclosing partially, fully, directly or indirectly to any person, other than another party to the written agreement or to a person specified in the agreement
as a third-party beneficiary of the agreement:

(A) A policy, practice, process or technique the licensee used, or that a party to the agreement required the licensee to use, in patient care, other than individually identifiable health information that the licensee may not disclose under the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, as in effect on the effective date of this 2024 Act;

(B) A policy, practice or other information about or associated with the licensee's employment, conditions of employment or rate or amount of pay or other compensation; or

(C) Any other information the licensee possesses or to which the licensee has access by reason of the licensee's employment by, or provision of services for or on behalf of, a party to the agreement, other than information that is subject to protection under applicable law as a trade secret of, or as otherwise proprietary to, another party to the agreement or to a person specified in the agreement as a third-party beneficiary of the agreement.

(e) “Nondisparagement agreement” means a written agreement under which a licensee must refrain from making to a third party a statement about another party to the agreement or about another person specified in the agreement as a third-party beneficiary of the agreement, the effect of which causes or threatens to cause harm to the other party's or person's reputation, business relations or other economic interests.

(f) “Professional medical entity” means:

(A) A professional corporation described in ORS 58.375;

(B) A professional corporation described in ORS 58.376;

(C) A limited liability company organized for a medical purpose, as defined in ORS 63.074;

(D) A limited liability partnership organized for a medical purpose, as defined in section 10 of this 2024 Act.

(2)(a) Notwithstanding ORS 653.295 (1) and (2), and except as provided in paragraphs (b) and (c) of this subsection, a noncompetition agreement between a licensee and another person is void and unenforceable.

(b) A noncompetition agreement that a licensee executes in connection with the licensee's sale, as owner, of a medical practice, or a sale of all or substantially all of the operating assets of the medical practice, is enforceable to the extent and under the terms provided in ORS 653.295.

(c) A noncompetition agreement between a licensee and another person is valid and enforceable to the extent and under the terms provided in ORS 653.295 if the licensee is a shareholder or member of the other person or otherwise owns or controls an interest in the other person.

(3)(a) A nondisclosure agreement or nondisparagement agreement between a licensee and a management services organization is void and unenforceable.

(b) Paragraph (a) of this subsection does not limit or otherwise affect any cause of action that:

(A) A party to, or third-party beneficiary of, the agreement may have with respect to a statement of a licensee that constitutes libel, slander, a tortious interference with contractual relations or another tort for which the party has a cause of action against the licensee; and

(B) Does not depend upon or derive from a breach or violation of an agreement described
in paragraph (a) of this subsection.

SECTION 13. (1) A management services organization or a professional medical entity may not take disciplinary action against a licensee as retaliation for, or as a consequence of, the licensee’s violation of a nondisclosure agreement or nondisparagement agreement or because the licensee in good faith disclosed or reported information that the licensee believes is evidence of a violation of a federal or state law, rule or regulation.

(2) A management services organization or professional medical entity that takes disciplinary action against a licensee in the circumstances described in subsection (1) of this section engages in an unlawful employment practice, as defined in ORS 659A.001, that is subject to enforcement under ORS chapter 659A.

SECTION 14. ORS 441.025 is amended to read:

441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility other than a long term care facility, the Oregon Health Authority shall review the application and conduct an in-person site inspection of the health care facility. The authority shall issue a license if it finds that the applicant and health care facility comply with ORS 441.015 to 441.119 and 441.993 and the rules of the authority provided that the authority does not receive within the time specified a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

(b) The authority shall, following payment of the fee, annually renew each license issued under this subsection unless:

(A) The health care facility’s license has been suspended or revoked; or

(B) The State Fire Marshal, a deputy or an approved authority has issued a certificate of noncompliance pursuant to ORS 479.215.

(2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the Department of Human Services shall review the application and conduct an in-person site inspection of the long term care facility, including an inspection of the kitchen and other areas where food is prepared for residents. The department shall issue a license if the department finds that the applicant and long term care facility comply with ORS 441.015 to 441.119 and 441.993 and the rules of the department provided that it does not receive within the time specified a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

(b) The department shall, following an in-person site inspection and payment of the fee, annually renew each license issued under this subsection unless:

(A) The long term care facility’s license has been suspended or revoked;

(B) The long term care facility is found not to be in substantial compliance, following the in-person site inspection, with ORS 441.015 to 441.119, 441.993 and 443.012 and the rules of the department;

(C) The long term care facility has failed an inspection of the kitchen or other areas where food is prepared for residents that was conducted by the department in accordance with ORS 443.417, except as provided in ORS 443.417 (2); or

(D) The State Fire Marshal, a deputy or an approved authority has issued a certificate of noncompliance pursuant to ORS 479.215.

