SB 763-2
(LC 1996)
3/26/21 (TSB/ps)

Requested by Senator KNOPP

PROPOSED AMENDMENTS TO
SENATE BILL 763

On page 1 of the printed bill, delete lines 4 through 27 and delete pages 2 through 8 and insert:

"SECTION 1. (1) As used in this section:

"(a) 'Health care provider' means a person that is licensed, certified or otherwise authorized under the laws of this state to prescribe, provide or dispense pharmaceutical products to patients for the purposes of diagnosis, treatment or care of disease, injury or congenital conditions including, but not limited to, a person who is:

"(A) A physician or physician's assistant;

"(B) A nurse practitioner;

"(C) A psychiatrist;

"(D) A pharmacist; or

"(E) A hospital, clinic or pharmacy.

"(b) 'Licensee' means a person that holds a valid and unexpired license issued under this section.

"(c) 'Pharmaceutical product' means a medication that may be legally dispensed only with a valid prescription from a health care provider.

"(d) 'Pharmaceutical representative' means a person that markets or promotes pharmaceutical products to health care providers.

"(2)(a) A person may not engage in business as a pharmaceutical

representative without first obtaining a license, unless the person engages in business as a pharmaceutical representative in this state for fewer than 15 days during each calendar year.

"(b) As a condition of applying for and receiving a license under this section, an applicant shall complete a professional education course that the Director of the Department of Consumer and Business Services specifies by rule.

"(3)(a) An applicant for a license to engage in business as a pharmaceutical representative shall submit to the director on a form and with the contents the director specifies by rule:

"(A) The applicant's full name, residence address, residence telephone number, business address and business telephone number;

"(B) A description of the business in which the applicant will engage;

"(C) A license fee of $750;

"(D) Documentation that shows that the applicant has completed the professional education course described in subsection (2)(b) of this section; and

"(E) Any other information the director reasonably requires.

"(b) Except as provided in subsection (8) of this section, the director shall issue a license to an applicant or renew a license for a licensee unless the director determines that the applicant or licensee has not complied with the requirements of paragraph (a) of this subsection.

"(c) A license the director issues under this section is valid until the end of the calendar year in which the director issues the license.

"(d) A licensee may not transfer a license the director issues under this section.

"(e) A licensee shall report to the director in writing any changes to the information the licensee submitted under paragraph (a) of this subsection, and any material changes the licensee made in the

licensee's business operations, within four days after the change in the information occurs. The director by rule may specify changes that constitute material changes in the licensee's business operations.

"(4) A licensee may renew a license by submitting an application as provided in subsection (3)(a) of this section, except that in lieu of the documentation required under subsection (3)(a)(D) of this section, the applicant must submit documentation that shows that the applicant during the previous year completed at least five hours of continuing education in accordance with requirements the director specifies by rule.

"(5)(a) The director shall specify by rule the contents of a course of professional education necessary to complete an application for a license under this section and the contents of a course of continuing education necessary to renew a license under this section. The education may include training in:

"(A) Ethics;

"(B) Pharmacology;

"(C) Laws and rules that apply to pharmaceutical marketing; and

"(D) Any other subjects related to pharmaceutical marketing that the director deems necessary.

"(b) The director may designate and publish a list of persons that provide professional education that meets the director's specifications under this section. An applicant or a licensee may not receive professional education from the applicant's or licensee's employer.

"(6)(a) At the director's request or at intervals the director specifies by rule, a licensee shall provide to the director:

"(A) Documentation that shows that the licensee has completed education required under this section;

"(B) A list of health care providers within this state that the licensee contacted since the director's last request or during the pre-

vious calendar year, as appropriate;

"(C) The number of times the licensee contracted each health care provider;

"(D) The location and duration of the licensee's contact with each health care provider;

"(E) Which pharmaceutical products the licensee promoted;

"(F) Whether the licensee provided the health care provider with any product samples; materials or gifts and, if so, the monetary value of the samples, materials or gifts; and

"(G) Whether and how the licensee otherwise compensated the health care provider for contact with the licensee.

"(b) The director by rule may specify a form and contents for the disclosures required under this subsection.

"(7) A licensee may not:

"(a) Engage in any deceptive or misleading marketing of a pharmaceutical product, including knowingly concealing, suppressing, omitting, misrepresenting or misstating material facts concerning or related to a pharmaceutical product;

"(b) Use a title or designation that could reasonably lead a health care provider or an employee of a health care provider to believe that the licensee is a health care provider if the licensee is not licensed as a health care provider or otherwise authorized to provide health care services; or

"(c) Attend an examination of a patient without the patient's consent.

"(8)(a) The director may suspend or revoke a license for a violation of a provision of this section and, in addition to and not in lieu of a suspension or revocation, may impose a civil penalty in an amount not less than $1,000 and not more than $3,000 for each violation. Each day during which a violation continues constitutes a separate vio-

lation. The director shall impose any civil penalties in accordance with ORS 183.745.

"(b) The director may not reinstate a license that the director suspended or revoked until the licensee has remedied all violations and has paid all applicable fees and civil penalties the director imposed.

"(c) The director may not for a period of two years after revoking a license under this section for any cause reinstate or renew the license or issue a new license to a licensee whose license the director revoked.

"SECTION 2. (1) Section 1 of this 2021 Act becomes operative on January 1, 2022.

"(2) The Director of the Department of Consumer and Business Services may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to undertake and exercise all of the duties, functions and powers conferred on the director by section 1 of this 2021 Act.

"SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.".
