

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

1
2 Relating to the practice of health care; creating new provisions; amending ORS 58.375, 58.376,
3 58.381, 60.754, 63.074 and 441.025; and prescribing an effective date.

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

5 **SECTION 1.** ORS 58.375 is amended to read:

6 58.375. (1) In a professional corporation organized for the purpose of practicing medicine:

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

9 (b) Physicians who are licensed in this state to practice medicine must be a majority of the di-
10 rectors.

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

13 (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.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 **(C) Hires, terminates, evaluates the performance of, or sets work schedules or compen-**

1 **sation or otherwise specifies terms of employment for, employees who are licensed to prac-**
 2 **tice medicine in this state or who are licensed in this state as physician assistants or nurse**
 3 **practitioners;**

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

5 (E) **Advertises the professional corporation’s services;**

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

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

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

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

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

20 (B) **Complies with the provisions of ORS 60.265.**

21 [(2)] (4) **A professional corporation may be a shareholder of a professional corporation organized**
 22 **for the purpose of practicing medicine solely for the purpose of effecting a reorganization as defined**
 23 **in the Internal Revenue Code.**

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

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

29 (B) **A health center that is qualified under 42 U.S.C. 1396d(1)(2)(B), as in effect on [January 1,**
 30 **2018] the effective date of this 2024 Act, that operates in compliance with other applicable state**
 31 **or federal law; or**

32 (C) **Except as provided in paragraph (b) of this subsection, a for-profit or nonprofit business en-**
 33 **tity that is incorporated or organized under the laws of this state, that provides the entirety of the**
 34 **business entity’s medical services through one or more rural health clinics, as defined in 42 U.S.C.**
 35 **1395x, as in effect on [January 1, 2018] the effective date of this 2024 Act, and that operates in**
 36 **compliance with state and federal laws that apply to rural health clinics.**

37 (b) **A business entity is exempt under this subsection for a period of up to one year after the**
 38 **business entity establishes a rural health clinic, even though the rural health clinic that the busi-**
 39 **ness entity establishes does not meet all of the elements of the definition set forth in 42 U.S.C.**
 40 **1395x, as in effect on [January 1, 2018] the effective date of this 2024 Act, if during the one-year**
 41 **period an applicable certification for the rural health clinic is pending.**

42 **SECTION 2.** **ORS 58.376 is amended to read:**

43 58.376. (1) **As used in this section, “licensee” means an individual who has a license as a phy-**
 44 **sician or a license as a physician assistant from the Oregon Medical Board or who has a license**
 45 **as a nurse practitioner from the Oregon State Board of Nursing.**

1 (2)(a) In a professional corporation that is organized for the purpose of allowing physicians,
 2 physician assistants and nurse practitioners to jointly render professional health care services,
 3 licensees must:

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

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

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

10 (3) An individual whom the professional corporation employs, or an individual who owns an in-
 11 terest in the professional corporation, may not direct or control the professional judgment of a
 12 licensee who is practicing within the professional corporation and within the scope of practice per-
 13 mitted under the licensee's license.

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

18 **(5)(a) A shareholder, director or officer of a professional corporation described in sub-
 19 section (2)(a) of this section may not participate in managing the professional corporation
 20 and may not vote shares in the professional corporation on any issue or corporate action
 21 that bears on the ownership, management or governance of the professional corporation if
 22 the shareholder, director or officer is simultaneously a shareholder, director, member, offi-
 23 cer or employee of a management services organization with which the professional corpo-
 24 ration has a contract.**

25 **(b) Paragraph (a) of this subsection does not apply if a professional corporation described
 26 in subsection (2)(a) of this section owns a majority of the interest in the management ser-
 27 vices organization.**

28 **(6)(a) Except as provided in paragraph (b) of this subsection, a professional corporation
 29 described in subsection (2)(a) of this section may not provide in the professional
 30 corporation's articles of incorporation or bylaws, or by means of a contract or other agree-
 31 ment or arrangement, for removing a director described in subsection (2)(a)(B) of this sec-
 32 tion from the professional corporation's board of directors, or an officer described in
 33 subsection (2)(b) of this section from an office of the professional corporation, except by a
 34 majority vote of the shareholders described in subsection (2)(a)(A) of this section or, as ap-
 35 propriate, a majority vote of the directors described in subsection (2)(a)(B) of this section.**