(3) Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable.

(4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by rule of the authority or the department.
(5) No license shall be issued or renewed for any health care facility or health maintenance organization that is required to obtain a certificate of need under ORS 442.315 until a certificate of need has been granted. An ambulatory surgical center is not subject to the certificate of need requirements in ORS 442.315.

(6) No license shall be issued or renewed for any skilled nursing facility or intermediate care facility, unless the applicant has included in the application the name and such other information as may be necessary to establish the identity and financial interests of any person who has incidents of ownership in the facility representing an interest of 10 percent or more thereof. If the person having such interest is a corporation, the name of any stockholder holding stock representing an interest in the facility of 10 percent or more shall also be included in the application. If the person having such interest is any other entity, the name of any member thereof having incidents of ownership representing an interest of 10 percent or more in the facility shall also be included in the application.

(7) A license may be denied to any applicant for a license or renewal thereof or any stockholder of any such applicant who has incidents of ownership in the health care facility representing an interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease agreement for the facility, if during the five years prior to the application the applicant or any stockholder of the applicant had an interest of 10 percent or more in the facility or a lease for the facility and has divested that interest after receiving from the authority or the department written notice that the authority or the department intends to suspend or revoke the license or to decertify the facility from eligibility to receive payments for services provided under this section.

(8) The Department of Human Services may not issue or renew a license for a long term care facility, unless the applicant has included in the application the identity of any person who has incidents of ownership in the long term care facility who also has a financial interest in any pharmacy, as defined in ORS 689.005.

(9) The authority shall adopt rules for each type of health care facility, except long term care facilities, to carry out the purposes of ORS 441.015 to 441.119 and 441.993 including, but not limited to:

(a) Establishing classifications and descriptions for the different types of health care facilities that are licensed under ORS 441.015 to 441.119 and 441.993; and

(b) Standards for patient care and safety, adequate professional staff organizations, training of staff for whom no other state regulation exists, suitable delineation of professional privileges and adequate staff analyses of clinical records.

(10) The department shall adopt rules for each type of long term care facility to carry out the purposes of ORS 441.015 to 441.119 and 441.993 including, but not limited to:

(a) Establishing classifications and descriptions for the different types of long term care facilities that are licensed under ORS 441.015 to 441.119 and 441.993;

(b) Standards for patient care and safety, adequate professional staff organizations, training of staff for whom no other state regulation exists, suitable delineation of professional privileges and adequate staff analyses of clinical records; and

(c) Rules to ensure that a long term care facility complies with ORS 443.012.

(11) The authority or department may not adopt a rule requiring a health care facility to serve a specific food as long as the necessary nutritional food elements are present in the food that is served.

(12) A health care facility licensed by the authority or department may not:
(a) Offer or provide services beyond the scope of the license classification assigned by the authority or department; or

(b) Assume a descriptive title or represent itself under a descriptive title other than the classification assigned by the authority or department.

(13) A health care facility must reapply for licensure to change the classification assigned or the type of license issued by the authority or department.

(14) The authority shall make available to the public on the authority's website the information that an applicant must submit under subsection (6) of this section as part of an application to obtain or renew a license.

SECTION 15. ORS 60.754 is amended to read:

60.754. (1)(a) Notwithstanding ORS 60.074 (2), a corporation incorporated under ORS chapter 60 is a benefit company under ORS 60.750 to 60.770 if the corporation's articles of incorporation state that the corporation is a benefit company subject to ORS 60.750 to 60.770.

(b) Notwithstanding ORS 63.074 (4), a limited liability company organized under ORS chapter 63 is a benefit company under ORS 60.750 to 60.770 if the limited liability company’s articles of organization state that the limited liability company is a benefit company subject to ORS 60.750 to 60.770.

