

HB 4130-1
(LC 9)
2/6/24 (TSB/ps)

Requested by Representative BOWMAN

**PROPOSED AMENDMENTS TO
HOUSE BILL 4130**

1 On page 1 of the printed bill, delete line 3 and insert “58.381, 60.754 and
2 63.074; and prescribing an effective date.”.

3 After line 3, insert:

4 “Whereas the State of Oregon since 1947 has recognized that a conflict
5 exists between the economic imperatives of for-profit corporations and other
6 business entities and the need for patient-centered medical care; and

7 “Whereas an Oregon Supreme Court decision banned corporations from
8 owning medical practices, practicing medicine or employing physicians for
9 that reason; and

10 “Whereas many business entities have sought to circumvent the ban
11 through complex ownership structures, contracting practices and other
12 means, particularly in recent years; and

13 “Whereas the State of Oregon must protect the health, safety and welfare
14 of residents of this state by responding to initiatives that threaten to usurp
15 or have the effect of usurping the medical judgment of physicians and other
16 practitioners in this state in favor of cost-cutting and profit-making, often
17 at the expense of and in opposition to the best interests of patients; and

18 “Whereas some business entities have sought to silence criticism of their
19 operations and management practices through nondisclosure, noncompetition
20 and nondisparagement agreements and other devices that stifle reporting of
21 and accountability for these operations and practices; and

1 “Whereas to protect the best interests of patients in this state, and enable
2 medical practitioners to exercise medical judgment free from interference
3 from those who are not licensed to practice medicine in this state, the Leg-
4 islative Assembly must prohibit business entities from practicing medicine
5 or employing actively practicing physicians and other practitioners and us-
6 ing noncompetition agreements, non-disclosure agreements and non-
7 disparagement agreements to restrict reasonable and honest criticism; and

8 “Whereas the Legislative Assembly supports existing exemptions for pro-
9 fessional corporations and hospitals that are organized specifically for the
10 purpose of practicing medicine or providing medical services, and are
11 majority-owned and managed by physicians and other practitioners who can
12 exercise medical judgment without interference; now, therefore,”.

13 Delete lines 5 through 13 and delete pages 2 through 14 and insert:

14 “**SECTION 1.** ORS 58.375 is amended to read:

15 “58.375. (1) In a professional corporation organized for the purpose of
16 practicing medicine:

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

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

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

24 “(d) Except as otherwise provided by law, the Oregon Medical Board may
25 expressly require that physicians who are licensed in this state to practice
26 medicine hold more than a majority of each class of shares that is entitled
27 to vote.

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

1 “(f)(A) A shareholder, director or officer of a professional corpo-
2 ration organized for the purpose of practicing medicine may not:

3 “(i) Own or control shares in, serve as a director or officer of, or
4 otherwise participate in managing both the professional corporation
5 and a management services organization with which the professional
6 corporation has a contract; or

7 “(ii) Participate in hiring, terminating, evaluating the performance
8 of, setting work schedules or compensation for, or otherwise specifying
9 terms of employment of a physician that the professional corporation
10 employs or may employ while at the same time owning or controlling
11 shares in, serving as a director of, or otherwise participating in man-
12 aging a management services organization with which the professional
13 corporation has a contract.

14 “(B) Subparagraph (A) of this paragraph does not apply if a pro-
15 fessional corporation organized for the purpose of practicing medicine
16 owns a majority of the interest in the management services organiza-
17 tion.

18 “(2)(a) Except as provided in paragraph (b) of this subsection, a
19 professional corporation organized for the purpose of practicing medi-
20 cine may not provide in the professional corporation’s articles of in-
21 corporation or bylaws, or by means of a contract or other agreement
22 or arrangement, for removing a director described in subsection (1)(b)
23 of this section from the professional corporation’s board of directors,
24 or an officer described in subsection (1)(c) of this section from an of-
25 fice of the professional corporation, except by a majority vote of the
26 shareholders described in subsection (1)(a) of this section or, as ap-
27 propriate, a majority vote of the directors described in subsection
28 (1)(b) of this section.

29 “(b) A professional corporation organized for the purpose of prac-
30 ticing medicine may remove a director or officer by means other than

1 a majority vote of the shareholders described in subsection (1)(a) of
2 this section or a majority vote of the directors described in subsection
3 (1)(b) of this section if the director or officer that is subject to re-
4 moval:

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

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

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

13 “(3)(a) Except as provided in paragraph (b) of this subsection, a
14 professional corporation organized for the purpose of practicing medi-
15 cine may not by means of a contract or other agreement or arrange-
16 ment, by providing in the professional corporation’s articles of
17 incorporation or bylaws, by forming a subsidiary or affiliated entity
18 or by other means conduct, perform or undertake any of the following
19 activities or practices with the intent or effect of relinquishing control
20 over or otherwise transferring de facto control over the professional
21 corporation’s clinical practices or decisions, or the clinical practices
22 or decisions of a physician that the professional corporation employs
23 or with whom the professional corporation has a contract for services:

24 “(A) Selling, restricting the sale of, encumbering or transferring
25 substantially all of the professional corporation’s shares or assets;

