

Senate Bill 134

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for State Board of Chiropractic Examiners)

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**.

Allows State Board of Chiropractic Examiners and State Board of Pharmacy to establish certain fees by rule.

Removes obsolete language from provision relating to fees established by State Board of Psychologist Examiners.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health professional regulatory boards; creating new provisions; amending ORS 675.115,
3 684.040, 684.050, 684.054, 684.060, 684.090, 689.135, 689.285, 689.486 and 689.490; and declaring an
4 emergency.

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

STATE BOARD OF CHIROPRACTIC EXAMINERS

6
7
8
9 **SECTION 1.** ORS 684.040 is amended to read:

10 684.040. (1) [*Any*] **A** person applying for a license to practice chiropractic in this state shall
11 [*make application*] **apply** to the State Board of Chiropractic Examiners, [*upon such form*] **on a form**
12 and in [*such*] **the** manner [*as may be provided*] **prescribed** by the board. The application must be
13 accompanied by **the following** nonrefundable fees [*of*]:

14 (a) [*\$150*] **An application fee in an amount established by the board by rule;** and

15 (b) The [*amount*] **fee for a criminal records check in the amount** established by the board
16 by rule under ORS 181.534.

17 (2) Each applicant shall furnish to the board:

18 (a) Evidence satisfactory to the board of the applicant's good moral character.

19 (b) A certificate of proficiency in the fundamental sciences (Part I, taken subsequent to January
20 1, 1971) issued to the applicant by the National Board of Chiropractic Examiners.

21 (c) Evidence of successful completion of at least two years of liberal arts and sciences study, in
22 any college or university accredited by either the Northwest Association of Schools and Colleges
23 or a like regional association or in any college or university in Oregon approved for granting de-
24 grees by the Oregon Student Assistance Commission.

25 (d) A diploma and transcript, certified by the registrar, or other documents satisfactory to the
26 board evidencing graduation from a chiropractic school or college approved by the board under the
27 board's academic standards, or from a school accredited by the Council on Chiropractic Education
28 or its successor agency, under standards that are accepted and adopted biennially by the board in

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 the version applied to that school by the accrediting agency.

2 (e) A statement of any other health care provider license in this state held by the applicant,
3 with identifying information required by the board.

4 (3) The board may waive the requirements of subsection (2)(c) of this section for any applicant
5 for a license to practice chiropractic if the applicant is licensed in another state and practiced
6 chiropractic in that state, but the applicant must pass the examination authorized by ORS 684.050
7 or by ORS 684.052.

8 **SECTION 2.** ORS 684.050 is amended to read:

9 684.050. (1) *[Examinations for]* **The State Board of Chiropractic Examiners shall conduct**
10 **examinations for a** license to practice chiropractic *[shall be made by the State Board of*
11 *Chiropractic Examiners]* according to the method deemed to be the most practicable to test the
12 applicant's qualifications.

13 (2) The board shall give an examination on subjects described in subsection (3) of this section.
14 The board shall determine the passing score. The *[applicant]* **board** shall, however, *[be given]* **give**
15 **an applicant** credit for all sections passed. The board may authorize an applicant to retake all or
16 part of an examination upon payment of a fee *[not to exceed \$100]* **established by the board by**
17 **rule.**

18 (3) The schedule of minimum educational requirements to enable *[any]* **a** person to practice
19 chiropractic in this state includes:

20 (a) The basic science subjects of anatomy, physiology, chemistry, pathology and public health
21 and hygiene; *[also]*

22 (b) The clinical subjects of physical diagnosis, differential diagnosis, laboratory diagnosis, theory
23 and practice of chiropractic, nutrition and dietetics, physiotherapy, electrotherapy, hydrotherapy,
24 chiropractic orthopedics, written and practical roentgenology, eye-ear-nose-throat, proctology,
25 obstetrics and gynecology, minor surgery, jurisprudence, psychology[,] **and** office procedure; and

26 (c) Other subjects that the board may, from time to time, require, except internal medicine and
27 major surgery.

