

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO  
A-ENGROSSED SENATE BILL 763**

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 24 and  
2 delete pages 2 through 7 and insert:

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

4 **“(a) ‘Health care provider’ means a person that is licensed, certified**  
5 **or otherwise authorized under the laws of this state to prescribe, pro-**  
6 **vide or dispense pharmaceutical products to patients for the purposes**  
7 **of diagnosis, treatment or care of disease, injury or congenital condi-**  
8 **tions including, but not limited to, a person who is:**

9 **“(A) A physician or physician’s assistant;**

10 **“(B) A nurse practitioner;**

11 **“(C) A psychiatrist;**

12 **“(D) A pharmacist; or**

13 **“(E) A hospital, clinic or pharmacy.**

14 **“(b) ‘Licensee’ means a person that holds a valid and unexpired li-**  
15 **cence issued under this section.**

16 **“(c) ‘Pharmaceutical product’ means a medication that may be le-**  
17 **gally dispensed only with a valid prescription from a health care pro-**  
18 **vider.**

19 **“(d) ‘Pharmaceutical representative’ means a person that markets**  
20 **or promotes pharmaceutical products to health care providers.**

21 **“(2)(a) A person may not engage in business as a pharmaceutical**

1 representative without first obtaining a license, unless the person en-  
2 gages in business as a pharmaceutical representative in this state for  
3 fewer than 15 days during each calendar year.

4 “(b) As a condition of applying for and receiving a license under this  
5 section, an applicant shall complete a professional education course  
6 that the Director of the Department of Consumer and Business Ser-  
7 vices specifies by rule.

8 “(3)(a) An applicant for a license to engage in business as a phar-  
9 maceutical representative shall submit to the director on a form and  
10 with the contents the director specifies by rule:

11 “(A) The applicant’s full name, residence address, residence tele-  
12 phone number, business address and business telephone number;

13 “(B) A description of the business in which the applicant will en-  
14 gage;

15 “(C) A license fee of \$750;

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

19 “(E) Any other information the director reasonably requires.

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

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

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

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

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

4 “(4) A licensee may renew a license by submitting an application  
5 as provided in subsection (3)(a) of this section, except that in lieu of  
6 the documentation required under subsection (3)(a)(D) of this section,  
7 the applicant must submit documentation that shows that the appli-  
8 cant during the previous year completed at least five hours of contin-  
9 uing education in accordance with requirements the director specifies  
10 by rule.

11 “(5)(a) The director shall specify by rule the contents of a course  
12 of professional education necessary to complete an application for a  
13 license under this section and the contents of a course of continuing  
14 education necessary to renew a license under this section. The educa-  
15 tion may include training in:

16 “(A) Ethics;

17 “(B) Pharmacology;

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

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

21 “(b) The director may designate and publish a list of persons that  
22 provide professional education that meets the director's specifications  
23 under this section. An applicant or a licensee may not receive profes-  
24 sional education from the applicant's or licensee's employer.

25 “(6)(a) At the director's request or at intervals the director specifies  
26 by rule, a licensee shall provide to the director the following infor-  
27 mation:

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

30 “(B) A list of health care providers within this state that the

1 **licensee contacted since the director’s last request or during the pre-**  
2 **vious calendar year, as appropriate;**

3 **“(C) The number of times the licensee contacted each health care**  
4 **provider;**

5 **“(D) The location and duration of the licensee’s contact with each**  
6 **health care provider;**

7 **“(E) Which pharmaceutical products the licensee promoted;**

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

11 **“(G) Whether and how the licensee otherwise compensated the**  
12 **health care provider for contact with the licensee.**

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

15 **“(7) A licensee may not:**

16 **“(a) Engage in any deceptive or misleading marketing of a phar-**  
17 **maceutical product, including knowingly concealing, suppressing,**  
18 **omitting, misrepresenting or misstating material facts concerning or**  
19 **related to a pharmaceutical product;**

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

25 **“(c) Attend an examination of a patient without the patient’s con-**  
26 **sent.**

27 **“(8)(a) The director may suspend or revoke a license for a violation**  
28 **of a provision of this section and, in addition to and not in lieu of a**  
29 **suspension or revocation, may impose a civil penalty in an amount**  
30 **not less than \$1,000 and not more than \$3,000 for each violation. Each**

1 day during which a violation continues constitutes a separate vio-  
2 lation. The director shall impose any civil penalties in accordance with  
3 ORS 183.745.

4 “(b) The director may not reinstate a license that the director sus-  
5 pended or revoked until the licensee has remedied all violations and  
6 has paid all applicable fees and civil penalties the director imposed.

7 “(c) The director may not for a period of two years after revoking  
8 a license under this section for any cause reinstate or renew the li-  
9 cense or issue a new license to a licensee whose license the director  
10 revoked.

11 **“SECTION 2. (1) Section 1 of this 2021 Act becomes operative on**  
12 **January 1, 2022.**

13 “(2) The Director of the Department of Consumer and Business  
14 Services may adopt rules and take any other action before the opera-  
15 tive date specified in subsection (1) of this section that is necessary  
16 to enable the director, on and after the operative date specified in  
17 subsection (1) of this section, to undertake and exercise all of the du-  
18 ties, functions and powers conferred on the director by section 1 of  
19 this 2021 Act.

20 **“SECTION 3. Notwithstanding any other law limiting expenditures,**  
21 **the amount of \$698,944 is established for the biennium beginning July**  
22 **1, 2021, as the maximum limit for payment of expenses from fees,**  
23 **moneys or other revenues, including Miscellaneous Receipts, but ex-**  
24 **cluding lottery funds and federal funds, collected or received by the**  
25 **Department of Consumer and Business Services for the program set**  
26 **forth in section 1 of this 2021 Act.**

27 **“SECTION 4. This 2021 Act takes effect on the 91st day after the**  
28 **date on which the 2021 regular session of the Eighty-first Legislative**  
29 **Assembly adjourns sine die.”.**

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