26 “(B) Issuing shares of stock in the professional corporation, in a
27 subsidiary of the professional corporation or an entity affiliated with
28 the professional corporation, or paying dividends;

29 “(C) Hiring, terminating, evaluating the performance of, setting
30 work schedules or compensation for, or otherwise specifying terms of

1 employment for employees who are licensed to practice medicine in
2 this state or who are licensed in this state as physician assistants or
3 nurse practitioners;

4 “(D) Establishing staffing levels for any location that serves pa-
5 tients;

6 “(E) Advertising the professional corporation’s services;

7 “(F) Controlling diagnostic coding decisions, establishing clinical
8 standards directly or by suggestion or protocol or making policies for
9 patient, client or customer billing and collection;

10 “(G) Limiting access to, taking control from or otherwise obscuring
11 from a physician the prices, rates or amounts the professional corpo-
12 ration charges for the physician’s services;

13 “(H) Entering into, performing, enforcing or terminating contracts
14 with third-party payors or persons that are not employees of the pro-
15 fessional corporation;

16 “(I) Entering into noncompetition agreements, nondisclosure
17 agreements or nondisparagement agreements prohibited under section
18 14 of this 2024 Act; or

19 “(J) Undertaking any other action that directly inhibits, conditions
20 or interferes with the clinical practices or decisions or decision-
21 making processes of a physician, physician assistant or nurse practi-
22 tioner that the professional corporation employs or with whom the
23 professional corporation has a contract for services.

24 “(b) A professional corporation organized for the purpose of prac-
25 ticing medicine may relinquish or transfer control over the profes-
26 sional corporation’s assets or business operations or may cede control
27 over the professional corporation’s clinical decisions only by means
28 of an executed shareholder agreement that:

29 “(A) Is exclusively between or among and for the benefit of a ma-
30 jority of shareholders who are physicians licensed in this state to

1 **practice medicine; and**

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

3 “[2] (4) A professional corporation may be a shareholder of a profes-
4 sional corporation organized for the purpose of practicing medicine solely for
5 the purpose of effecting a reorganization as defined in the Internal Revenue
6 Code.

7 “[3(a)] (5)(a) The provisions of subsections (1) [and (2)] **to (4)** of this
8 section do not apply to:

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

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

16 “(C) Except as provided in paragraph (b) of this subsection, a for-profit
17 or nonprofit business entity that is incorporated or organized under the laws
18 of this state, that provides the entirety of the business entity’s medical ser-
19 vices through one or more rural health clinics, as defined in 42 U.S.C. 1395x,
20 as in effect on [*January 1, 2018*] **the effective date of this 2024 Act**, and
21 that operates in compliance with state and federal laws that apply to rural
22 health clinics.

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

30 **“SECTION 2.** ORS 58.376 is amended to read:

1 “58.376. (1) As used in this section, ‘licensee’ means an individual who
2 has a license as a physician or a license as a physician assistant from the
3 Oregon Medical Board or who has a license as a nurse practitioner from the
4 Oregon State Board of Nursing.

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

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

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

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

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

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

24 “(5)(a) **A shareholder, director or officer of a professional corpo-
25 ration described in subsection (2)(a) of this section may not:**

26 “(A) **Own or control shares in, serve as a director or officer of, or
27 otherwise participate in managing both the professional corporation
28 and a management services organization with which the professional
29 corporation has a contract; or**

30 “(B) **Participate in hiring, terminating, evaluating the performance**

1 of, setting work schedules or compensation for, or otherwise specifying
2 terms of employment of a licensee that the professional corporation
3 employs or may employ while at the same time owning or controlling
4 shares in, serving as a director of, or otherwise participating in man-
5 aging a management services organization with which the professional
6 corporation has a contract.

7 “(b) Paragraph (a) of this subsection does not apply if a professional
8 corporation described in subsection (2)(a) of this section owns a ma-
9 jority of the interest in the management services organization.

10 “(6)(a) Except as provided in paragraph (b) of this subsection, a
11 professional corporation described in subsection (2)(a) of this section
12 may not provide in the professional corporation’s articles of incorpo-
13 ration or bylaws, or by means of a contract or other agreement or
14 arrangement, for removing a director described in subsection (2)(a)(B)
15 of this section from the professional corporation’s board of directors,
16 or an officer described in subsection (2)(b) of this section from an of-
17 fice of the professional corporation, except by a majority vote of the
18 shareholders described in subsection (2)(a)(A) of this section or, as
19 appropriate, a majority vote of the directors described in subsection
20 (2)(a)(B) of this section.