28 (4) The minimum number of academic hours in an approved chiropractic college may not be less
29 than 4,200 or the equivalent requirement in semester or quarter credits.

30 (5) The board may recognize a national chiropractic testing agency for grades received in both
31 basic science and clinical subjects.

32 **SECTION 3.** ORS 684.054 is amended to read:

33 684.054. (1) Upon complying with ORS 684.040, and earning a passing grade on the examination
34 authorized by ORS 684.050 or 684.052, an applicant shall be licensed as a chiropractic physician
35 upon payment of a fee *[of \$100]* **established by the State Board of Chiropractic Examiners by**
36 **rule,** unless the *[State]* board *[of Chiropractic Examiners]* refuses to grant the license on grounds
37 specified in ORS 684.100.

38 (2) *[Every]* **A** chiropractic physician shall promptly notify the board of any change in the pro-
39 fessional address of the chiropractic physician.

40 (3) After meeting the standards of the board established under ORS 684.155 for ancillary per-
41 sonnel, an applicant shall be certified as ancillary personnel upon payment of *[a fee of \$50]* **an ap-**
42 **plication fee and an examination fee established by the board by rule.** *[The annual renewal fee*
43 *for the certificate is \$50]* **The certificate may be renewed annually upon payment of a fee es-**
44 **tablished by the board by rule.** *[In addition, the board may charge an application fee of \$25 and*
45 *an examination fee of \$35.]*

SECTION 4. ORS 684.060 is amended to read:

684.060. (1) A person licensed to practice chiropractic under the laws of any other state who demonstrates to the satisfaction of the State Board of Chiropractic Examiners that the person possesses qualifications at least equal to those required of persons eligible for licensing under this chapter and who meets the requirements of ORS 684.040 may be issued a license to practice in this state without examination upon payment of a fee *[of \$100]* **established by the board by rule.** *[In addition,]*

(2) The board may fix the minimum number of years of practice required to qualify for a license under this section.

SECTION 5. ORS 684.090 is amended to read:

684.090. (1) In addition to meeting the requirements of ORS 684.092, *[each]* a person practicing chiropractic within this state shall, on or before the renewal date of each year after a license is issued to the person, pay to the State Board of Chiropractic Examiners an annual registration fee in an amount *[determined by rule of]* **established by** the State Board of Chiropractic Examiners **by rule** and approved by the Oregon Department of Administrative Services.

[(2) The maximum annual registration fee for a person actively practicing chiropractic may not exceed \$300.]

[(3) The maximum annual registration fee for a person not actively practicing chiropractic may not exceed \$175.]

[(4)] (2) The maximum annual registration fee for an active senior may not exceed 75 percent of the annual *[active]* registration fee.

[(5)] (3) The board, at least 30 days prior to the renewal date, shall mail to the last-known professional address of each licensed chiropractor *[in this state]* a notice of the requirements of ORS 684.092 and that the registration fee will be due on or before the renewal date next following.

[(6)] (4) The annual registration fee is payable only by personal, corporate or certified check, by money order or by credit card.

[(7)] (5) *[The failure, neglect or refusal of any]* **If** a person holding a license or certificate to practice under this chapter **fails** to pay the annual fee and to show compliance with or exemption from the requirement of ORS 684.092 *[during the time the license remains in force shall cause]* **before the renewal date,** the license *[to expire]* **or certificate expires** *[after a period of]* 30 days *[from]* **after** the renewal date *[of the year for which the failure occurs].*

[(8)] (6) *[The licenses]* **A license that is** not renewed on time *[shall]* **may** not be renewed except upon written application and a payment to the board of the fee for the license category plus a *[delinquent]* **late** fee of \$100 for each week or portion *[thereof]* **of a week,** not to exceed \$500, and upon compliance with or exemption from the requirements of ORS 684.092. A licensee who pays the annual renewal fee and shows compliance or exemption within 12 months of the expiration date of the license *[shall]* **may** not be required to submit to an examination for the reissuance of a license.