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

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

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

45 **(C) Engaged in fraud, misfeasance or malfeasance with respect to the director's or**

1 **officer's performance of duties for or on behalf of the professional corporation.**

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

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

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

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

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

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

18 (E) **Advertises the professional corporation's services;**

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

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

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

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

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

33 (B) **Complies with the provisions of ORS 60.265.**

34 [(5)] (8) **A professional corporation that is subject to ORS 58.375 may elect to become subject**
 35 **to this section by amending the professional corporation's articles of incorporation or bylaws.**

36 **SECTION 3.** ORS 58.381 is amended to read:

37 58.381. (1)(a) **Except as provided in paragraph (b) of this subsection,** a proxy to vote the
 38 shares of a professional corporation organized for the purpose of practicing medicine may be given
 39 under the following conditions:

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

44 [(b)] (B) **If the shareholder granting the proxy is not a physician licensed in this state to prac-**
 45 **tice medicine, the proxy may be given only to another shareholder of the same corporation, whether**

1 or not the other shareholder is a physician licensed in this state to practice medicine, or to an at-
 2 torney licensed to practice law in this state or another person similarly licensed.

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

9 (2) [No] A voting trust may **not** be created to vote the shares of a professional corporation or-
 10 ganized for the purpose of practicing medicine.

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

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

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

23 (1) **Payroll;**

24 (2) **Human resources;**

25 (3) **Employment screening;**

26 (4) **Employee relations; or**

27 (5) **Any other administrative or business services that do not constitute the practice of**
 28 **medicine.**

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

35 (a) **Administratively dissolve the professional corporation or the limited liability company**
 36 **that engaged in the violation; or**

37 (b) **Revoke the registration of the limited liability partnership that engaged in the vio-**
 38 **lation.**

39 (2) **For the purposes of a proceeding under ORS 60.651, 63.651 or 67.660, a reinstatement**
 40 **under ORS 60.654, 63.654 or 67.665 or an appeal under ORS 60.657, 63.657 or 67.670:**

41 (a) **A violation of ORS 58.375, 58.376 or 58.381 is grounds under ORS 60.647 or 63.647 for**
 42 **a proceeding to administratively dissolve:**

43 (A) **A professional corporation organized for the purpose of practicing medicine or a**
 44 **professional corporation organized for the purpose of allowing physicians, physician assist-**
 45 **ants and nurse practitioners to jointly render professional medical services; or**

1 **(B) A limited liability company organized for a medical purpose, as defined in ORS 63.074**
 2 **(3).**

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

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

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

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

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

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

21 **(a) A professional corporation described in ORS 58.375;**

22 **(b) A professional corporation described in ORS 58.376;**

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

25 **(d) A limited liability partnership organized for a medical purpose, as defined in section**
 26 **10 of this 2024 Act.**

27 **(2) A professional medical entity shall disclose to the Oregon Health Authority the iden-**
 28 **tity of each person that owns 10 percent or more of the outstanding shares of the profes-**
 29 **sional medical entity or that under the articles of incorporation, articles of organization or**
 30 **bylaws of the professional medical entity or under a contract, agreement or other arrange-**
 31 **ment, has the power to manage or exercise significant control over the operations and poli-**
 32 **cies of the professional medical entity.**

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

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

38 **SECTION 8. ORS 63.074 is amended to read:**

39 **63.074. (1) Except as otherwise provided by the laws of the state and in this section, a limited**
 40 **liability company formed under this chapter may conduct or promote any lawful business or purpose**
 41 **that a partnership, corporation or professional corporation as defined in ORS 58.015 may conduct**
 42 **or promote, unless the articles of organization set forth a more limited purpose. A person may not**
 43 **organize a limited liability company under this chapter for any illegal purpose or with an intent to**
 44 **fraudulently conceal any business activity from another person or a governmental agency.**

45 **(2)(a) Subject to the laws of the state, the rules and regulations of a regulatory board of a**

1 profession, if any, and the standards of professional conduct of the profession, if any, a limited li-
 2 ability company or members of the limited liability company may render professional service in this
 3 state.