21 “(b) A professional corporation described in subsection (2)(a) of this
22 section may remove a director or officer by means other than a ma-
23 jority vote of the shareholders described in subsection (2)(a)(A) of this
24 section or a majority vote of the directors described in subsection
25 (2)(a)(B) of this section if the director or officer that is subject to re-
26 moval:

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

29 “(B) Was the subject of a disciplinary proceeding by the regulatory
30 board that governs the director’s or officer’s practice as a licensee in

1 which the board suspended or revoked the director's or officer's li-
2 cense; or

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

6 “(7)(a) Except as provided in paragraph (b) of this subsection, a
7 professional corporation described in subsection (2)(a) of this section
8 may not by means of a contract or other agreement or arrangement,
9 by providing in the professional corporation's articles of incorporation
10 or bylaws, by forming a subsidiary or affiliated entity or by other
11 means conduct, perform or undertake any of the following activities
12 or practices with the intent or effect of relinquishing control over or
13 otherwise transferring de facto control over the professional
14 corporation's clinical practices or decisions, or the clinical practices
15 or decisions of a physician, physician assistant or nurse practitioner
16 that the professional corporation employs or with whom the profes-
17 sional corporation has a contract for services:

18 “(A) Selling, restricting the sale of, encumbering or transferring
19 substantially all of the professional corporation's shares or assets;

20 “(B) Issuing shares of stock in the professional corporation, in a
21 subsidiary of the professional corporation or an entity affiliated with
22 the professional corporation, or paying dividends;

23 “(C) Hiring, terminating, evaluating the performance of, setting
24 work schedules or compensation for, or otherwise specifying terms of
25 employment for employees who are licensed to practice medicine in
26 this state or who are licensed in this state as physician assistants or
27 nurse practitioners;

28 “(D) Establishing staffing levels for any location that serves pa-
29 tients;

30 “(E) Advertising the professional corporation's services;

1 **“(F) Controlling diagnostic coding decisions, establishing clinical**
2 **standards directly or by suggestion or protocol or making policies for**
3 **patient, client or customer billing and collection;**

4 **“(G) Limiting access to, taking control from or otherwise obscuring**
5 **from a physician, physician assistant or nurse practitioner the prices,**
6 **rates or amounts the professional corporation charges for the**
7 **physician’s, physician assistant’s or nurse practitioner’s services;**

8 **“(H) Entering into, performing, enforcing or terminating contracts**
9 **with third-party payors or persons that are not employees of the pro-**
10 **fessional corporation;**

11 **“(I) Entering into noncompetition agreements, nondisclosure**
12 **agreements or nondisparagement agreements prohibited under section**
13 **14 of this 2024 Act; or**

14 **“(J) Undertaking any other action that directly inhibits, conditions**
15 **or interferes with the clinical practices or decisions or decision-**
16 **making processes of a physician, physician assistant or nurse practi-**
17 **tioner that the professional corporation employs or with whom the**
18 **professional corporation has a contract for services.**

19 **“(b) A professional corporation described in subsection (2)(a) of this**
20 **section may relinquish or transfer control over the professional**
21 **corporation’s assets or business operations or may cede control over**
22 **the professional corporation’s clinical decisions only by means of an**
23 **executed shareholder agreement that:**

24 **“(A) Is exclusively between or among and for the benefit of a ma-**
25 **jority of shareholders described in subsection (2)(a)(A) of this section;**
26 **and**

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

28 **“[(5)] (8) A professional corporation that is subject to ORS 58.375 may**
29 **elect to become subject to this section by amending the professional**
30 **corporation’s articles of incorporation or bylaws.**

1 **“SECTION 3.** ORS 58.381 is amended to read:

2 **“58.381. (1)(a) Except as provided in paragraph (b) of this subsection,**
3 a proxy to vote the shares of a professional corporation organized for the
4 purpose of practicing medicine may be given under the following conditions:

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

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

15 **“(b) A shareholder may not give a proxy to vote the shares of a**
16 **professional corporation organized for the purpose of practicing medi-**
17 **cine, a professional corporation organized for the purpose of allowing**
18 **physicians, physician assistants and nurse practitioners to jointly**
19 **render professional health care services, or a professional corporation**
20 **organized for the purpose of practicing naturopathic medicine if the**
21 **shareholder is also a shareholder, director, member, officer or em-**
22 **ployee of a management services organization with which the profes-**
23 **sional corporation has a contract.**

24 **“(2) [No] A** voting trust may **not** be created to vote the shares of a pro-
25 fessional corporation organized for the purpose of practicing medicine.

26 **“(3)** Two or more shareholders of a professional corporation organized for
27 the purpose of practicing medicine may enter into a voting agreement pro-
28 vided that the voting agreement does not transfer voting rights from a
29 shareholder who is a physician licensed in this state to practice medicine to
30 a shareholder who is not so licensed. Notwithstanding any provision of this

1 subsection, voting rights may be transferred to an attorney licensed to
2 practice law in this state or another person similarly licensed.

3 **“SECTION 4. Sections 5, 6, 7 and 8 of this 2024 Act are added to and
4 made a part of ORS chapter 58.**

5 **“SECTION 5. As used in ORS 58.375, 58.376 and 58.381 and sections
6 7 and 8 of this 2024 Act, ‘management services organization’ means
7 an entity that under a written agreement, and in return for compen-
8 sation, provides any or all of the following management services to
9 or on behalf of a professional corporation:**

10 **“(1) Payroll;**

11 **“(2) Human resources;**

12 **“(3) Employment screening;**

13 **“(4) Employee relations; or**

14 **“(5) Any other administrative or business services that do not con-
15 stitute the practice of medicine.**