STATE BOARD OF PHARMACY

SECTION 6. ORS 689.135 is amended to read:

689.135. (1) The State Board of Pharmacy *[shall have]* **has** such other duties, powers and authority as may be necessary to the enforcement of this chapter and to the enforcement of board rules made pursuant *[thereto]* **to this chapter,** *[which shall include, but are]* **including, but** not limited to, the following:

1 (a) Cause to have printed and circulated annually copies of any changes in the laws relating to
2 pharmacy, controlled substances, drugs and poisons and the rules adopted to enforce such laws, and
3 set reasonable charges *[therefor]* **for the copies.**

4 (b) Appoint advisory committees.

5 (2) The board may join *[such]* professional organizations and associations organized exclusively
6 to promote the improvement of the standards of the practice of pharmacy for the protection of the
7 health and welfare of the public and whose activities assist and facilitate the work of the board.

8 (3) In addition to any statutory requirements, the board may require *[such]* surety bonds as it
9 deems necessary to guarantee the performance and discharge of the duties of any officer or em-
10 ployee receiving and disbursing funds.

11 (4) The executive director of the board shall keep the seal of the board and shall affix it only
12 in such manner as may be prescribed by the board.

13 (5) The board shall determine within 30 days prior to the beginning of each state fiscal year the
14 fees to be collected for:

15 (a) Examinations and reexaminations[, *which fee shall not exceed \$400*].

16 (b) Pharmacist *[licenses, which fee shall not exceed \$250]* **license.**

17 (c) Pharmacist licensing by reciprocity[, *which fee shall not exceed \$300*].

18 (d) Intern license[, *which fee shall not exceed \$50*].

19 (e) Duplicate pharmacist certificate[, *which fee shall not exceed \$50*].

20 (f) **Late renewal of a pharmacist license**[, *delinquent renewal fee, which fee shall not exceed*
21 *\$50*].

22 (g) Certification of *[approved providers]* **an approved provider** of continuing education
23 courses[, *which fee shall not exceed \$300*].

24 (h) Registration of *[drug outlets other than pharmacies]* **a drug outlet other than a pharmacy**
25 and renewal of registration[, *which fee shall not exceed \$500*].

26 (i) Initial **registration of a pharmacy or an institutional drug outlet**[, *which fee shall not exceed*
27 *\$300*].

28 (j) Annual **renewal of a pharmacy or an institutional drug outlet registration**[, *which fee shall*
29 *not exceed \$300*].

30 (k) **Late renewal of a pharmacy or an institutional drug outlet registration** [*delinquent renewal*
31 *fee, which fee shall not exceed \$200*].

32 (L) **Registration of a nonprescription drug** [*outlets, which fee shall not exceed \$50*] **outlet.**

33 (m) **Late renewal of a nonprescription drug outlet registration** [*delinquent renewal fee, which*
34 *fee shall not exceed \$50*].

35 (n) Reinspection [*fee, which fee shall not exceed \$100*].

36 (o) **Late renewal of registration of a drug** [*outlets, other than pharmacies or institutional drug*
37 *outlets, delinquent renewal fee, which fee shall not exceed \$100*] **outlet, other than a pharmacy or**
38 **an institutional drug outlet.**

39 (6) All moneys collected either as costs or fines under ORS 435.010 to 435.130, 453.175, 453.185
40 and 453.990 and this chapter shall be paid by the magistrate or other officer receiving them to the
41 treasurer of the county where the prosecution is conducted. These moneys shall be applied, first,
42 to the payment of the costs of such prosecution. The remainder shall be paid by the county treasurer
43 into the State Treasury and, in the case of:

44 (a) All moneys except criminal fines, placed to the credit of the State Board of Pharmacy Ac-
45 count established in ORS 689.139 to be used only for the administration and enforcement of ORS

1 435.010 to 435.130 and this chapter.

2 (b) Criminal fines, placed to the credit of the Criminal Fine and Assessment Account.