(2)(a) A corporation that is incorporated under ORS chapter 60 may become a benefit company by amending the corporation’s articles of incorporation to state, in addition to the requirements set forth in ORS 60.047, that the corporation is a benefit company subject to ORS 60.750 to 60.770. The amendment to the articles of incorporation must be approved by a minimum status vote.

(b) A limited liability company that is organized under ORS chapter 63 may become a benefit company by amending the limited liability company’s articles of organization to state, in addition to the requirements set forth in ORS 63.047, that the limited liability company is a benefit company subject to ORS 60.750 to 60.770. The amendment to the articles of organization must be approved by a minimum status vote.

(3) A benefit company may be formed by means of a conversion if articles of conversion that state that the converted entity will be a benefit company that is subject to ORS 60.750 to 60.770 are approved by a minimum status vote.

(4) An entity that is not a benefit company may become a benefit company by merging or exchanging equity interests with a benefit company if the shareholders or holders of equity interests of the entity that is not the benefit company approve, by a minimum status vote, a plan of merger or a plan for exchanging equity interests with a benefit company under which the surviving entity will be a benefit company.

(5) A benefit company may become an entity other than a benefit company only if an action to remove from the articles of incorporation, articles of organization or articles of conversion the provision that states that the entity is a benefit company subject to ORS 60.750 to 60.770 is approved by a minimum status vote.

(6)(a) A plan for a benefit company must be approved by a minimum status vote if the plan would:

(A) Merge the benefit company with an entity that is not a benefit company, if the surviving entity would not be a benefit company;

(B) Provide for exchanging equity interests with an entity that is not a benefit company, if the exchange would create an entity that is not a benefit company and that would hold substantially all of the benefit company’s assets;
(C) Convert the benefit company to an entity that is not a benefit company; or
(D) Otherwise cause ORS 60.750 to 60.770 not to apply to the benefit company.

(b) A sale, lease, exchange or other disposition of all or substantially all of a benefit company’s
assets must be approved by a minimum status vote unless the benefit company conducts the sale,
lease, exchange or other disposition in the ordinary course of the benefit company’s business.

(7) A provision of a benefit company’s articles of incorporation, articles of organization, articles
of conversion or plan described in subsection (6) of this section may be inconsistent with or super-
sede a provision of ORS 60.750 to 60.770 only to the extent that the provision in the articles of in-
corporation, articles of organization, articles of conversion or plan imposes a more stringent
requirement on the benefit company, in keeping with the purposes set forth in ORS 60.750 to 60.770,
than a provision of ORS 60.750 to 60.770 imposes.

SECTION 16. (1) Except as provided in subsection (2) of this section, sections 5, 6, 7, 10,
12 and 13 of this 2024 Act and the amendments to ORS 58.375, 58.376, 58.381, 60.754, 63.074 and
441.025 by sections 1, 2, 3, 8, 14 and 15 of this 2024 Act apply to contracts that a person enters
into or renews on and after the operative date specified in section 17 of this 2024 Act.
(2) Except as otherwise provided in section 12 of this 2024 Act, a noncompetition agree-
ment, nondisclosure agreement or nondisparagement agreement, as those terms are defined
in section 12 of this 2024 Act, into which a licensee, as defined in ORS 677.010, enters before,
on or after the operative date specified in section 17 of this 2024 Act may not be enforced.

SECTION 17. (1) Sections 5, 6, 7, 10, 12 and 13 of this 2024 Act and the amendments to
ORS 58.375, 58.376, 58.381, 60.754, 63.074 and 441.025 by sections 1, 2, 3, 8, 14 and 15 of this 2024
Act become operative on January 1, 2025.
(2) The Oregon Health Authority may adopt rules and take any other action before the
operative date specified in subsection (1) of this section that is necessary to enable the au-
thority, on and after the operative date specified in subsection (1) of this section, to under-
take and exercise all of the duties, functions and powers conferred on the authority by
sections 5, 6, 7, 10, 12 and 13 of this 2024 Act and the amendments to ORS 58.375, 58.376,
58.381, 60.754, 63.074 and 441.025 by sections 1, 2, 3, 8, 14 and 15 of this 2024 Act.

SECTION 18. This 2024 Act takes effect on the 91st day after the date on which the 2024
regular session of the Eighty-second Legislative Assembly adjourns sine die.