16 **“SECTION 6. (1) The Oregon Health Authority or any person may
17 submit to the Secretary of State a complaint, and evidence concerning
18 the complaint, that a professional corporation, limited liability com-
19 pany or limited liability partnership violated the requirements of ORS
20 58.375, 58.376, 58.381 or 63.074 (3) or section 8, 12, 14, 15, 16, 18 or 20 of
21 this 2024 Act. The Secretary of State shall investigate any violation
22 that the complaint addresses. If the Secretary of State finds that a
23 violation has occurred, the Secretary of State may commence a pro-
24 ceeding to, as appropriate:**

25 **“(a) Administratively dissolve the professional corporation or the
26 limited liability company that engaged in the violation; or**

27 **“(b) Revoke the registration of the limited liability partnership that
28 engaged in the violation.**

29 **“(2) For the purposes of a proceeding under ORS 60.651, 63.651 or
30 67.660, a reinstatement under ORS 60.654, 63.654 or 67.665 or an appeal**

1 under ORS 60.657, 63.657 or 67.670:

2 “(a) A violation of ORS 58.375, 58.376, 58.381 or section 8 of this 2024
3 Act is grounds under ORS 60.647 or 63.647 for a proceeding to admin-
4 istratively dissolve:

5 “(A) A professional corporation organized for the purpose of prac-
6 ticing medicine, a professional corporation organized for the purpose
7 of allowing physicians, physician assistants and nurse practitioners to
8 jointly render professional medical services or a professional corpo-
9 ration organized for the purpose of practicing naturopathic medicine;
10 or

11 “(B) A limited liability company organized for a medical purpose,
12 as defined in ORS 63.074 (3).

13 “(b) A violation of ORS 58.375, 58.376 or 58.381 is grounds under ORS
14 67.655 for a proceeding to revoke the registration of a limited liability
15 partnership organized for a medical purpose, as defined in section 12
16 of this 2024 Act.

17 “(c) A professional corporation described in ORS 58.375 or 58.376 or
18 section 8 of this 2024 Act is a corporation that is subject to the Sec-
19 retary of State’s administrative dissolution authority.

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

24 “(e) A limited liability partnership described in section 12 (2) of this
25 2024 Act is subject to the Secretary of State’s administrative dissol-
26 ution authority.

27 “(3) Notwithstanding the 45-day period set forth in ORS 60.651,
28 63.651 and 67.660 within which a corporation, limited liability company
29 or limited liability partnership must take action to remove grounds for
30 dissolution or a revocation of registration, the Secretary of State may

1 negotiate a longer period of not more than seven years after the date
2 on which the Secretary of State commenced the proceeding within
3 which the professional corporation or limited liability company must
4 remove the grounds for administrative dissolution or a limited liability
5 partnership must remove the grounds for revoking registration.

6 “(4)(a) If the Oregon Health Authority determines that a person’s
7 merger with or acquisition of a professional corporation, limited li-
8 ability company or limited liability partnership has or will have the
9 effect of violating ORS 58.374, 58.376, 58.381, 63.074 (3) or section 8, 12,
10 14, 15, 16, 18 or 20 of this 2024 Act, as appropriate, the authority may
11 refer the matter to the Attorney General. The Attorney General may
12 apply to a circuit court of this state for an order staying the merger
13 or acquisition pending the Attorney General’s determination that the
14 merger or acquisition does or does not constitute a violation.

15 “(b) If the Attorney General determines during the period of the
16 stay that the merger or acquisition does or will constitute a violation,
17 the Attorney General may:

18 “(A) Seek an enforceable agreement from the parties involved to
19 modify the terms and conditions of the merger or acquisition to come
20 into compliance with ORS 58.374, 58.376, 58.381, 63.074 (3) or sections
21 8, 12, 14, 15, 16, 18 or 20 of this 2024 Act, as appropriate; or

22 “(B) Petition the court to permanently enjoin the merger or acqui-
23 sition if the parties are unable or unwilling to comply with ORS 58.374,
24 58.376, 58.381, 63.074 (3) or sections 8, 12, 14, 15, 16, 18 or 20 of this 2024
25 Act, as appropriate.

26 **SECTION 7.** (1) As used in this section, ‘professional medical en-
27 tity’ means:

28 “(a) A professional corporation described in ORS 58.375;

29 “(b) A professional corporation described in ORS 58.376;

30 “(c) A professional corporation described in section 8 of this 2024

1 **Act;**

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

4 **“(e) A limited liability partnership organized for a medical purpose,**
5 **as defined in section 12 of this 2024 Act.**

6 **“(2) A professional medical entity shall disclose to the Oregon**
7 **Health Authority, within 10 calendar days after any change in the**
8 **ownership or control of more than 50 percent of the interest in the**
9 **professional medical entity, the identity of each person that owns or**
10 **controls:**

11 **“(a) More than 50 percent of the outstanding shares of or interest**
12 **in the professional medical entity; or**

13 **“(b) Any of the three largest voting groups, as defined in ORS**
14 **60.001, in the professional corporation if a person described in para-**
15 **graph (a) of this subsection does not exist.**

16 **“(3) The authority by rule shall prescribe the form, format, con-**
17 **tents and manner of the disclosure required under this section and**
18 **may compel compliance with the requirements of this section as pro-**
19 **vided in ORS chapter 183.**

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

23 **“SECTION 8. (1) As used in this section:**

24 **“(a) ‘Naturopathic medicine’ has the meaning given that term in**
25 **ORS 685.010.**

26 **“(b) ‘Naturopathic physician’ has the meaning given that term in**
27 **ORS 685.010.**

28 **“(2)(a) In a professional corporation that is organized for the pur-**
29 **pose of practicing naturopathic medicine, naturopathic physicians**
30 **must:**

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

3 “(B) Be a majority of the directors of the professional corporation.