3 (7) Except as provided in subsection (6) of this section, all moneys received under ORS 435.010
4 to 435.130, 453.185 and 453.990 and this chapter shall be paid into the State Treasury and placed to
5 the credit of the State Board of Pharmacy Account to be used only for the administration and
6 enforcement of ORS 435.010 to 435.130 and this chapter.

7 (8) The board may receive and expend funds, in addition to its biennial appropriation, from
8 parties other than the state, provided:

9 (a) [*Such*] **The** moneys are awarded for the pursuit of a specific objective [*which*] **that** the board
10 is authorized to accomplish by this chapter, or [*which*] **that** the board is qualified to accomplish by
11 reason of its jurisdiction or professional expertise;

12 (b) [*Such*] **The** moneys are expended for the pursuit of the objective for which they are awarded;

13 (c) Activities connected with or occasioned by the expenditures of [*such*] **the** funds do not in-
14 terfere with or impair the performance of the board's duties and responsibilities and do not conflict
15 with the exercise of the board's powers as specified by this chapter;

16 (d) [*Such*] **The** moneys are kept in a separate, special state account; and

17 (e) Periodic reports are made to the Governor concerning the board's receipt and expenditure
18 of [*such*] **the** moneys.

19 (9) The board may assign to each drug outlet under its jurisdiction, a uniform state number,
20 coordinated where possible with all other states [*which*] **that** adopt the same uniform numbering
21 system.

22 (10) The board or its authorized representatives shall [*also*] have power to investigate and
23 gather evidence concerning alleged violations of the provisions of this chapter or of the rules of the
24 board.

25 (11) The president and vice president of the board may administer oaths in connection with the
26 duties of the board.

27 (12) The books, registers and records of the board as made and kept by the executive director
28 or under the supervision of the executive director, subject to the direction of the board, [*shall be*]
29 **are** prima facie evidence of the matter recorded [*therein*] **in the books, registers and records**, in
30 any court of law.

31 (13) The board may administer oaths, issue notices and subpoenas in the name of the board,
32 enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other
33 acts as are reasonably necessary to carry out its duties under this chapter.

34 (14)(a) Notwithstanding anything in this chapter to the contrary, whenever a duly authorized
35 representative of the board finds or has probable cause to believe that any drug or device is
36 adulterated, misbranded or a new drug, as defined in Section 201(p) of the Federal Food, Drug and
37 Cosmetic Act, for which there is no approval in effect pursuant to Section 505(b) of the federal Act
38 nor an approved notice of claimed investigational exemption pursuant to Section 505(i) of the federal
39 Act, or otherwise rendered unsafe for use as a result of fire, flood or other natural disaster, the
40 representative shall affix to such drug or device a tag or other appropriate marking giving notice
41 that such article is or is suspected of being adulterated, misbranded, or otherwise rendered unsafe
42 and has been detained or embargoed and warning all persons not to remove or dispose of such ar-
43 ticle by sale or otherwise until provision for removal or disposal is given by the board, its agent or
44 the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise
45 without the permission of the board or its agent or, after summary proceedings have been instituted,

1 without permission from the court.

2 (b) When a drug or device detained or embargoed under paragraph (a) of this subsection has
3 been declared by such representative to be adulterated, misbranded or a new drug, or rendered un-
4 safe, the board shall, as soon as practical thereafter, petition the judge of the circuit court in whose
5 jurisdiction the article is detained or embargoed for an order for condemnation of such article. If
6 the judge determines that the drug or device so detained or embargoed is not adulterated or mis-
7 branded or rendered unsafe, the board shall direct the immediate removal of the tag or other
8 marking.