4 (b) Notwithstanding any other law, members of a limited liability company, including members
 5 who are managers, and who are also professionals, as defined in ORS 58.015, are personally liable
 6 as members of the limited liability company to the same extent and in the same manner as provided
 7 for shareholders of a professional corporation in ORS 58.185 and 58.187 and as otherwise provided
 8 in this chapter.

9 (3)(a) As used in this subsection:

10 (A) “Holding entity” means a business entity that is organized for the purpose of holding
 11 or owning a majority of the ownership interests in:

12 (i) A professional corporation;

13 (ii) A limited liability company that is organized for a medical purpose; or

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

15 (B) “Medical purpose” means, as appropriate:

16 (i) The purpose of practicing medicine; or

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

19 (C) “Professional corporation” means, as appropriate:

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

21 (ii) A professional corporation described in ORS 58.376.

22 (b) A limited liability company that is organized for a medical purpose, or as a holding
 23 entity, is subject to ORS 58.375 or 58.376, as appropriate, and must comply with the require-
 24 ments specified for, and the limitations imposed upon, a professional corporation and the
 25 shareholders, directors and officers of a professional corporation, with respect to the limited
 26 liability company’s or holding entity’s ownership, control, governance and management and
 27 the qualifications of the limited liability company’s members or managers or the holding
 28 entity’s shareholders, members, directors, officers or managers.

29 (c) For the purposes described in paragraph (b) of this subsection and the purposes of
 30 determining the management and control of a limited liability company organized for a
 31 medical purpose, or of a holding entity:

32 (A) A member or manager of a limited liability company organized for a medical purpose,
 33 and a shareholder, member, director, officer or manager of a holding entity, is equivalent to
 34 a shareholder in a professional corporation; and

35 (B) The rights and obligations of a member or manager of a limited liability company
 36 organized for a medical purpose, and the rights of a shareholder, member, director, officer
 37 or manager in the holding entity, are equivalent to the rights and obligations of a share-
 38 holder, director or officer in a professional corporation.

39 [(3)] (4) A business that is subject to regulation under another statute of the state may not be
 40 organized under this chapter if the business is required to be organized only under the other statute.

41 **SECTION 9.** Section 10 of this 2024 Act is added to and made a part of ORS chapter 67.

42 **SECTION 10.** (1) As used in this section:

43 (a) “Holding entity” means a limited liability partnership that is organized for the pur-
 44 pose of holding or owning a majority of the ownership interests in:

45 (A) A professional corporation;

1 (B) A limited liability company that is organized for a medical purpose; or

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

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

4 (A) The purpose of practicing medicine; or

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

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

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

9 (B) A professional corporation described in ORS 58.376.

10 (2) A limited liability partnership that is organized for a medical purpose, or as a holding
11 entity, is subject to ORS 58.375 or 58.376, as appropriate, and must comply with the require-
12 ments specified for, and the limitations imposed upon, a professional corporation and the
13 shareholders, directors and officers of a professional corporation, with respect to the limited
14 liability partnership’s or holding entity’s ownership, control, governance and management
15 and the qualifications of the limited liability partnership’s or holding entity’s general part-
16 ners.

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

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

22 (b) A general partner’s rights and obligations in the limited liability partnership or hold-
23 ing entity are equivalent to the rights and obligations of a shareholder in a professional
24 corporation.

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

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

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

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

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

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

1 as a third-party beneficiary of the agreement:

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

7 (B) A policy, practice or other information about or associated with the licensee’s em-
 8 ployment, conditions of employment or rate or amount of pay or other compensation; or

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

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

19 (f) “Professional medical entity” means:

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

21 (B) A professional corporation described in ORS 58.376;

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

24 (D) A limited liability partnership organized for a medical purpose, as defined in section
 25 10 of this 2024 Act.

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

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

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

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

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

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

45 (B) Does not depend upon or derive from a breach or violation of an agreement described

1 in paragraph (a) of this subsection.