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

8 “(3) An individual whom the professional corporation employs, or
9 an individual who owns an interest in the professional corporation,
10 may not direct or control the professional judgment of a naturopathic
11 physician who is practicing within the professional corporation and
12 within the scope of practice permitted under the naturopathic
13 physician’s license.

14 “(4)(a) A shareholder, director or officer of a professional corpo-
15 ration described in subsection (2)(a) of this section may not:

16 “(A) Own or control shares in, serve as a director or officer of, or
17 otherwise participate in managing both the professional corporation
18 and a management services organization with which the professional
19 corporation has a contract; or

20 “(B) Participate in hiring, terminating, evaluating the performance
21 of, setting work schedules or compensation for, or otherwise specifying
22 terms of employment of a naturopathic physician that the professional
23 corporation employs or may employ while at the same time owning
24 or controlling shares in, serving as a director of, or otherwise partic-
25 ipating in managing a management services organization with which
26 the professional corporation has a contract.

27 “(b) Paragraph (a) of this subsection does not apply if a professional
28 corporation described in subsection (2)(a) of this section owns a ma-
29 jority of the interest in the management services organization.

30 “(5)(a) Except as provided in paragraph (b) of this subsection, a

1 professional corporation described in subsection (2)(a) of this section
2 may not provide in the professional corporation's articles of incorpo-
3 ration or bylaws, or by means of a contract or other agreement or
4 arrangement, for removing a director described in subsection (2)(a)(B)
5 of this section from the professional corporation's board of directors,
6 or an officer described in subsection (2)(b) of this section from an of-
7 fice of the professional corporation, except by a majority vote of the
8 shareholders described in subsection (2)(a)(A) of this section or, as
9 appropriate, a majority vote of the directors described in subsection
10 (2)(a)(B) of this section.

11 “(b) A professional corporation described in subsection (2)(a) of this
12 section may remove a director or officer by means other than a ma-
13 jority vote of the shareholders described in subsection (2)(a)(A) of this
14 section or a majority vote of the directors described in subsection
15 (2)(a)(B) of this section if the director or officer that is subject to re-
16 moval:

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

19 “(B) Was the subject of a disciplinary proceeding by the Oregon
20 Board of Naturopathic Medicine in which the board suspended or re-
21 voked the director's or officer's license; or

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

25 “(6)(a) Except as provided in paragraph (b) of this subsection, a
26 professional corporation described in subsection (2)(a) of this section
27 may not by means of a contract or other agreement or arrangement,
28 by providing in the professional corporation's articles of incorporation
29 or bylaws, by forming a subsidiary or affiliated entity or by other
30 means conduct, perform or undertake any of the following activities

1 or practices with the intent or effect of relinquishing control over or
2 otherwise transferring de facto control over the professional
3 corporation's clinical practices or decisions, or the clinical practices
4 or decisions of a naturopathic physician that the professional corpo-
5 ration employs or with whom the professional corporation has a con-
6 tract for services:

7 “(A) Selling, restricting the sale of, encumbering or transferring
8 substantially all of the professional corporation's shares or assets;

9 “(B) Issuing shares of stock in the professional corporation, in a
10 subsidiary of the professional corporation or an entity affiliated with
11 the professional corporation, or paying dividends;

12 “(C) Hiring, terminating, evaluating the performance of, setting
13 work schedules or compensation for, or otherwise specifying terms of
14 employment for employees who are licensed to practice naturopathic
15 medicine in this state;

16 “(D) Establishing staffing levels for any location that serves pa-
17 tients;

18 “(E) Advertising the professional corporation's services;

19 “(F) Controlling diagnostic coding decisions, establishing clinical
20 standards directly or by suggestion or protocol or making policies for
21 patient, client or customer billing and collection;

22 “(G) Limiting access to, taking control from or otherwise obscuring
23 from a naturopathic physician the prices, rates or amounts the pro-
24 fessional corporation charges for the naturopathic physician's ser-
25 vices;

26 “(H) Entering into, performing, enforcing or terminating contracts
27 with third-party payors or persons that are not employees of the pro-
28 fessional corporation;

29 “(I) Entering into noncompetition agreements, nondisclosure
30 agreements or nondisparagement agreements prohibited under section

1 **14 of this 2024 Act; or**

2 **“(J) Undertaking any other action that directly inhibits, conditions**
3 **or interferes with the clinical practices or decisions or decision-**
4 **making processes of a naturopathic physician that the professional**
5 **corporation employs or with whom the professional corporation has a**
6 **contract for services.**