9 (c) If the court finds the detained or embargoed drug or device is adulterated or misbranded or
10 rendered unsafe, such drug or device, after entry of the judgment, shall be destroyed at the expense
11 of the owner under the supervision of a board representative and all court costs and fees, storage
12 and other proper expense shall be borne by the owner of such drug or device. When the
13 adulteration or misbranding can be corrected by proper labeling or processing of the drug or device,
14 the court, after entry of the judgment and after such costs, fees and expenses have been paid and
15 a good and sufficient bond has been posted, may direct that such drug or device be delivered to the
16 owner thereof for such labeling or processing under the supervision of a board representative. Ex-
17 pense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of
18 the drug or device on representation to the court by the board that the drug or device is no longer
19 in violation of the embargo and the expense of supervision has been paid.

20 (d) It is the duty of the Attorney General to whom the board reports any violation of this sub-
21 section to cause appropriate proceedings to be instituted in the proper court without delay and to
22 be prosecuted in the manner required by law. Nothing in this subsection shall be construed to re-
23 quire the board to report violations whenever the board believes the public's interest will be ade-
24 quately served in the circumstances by a suitable written notice or warning.

25 (15) Except as otherwise provided to the contrary, the board shall exercise all of its duties,
26 powers and authority in accordance with ORS chapter 183.

27 **SECTION 7.** ORS 689.285 is amended to read:

28 689.285. (1) The Legislative Assembly finds and declares that:

29 (a) The continuous introduction of new medical agents and the changing concepts of the delivery
30 of health care services in the practice of pharmacy make it essential that a pharmacist undertake
31 a continuing education program in order to maintain professional competency and improve profes-
32 sional skills;

33 (b) The state has a basic obligation to regulate and control the profession of pharmacy in order
34 to protect the public health and welfare of its citizens; and

35 (c) It is the purpose of this chapter to protect the health and welfare of Oregon citizens and to
36 ensure uniform qualifications and continued competency of licensed pharmacists by requiring par-
37 ticipation in a continuing pharmacy education program as a condition for renewal of licenses to
38 practice pharmacy.

39 (2) All pharmacists licensed in the State of Oregon on and after October 3, 1979, shall satisfac-
40 torily complete courses of study and satisfactorily continue their education by other means as de-
41 termined by the State Board of Pharmacy in subjects relating to the practice of the profession of
42 pharmacy in order to be eligible for renewal of licenses.

43 (3) In accordance with applicable provisions of ORS chapter 183, the board shall make reason-
44 able rules:

45 (a) Prescribing the procedure and criteria for approval of continuing pharmacy education pro-

1 grams, including the number of hours of courses of study necessary to constitute a continuing
 2 pharmacy education unit and the number of continuing pharmacy education units required annually
 3 for renewal of a pharmacist license.

4 (b) Prescribing the scope of the examinations given by the board including grading procedures.

5 (c) Prescribing the content of the form to be submitted to the board certifying completion of an
 6 approved continuing pharmacy education program.

7 (d) Necessary to carry out the provisions of this chapter.

8 (e) Prescribing the completion of:

9 (A) A pain management education program approved by the board and developed in conjunction
 10 with the Pain Management Commission established under ORS 409.500; or

11 (B) An equivalent pain management education program, as determined by the board.

12 (4) In adopting rules pursuant to subsection (3) of this section, the board shall consider:

13 (a) The need for formal regularly scheduled pharmacy education programs.

14 (b) Alternate methods of study including home-study courses, seminars or other such programs
 15 for those persons who, upon written application to the board and for good cause shown, demonstrate
 16 their inability to attend regularly scheduled formal classroom programs.

17 (c) The necessity for examinations or other evaluation methods used to ensure satisfactory
 18 completion of the continuing pharmacy education program.

19 (5) The board may contract for the providing of educational programs to fulfill the requirements
 20 of this chapter. The board is further authorized to treat funds set aside for the purpose of continuing
 21 education as state funds for the purpose of accepting any funds made available under federal law
 22 on a matching basis for the promulgation and maintenance of programs of continuing education. In
 23 no instance shall the board require a greater number of hours of study than it provides or approves
 24 in the State of Oregon and which are available on the same basis to all licensed pharmacists.

25 (6) The board may levy an additional fee [*of up to \$10*] **established by the board by rule** for
 26 each license renewal to carry out the provisions of this chapter.