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

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

11 **SECTION 14.** ORS 441.025 is amended to read:

12 441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility
 13 other than a long term care facility, the Oregon Health Authority shall review the application and
 14 conduct an in-person site inspection of the health care facility. The authority shall issue a license
 15 if it finds that the applicant and health care facility comply with ORS 441.015 to 441.119 and 441.993
 16 and the rules of the authority provided that the authority does not receive within the time specified
 17 a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved authority
 18 pursuant to ORS 479.215.

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

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

22 (B) The State Fire Marshal, a deputy or an approved authority has issued a certificate of non-
 23 compliance pursuant to ORS 479.215.

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

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

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

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

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

40 (D) The State Fire Marshal, a deputy or an approved authority has issued a certificate of non-
 41 compliance pursuant to ORS 479.215.

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

44 (4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by
 45 rule of the authority or the department.

1 (5) No license shall be issued or renewed for any health care facility or health maintenance
2 organization that is required to obtain a certificate of need under ORS 442.315 until a certificate
3 of need has been granted. An ambulatory surgical center is not subject to the certificate of need
4 requirements in ORS 442.315.

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

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

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

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

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

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

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

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

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

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

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

45 (12) A health care facility licensed by the authority or department may not:

1 (a) Offer or provide services beyond the scope of the license classification assigned by the au-
 2 thority or department; or

3 (b) Assume a descriptive title or represent itself under a descriptive title other than the classi-
 4 fication assigned by the authority or department.

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

7 **(14) The authority shall make available to the public on the authority’s website the in-**
 8 **formation that an applicant must submit under subsection (6) of this section as part of an**
 9 **application to obtain or renew a license.**

10 **SECTION 15.** ORS 60.754 is amended to read:

11 60.754. (1)(a) Notwithstanding ORS 60.074 (2), a corporation incorporated under ORS chapter 60
 12 is a benefit company under ORS 60.750 to 60.770 if the corporation’s articles of incorporation state
 13 that the corporation is a benefit company subject to ORS 60.750 to 60.770.

14 (b) Notwithstanding ORS 63.074 [(3)] (4), a limited liability company organized under ORS
 15 chapter 63 is a benefit company under ORS 60.750 to 60.770 if the limited liability company’s articles
 16 of organization state that the limited liability company is a benefit company subject to ORS 60.750
 17 to 60.770.

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

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

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

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

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

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

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

43 (B) Provide for exchanging equity interests with an entity that is not a benefit company, if the
 44 exchange would create an entity that is not a benefit company and that would hold substantially
 45 all of the benefit company’s assets;

1 (C) Convert the benefit company to an entity that is not a benefit company; or

2 (D) Otherwise cause ORS 60.750 to 60.770 not to apply to the benefit company.

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

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

12 **SECTION 16. (1) Except as provided in subsection (2) of this section, sections 5, 6, 7, 10,**
13 **12 and 13 of this 2024 Act and the amendments to ORS 58.375, 58.376, 58.381, 60.754, 63.074 and**
14 **441.025 by sections 1, 2, 3, 8, 14 and 15 of this 2024 Act apply to contracts that a person enters**
15 **into or renews on and after the operative date specified in section 17 of this 2024 Act.**

16 (2) Except as otherwise provided in section 12 of this 2024 Act, a noncompetition agree-
17 ment, nondisclosure agreement or nondisparagement agreement, as those terms are defined
18 in section 12 of this 2024 Act, into which a licensee, as defined in ORS 677.010, enters before,
19 on or after the operative date specified in section 17 of this 2024 Act may not be enforced.

20 **SECTION 17. (1) Sections 5, 6, 7, 10, 12 and 13 of this 2024 Act and the amendments to**
21 **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**
22 **Act become operative on January 1, 2025.**

23 (2) The Oregon Health Authority may adopt rules and take any other action before the
24 operative date specified in subsection (1) of this section that is necessary to enable the au-
25 thority, on and after the operative date specified in subsection (1) of this section, to under-
26 take and exercise all of the duties, functions and powers conferred on the authority by
27 sections 5, 6, 7, 10, 12 and 13 of this 2024 Act and the amendments to ORS 58.375, 58.376,
28 58.381, 60.754, 63.074 and 441.025 by sections 1, 2, 3, 8, 14 and 15 of this 2024 Act.

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

31