7 **“(b) A professional corporation described in subsection (2)(a) of this**
8 **section may relinquish or transfer control over the professional**
9 **corporation’s assets or business operations or may cede control over**
10 **the professional corporation’s clinical decisions only by means of an**
11 **executed shareholder agreement that:**

12 **“(A) Is exclusively between or among and for the benefit of a ma-**
13 **jority of shareholders described in subsection (2)(a)(A) of this section;**
14 **and**

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

16 **“SECTION 9.** ORS 60.754 is amended to read:

17 **“60.754. (1)(a) Notwithstanding ORS 60.074 (2), a corporation incorporated**
18 **under ORS chapter 60 is a benefit company under ORS 60.750 to 60.770 if the**
19 **corporation’s articles of incorporation state that the corporation is a benefit**
20 **company subject to ORS 60.750 to 60.770.**

21 **“(b) Notwithstanding ORS 63.074 [(3)] (4), a limited liability company or-**
22 **ganized under ORS chapter 63 is a benefit company under ORS 60.750 to**
23 **60.770 if the limited liability company’s articles of organization state that the**
24 **limited liability company is a benefit company subject to ORS 60.750 to**
25 **60.770.**

26 **“(2)(a) A corporation that is incorporated under ORS chapter 60 may be-**
27 **come a benefit company by amending the corporation’s articles of incorpo-**
28 **ration to state, in addition to the requirements set forth in ORS 60.047, that**
29 **the corporation is a benefit company subject to ORS 60.750 to 60.770. The**
30 **amendment to the articles of incorporation must be approved by a minimum**

1 status vote.

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

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

12 “(4) An entity that is not a benefit company may become a benefit com-
13 pany by merging or exchanging equity interests with a benefit company if
14 the shareholders or holders of equity interests of the entity that is not the
15 benefit company approve, by a minimum status vote, a plan of merger or a
16 plan for exchanging equity interests with a benefit company under which the
17 surviving entity will be a benefit company.

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

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

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

27 “(B) Provide for exchanging equity interests with an entity that is not a
28 benefit company, if the exchange would create an entity that is not a benefit
29 company and that would hold substantially all of the benefit company’s as-
30 sets;

1 “(C) Convert the benefit company to an entity that is not a benefit com-
2 pany; or

3 “(D) Otherwise cause ORS 60.750 to 60.770 not to apply to the benefit
4 company.

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

9 “(7) A provision of a benefit company’s articles of incorporation, articles
10 of organization, articles of conversion or plan described in subsection (6) of
11 this section may be inconsistent with or supersede a provision of ORS 60.750
12 to 60.770 only to the extent that the provision in the articles of incorpo-
13 ration, articles of organization, articles of conversion or plan imposes a more
14 stringent requirement on the benefit company, in keeping with the purposes
15 set forth in ORS 60.750 to 60.770, than a provision of ORS 60.750 to 60.770
16 imposes.

17 **“SECTION 10.** ORS 63.074 is amended to read:

18 “63.074. (1) Except as otherwise provided by the laws of the state and in
19 this section, a limited liability company formed under this chapter may
20 conduct or promote any lawful business or purpose that a partnership, cor-
21 poration or professional corporation as defined in ORS 58.015 may conduct
22 or promote, unless the articles of organization set forth a more limited pur-
23 pose. A person may not organize a limited liability company under this
24 chapter for any illegal purpose or with an intent to fraudulently conceal any
25 business activity from another person or a governmental agency.

26 “(2)(a) Subject to the laws of the state, the rules and regulations of a
27 regulatory board of a profession, if any, and the standards of professional
28 conduct of the profession, if any, a limited liability company or members of
29 the limited liability company may render professional service in this state.

30 “(b) Notwithstanding any other law, members of a limited liability com-

1 pany, including members who are managers, and who are also professionals,
2 as defined in ORS 58.015, are personally liable as members of the limited li-
3 ability company to the same extent and in the same manner as provided for
4 shareholders of a professional corporation in ORS 58.185 and 58.187 and as
5 otherwise provided in this chapter.

6 **“(3)(a) As used in this subsection:**

7 **“(A) ‘Holding entity’ means a business entity that is organized for**
8 **the purpose of holding or owning a majority of the ownership interests**
9 **in:**

10 **“(i) A professional corporation;**

11 **“(ii) A limited liability company that is organized for a medical**
12 **purpose; or**

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

15 **“(B) ‘Medical purpose’ means, as appropriate:**

16 **“(i) The purpose of practicing medicine;**

17 **“(ii) The purpose of allowing physicians, physician assistants and**
18 **nurse practitioners to jointly render professional health care services;**
19 **or**

20 **“(iii) The purpose of practicing naturopathic medicine.**

21 **“(C) ‘Professional corporation’ means, as appropriate:**

22 **“(i) A professional corporation described in ORS 58.375;**

23 **“(ii) A professional corporation described in ORS 58.376; or**

24 **“(iii) A professional corporation described in section 8 of this 2024**
25 **Act.**

26 **“(b) A limited liability company that is organized for a medical**
27 **purpose, or as a holding entity, is subject to ORS 58.375, 58.376 or sec-**
28 **tion 8 of this 2024 Act, as appropriate, and must comply with the re-**
29 **quirements specified for, and the limitations imposed upon, a**
30 **professional corporation and the shareholders, directors and officers**

1 of a professional corporation, with respect to the limited liability
2 company's or holding entity's ownership, control, governance and
3 management and the qualifications of the limited liability company's
4 members or managers or the holding entity's shareholders, members,
5 directors, officers or managers.