27 **SECTION 8.** ORS 689.490 is amended to read:

28 689.490. (1) In accordance with any applicable provisions of ORS chapter 183, the State Board
 29 of Pharmacy, by rule, shall establish a licensing system for persons who perform the duties of a
 30 pharmacy technician. The licensing system shall include but not be limited to the following pro-
 31 visions:

32 (a) Prescribing the form and content of and the procedures for submitting an application for the
 33 issuance or renewal of a technician license.

34 (b) Prescribing the fee for the original license, [*and*] for renewal of a license [*in an amount not*
 35 *to exceed \$50 and the fee for delinquent*] **and for late** license renewal [*in an amount not to exceed*
 36 *\$50*].

37 (2) The board may refuse to issue or renew, or may suspend, revoke or restrict a technician li-
 38 cense:

39 (a) For any reason listed under ORS 689.405 (1);

40 (b) If the applicant is not authorized to work for hire under Oregon law; or

41 (c) For any other grounds that the board, in its discretion, believes would disqualify the appli-
 42 cant for a license.

43 (3) Denial of a license under subsection (2) of this section [*shall be considered*] **is** a contested
 44 case under ORS chapter 183.

45 **SECTION 9.** ORS 689.486 is amended to read:

1 689.486. (1) It shall be unlawful for any person to perform the duties of a pharmacy technician
 2 or use the title of pharmacy technician unless licensed to do so under the provisions of this chapter.

3 (2) To be licensed to perform the duties of a pharmacy technician, a person shall:

- 4 (a) Submit a license application in the manner prescribed by the State Board of Pharmacy; and
- 5 (b) Pay the license fee established by the board.

6 (3) The license application prescribed by the board shall include, but not be limited to:

- 7 (a) The name and address of the applicant;
- 8 (b) The educational qualifications of the applicant;
- 9 (c) The work history of the applicant; and
- 10 (d) The applicant's criminal offender record of any conviction or of any arrest less than one year
 11 old on which there has been no acquittal or dismissal.

12 (4) A license under this section expires annually. To renew a license to perform the duties of a
 13 pharmacy technician, a person shall:

- 14 (a) Submit the application for renewal of a license in the form prescribed by the board;
- 15 (b) Pay the license renewal fee established by the board;
- 16 (c) Pay the fee for *[delinquent]* late license renewal, if applicable;
- 17 (d) Provide updated information regarding educational qualifications, work history and criminal
 18 arrest and conviction history; and
- 19 (e) Comply with all other requirements for license renewal established by the board.

20 (5) No person may employ an individual to perform the duties of a pharmacy technician unless
 21 the individual is licensed to perform the duties of a pharmacy technician under this chapter.

22 (6) A person licensed to perform the duties of a pharmacy technician may perform the duties
 23 of a pharmacy technician only under the supervision, direction and control of a licensed pharmacist.
 24

25 **STATE BOARD OF PSYCHOLOGIST EXAMINERS**

26
 27 **SECTION 10.** ORS 675.115 is amended to read:

28 675.115. Subject to prior approval of the Oregon Department of Administrative Services and a
 29 report to the Emergency Board prior to adopting the fees *[and charges]*, the fees *[and charges]* es-
 30 tablished under ORS 675.110 *[shall]* **may** not exceed the cost of administering the regulatory pro-
 31 gram of the State Board of Psychologist Examiners pertaining to the purpose for which the fee *[or*
 32 *charge]* is established, as authorized by the Legislative Assembly within the board's budget, as the
 33 budget may be modified by the Emergency Board.
 34

35 **MISCELLANEOUS**

36
 37 **SECTION 11.** The unit captions used in this 2011 Act are provided only for the conven-
 38 ience of the reader and do not become part of the statutory law of this state or express any
 39 legislative intent in the enactment of this 2011 Act.

40 **SECTION 12.** This 2011 Act being necessary for the immediate preservation of the public
 41 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
 42 on its passage.
 43