6 “(c) For the purposes described in paragraph (b) of this subsection
7 and the purposes of determining the management and control of a
8 limited liability company organized for a medical purpose, or of a
9 holding entity:

10 “(A) A member or manager of a limited liability company organized
11 for a medical purpose, and a shareholder, member, director, officer or
12 manager of a holding entity, is equivalent to a shareholder in a pro-
13 fessional corporation; and

14 “(B) The rights and obligations of a member or manager of a lim-
15 ited liability company organized for a medical purpose, and the rights
16 of a shareholder, member, director, officer or manager in the holding
17 entity, are equivalent to the rights and obligations of a shareholder,
18 director or officer in a professional corporation.

19 “[3] (4) A business that is subject to regulation under another statute
20 of the state may not be organized under this chapter if the business is re-
21 quired to be organized only under the other statute.

22 **“SECTION 11. Section 12 of this 2024 Act is added to and made a
23 part of ORS chapter 67.**

24 **“SECTION 12. (1) As used in this section:**

25 **“(a) ‘Holding entity’ means a limited liability partnership that is
26 organized for the purpose of holding or owning a majority of the
27 ownership interests in:**

28 **“(A) A professional corporation;**

29 **“(B) A limited liability company that is organized for a medical
30 purpose; or**

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

3 **“(b) ‘Medical purpose’ means, as appropriate:**

4 **“(A) The purpose of practicing medicine;**

5 **“(B) The purpose of allowing physicians, physician assistants and**
6 **nurse practitioners to jointly render professional health care services;**
7 **or**

8 **“(C) The purpose of practicing naturopathic medicine.**

9 **“(c) ‘Professional corporation’ means, as appropriate:**

10 **“(A) A professional corporation described in ORS 58.375;**

11 **“(B) A professional corporation described in ORS 58.376; or**

12 **“(C) A professional corporation described in section 8 of this 2024**
13 **Act.**

14 **“(2) A limited liability partnership that is organized for a medical**
15 **purpose, or as a holding entity, is subject to ORS 58.375 or 58.376 or**
16 **section 8 of this 2024 Act, as appropriate, and must comply with the**
17 **requirements specified for, and the limitations imposed upon, a pro-**
18 **fessional corporation and the shareholders, directors and officers of a**
19 **professional corporation, with respect to the limited liability**
20 **partnership’s or holding entity’s ownership, control, governance and**
21 **management and the qualifications of the limited liability**
22 **partnership’s or holding entity’s general partners.**

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

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

30 **“(b) A general partner’s rights and obligations in the limited li-**

1 ability partnership or holding entity are equivalent to the rights and
2 obligations of a shareholder in a professional corporation.

3 **“SECTION 13.** Sections 14, 15 and 16 of this 2024 Act are added to
4 and made a part of ORS chapter 677.

5 **“SECTION 14. (1)** As used in this section and section 15 of this 2024
6 Act:

7 **“(a) ‘Disciplinary action’** means discrimination, dismissal, de-
8 motion, transfer, reassignment, supervisory reprimand, warning of
9 possible dismissal, or withholding of work, even if the action does not
10 affect or will not affect a licensee’s compensation.

11 **“(b) ‘Management services organization’** means an entity that un-
12 der a written agreement and in return for compensation provides to
13 or on behalf of a licensee business management services including, but
14 not limited to, payroll, human resources, employment screening, em-
15 ployee relations and other similar or related services that do not con-
16 stitute the practice of medicine.

17 **“(c) ‘Noncompetition agreement’** means a written agreement be-
18 tween a licensee and another person under which the licensee agrees
19 that the licensee, either alone or as an employee, associate or affiliate
20 of a third person, will not compete with the other person in providing
21 products, processes or services that are similar to the other person’s
22 products, processes or services for a period of time or within a speci-
23 fied geographic area after termination of employment or termination
24 of a contract under which the licensee supplied goods to or performed
25 services for the other person.

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

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

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

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

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

23 **“(f) ‘Professional medical entity’ means:**

24 **“(A) A professional corporation described in ORS 58.375;**

25 **“(B) A professional corporation described in ORS 58.376;**

26 **“(C) A professional corporation described in section 8 of this 2024**
27 **Act;**

28 **“(D) A limited liability company organized for a medical purpose,**
29 **as defined in ORS 63.074 (3)(a); or**

30 **“(E) A limited liability partnership organized for a medical purpose,**

1 as defined in section 12 of this 2024 Act.

2 “(2)(a) Notwithstanding ORS 653.295 (1) and (2), and except as pro-
3 vided in paragraphs (b) and (c) of this subsection, a noncompetition
4 agreement between a licensee and another person is void and
5 unenforceable.

6 “(b) A noncompetition agreement that a licensee executes in con-
7 nection with the licensee’s sale, as owner, of a medical practice, or a
8 sale of all or substantially all of the operating assets of the medical
9 practice, is enforceable to the extent and under the terms provided in
10 ORS 653.295.

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

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

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

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

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

27 **“SECTION 15. (1) A management services organization or a profes-**
28 **sional medical entity may not take disciplinary action against a**
29 **licensee as retaliation for, or as a consequence of, the licensee’s vio-**
30 **lation of a nondisclosure agreement or nondisparagement agreement**

1 or because the licensee in good faith disclosed or reported information
2 that the licensee believes is evidence of a violation of a federal or state
3 law, rule or regulation.

4 “(2) A management services organization or professional medical
5 entity that takes disciplinary action against a licensee in the circum-
6 stances described in subsection (1) of this section engages in an un-
7 lawful employment practice, as defined in ORS 659A.001, that is subject
8 to enforcement under ORS chapter 659A.

9 **“SECTION 16.** A licensee may not practice medicine and a physician
10 assistant may not collaborate in practicing medicine, or provide a
11 medical service, as an employee of, or under contract with, another
12 person that is not:

13 “(1) A hospital, as defined in ORS 442.015, or a limited liability
14 company, limited liability partnership or clinic that the hospital owns
15 for the purpose of practicing medicine or providing professional health
16 care services;

17 “(2) A professional corporation organized under ORS 58.375 or 58.376;

18 “(3) A limited liability company organized in accordance with the
19 requirements of ORS 63.074 (3); or

20 “(4) A limited liability partnership organized in accordance with the
21 requirements of section 12 of this 2024 Act.

22 **“SECTION 17.** Section 18 of this 2024 Act is added to and made a
23 part of ORS chapter 678.

24 **“SECTION 18.** A nurse practitioner may not practice nursing within
25 a nurse practitioner’s scope of practice as an employee of, or under
26 contract with, another person that is not:

27 “(1) A hospital, as defined in ORS 442.015, or a limited liability
28 company, limited liability partnership or clinic that the hospital owns
29 for the purpose of practicing medicine or providing professional health
30 care services;

1 “(2) A professional corporation organized under ORS 58.376;

2 “(3) A limited liability company organized in accordance with the
3 requirements of ORS 63.074 (3); or

4 “(4) A limited liability partnership organized in accordance with the
5 requirements of section 12 of this 2024 Act.

6 “SECTION 19. Section 20 of this 2024 Act is added to and made a
7 part of ORS chapter 685.

8 “SECTION 20. A naturopathic physician may not practice
9 naturopathic medicine as an employee of, or under contract with, an
10 other person that is not:

11 “(1) A hospital, as defined in ORS 442.015, or a limited liability
12 company, limited liability partnership or clinic that the hospital owns
13 for the purpose of practicing medicine or providing professional health
14 care services;

15 “(2) A professional corporation organized under section 8 of this
16 2024 Act;

17 “(3) A limited liability company organized in accordance with the
18 requirements of ORS 63.074 (3); or

19 “(4) A limited liability partnership organized in accordance with the
20 requirements of section 12 of this 2024 Act.

21 “SECTION 21. (1) Except as provided in subsection (2) of this sec-
22 tion, sections 5, 6, 7, 8, 12, 14, 15, 16, 18 and 20 of this 2024 Act and the
23 amendments to ORS 58.375, 58.376, 58.381, 60.754, and 63.074 by sections
24 1, 2, 3, 9 and 10 of this 2024 Act apply to contracts that a person enters
25 into or renews on and after the operative date specified in section 22
26 of this 2024 Act.

27 “(2) Except as otherwise provided in section 14 of this 2024 Act, a
28 noncompetition agreement, nondisclosure agreement or
29 nondisparagement agreement, as those terms are defined in section
30 14 of this 2024 Act, into which a licensee, as defined in ORS 677.010,

1 enters before, on or after the operative date specified in section 22 of
2 this 2024 Act may not be enforced.

3 **“SECTION 22. (1) Sections 5, 6, 7, 8, 12, 14, 15, 16, 18 and 20 of this**
4 **2024 Act and the amendments to ORS 58.375, 58.376, 58.381, 60.754 and**
5 **63.074 by sections 1, 2, 3, 9 and 10 of this 2024 Act become operative on**
6 **January 1, 2025.**

7 **“(2) The Secretary of State, the Attorney General and the director**
8 **of the Oregon Health Authority may adopt rules and take any other**
9 **action before the operative date specified in subsection (1) of this sec-**
10 **tion that is necessary to enable the Secretary of State, the Attorney**
11 **General and the authority, on and after the operative date specified**
12 **in subsection (1) of this section, to undertake and exercise all of the**
13 **duties, functions and powers conferred on the Secretary of State, the**
14 **Attorney General and the director of the Oregon Health Authority by**
15 **sections 5, 6, 7, 8, 12, 14, 15, 16, 18 and 20 of this 2024 Act and the**
16 **amendments to ORS 58.375, 58.376, 58.381, 60.754 and 63.074 by sections**
17 **1, 2, 3, 9 and 10 of this 2024 Act.**

18 **“SECTION 23. This 2024 Act takes effect on the 91st day after the**
19 **date on which the 2024 regular session of the Eighty-second Legislative**
20 **Assembly adjourns sine die.”**

21
