

Enrolled House Bill 2584

Sponsored by Representative DIEHL; Representative PHAM H, Senator MANNING JR (at the request of Nick Haskins, former Representative Raquel Moore-Green) (Presession filed.)

CHAPTER

AN ACT

Relating to physician assistants; creating new provisions; amending ORS 677.085, 677.095, 677.495, 677.510, 677.511 and 677.515; and prescribing an effective date.

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

SECTION 1. ORS 677.085 is amended to read:

677.085. A person is practicing medicine if the person does one or more of the following:

(1) Advertise, hold out to the public or represent in any manner that the person is authorized to practice medicine in this state.

(2) For compensation directly or indirectly received or to be received, offer or undertake to prescribe, give or administer any drug or medicine for the use of any other person.

(3) Offer or undertake to perform any surgical operation upon any person.

(4) Offer or undertake to diagnose, cure or treat in any manner, or by any means, methods, devices or instrumentalities, any disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental condition of any person.

(5) Except as provided in ORS 677.060, append the letters "M.D.," [or] "D.O." or "P.A." to the **person's** name [of the person], or use the words "Doctor," "Physician," "Surgeon," "**Physician Assistant,**" or any abbreviation or combination thereof, or any letters or words of similar import in connection with the **person's** name [of the person], or any trade name in which the person is interested, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions mentioned in this section.

SECTION 2. ORS 677.095 is amended to read:

677.095. (1) A physician licensed to practice medicine or podiatry by the Oregon Medical Board has the duty to use that degree of care, skill and diligence that is used by ordinarily careful physicians in the same or similar circumstances in the community of the physician or a similar community.

(2) A physician assistant licensed to practice medicine by the board has the duty to use that degree of care, skill and diligence that is used by ordinarily careful physician assistants in the same or similar circumstances in the community of the physician assistant or a similar community.

[2] **(3)** In any suit, action or arbitration seeking damages for professional liability from a health care provider, [no issue shall] **an issue may not** be precluded on the basis of a default, stipulation, agreement or any other outcome at any stage of an investigation or an administrative proceeding, including but not limited to a final order.

SECTION 3. ORS 677.495, as amended by section 10, chapter 349, Oregon Laws 2021, is amended to read:

677.495. As used in ORS 677.495 to 677.535, unless the context requires otherwise:

(1) “Collaboration” means, as indicated by the patient’s condition, community standards of care and a physician assistant’s education, training and experience:

- (a) Consultation between the physician assistant and a physician or podiatric physician; or
- (b) Referral by the physician assistant to a physician or podiatric physician.

(2) “Collaboration agreement” means a written agreement that describes the manner in which the physician assistant collaborates with physicians or podiatric physicians, that does not assign supervisory responsibility to, or represent acceptance of legal responsibility by, a physician or podiatric physician for the care provided by the physician assistant and that is signed by the physician assistant and the physician, podiatric physician or physician assistant’s employer.

(3) “Employer” means:

(a) An entity that **employs a physician or podiatric physician and** is organized to deliver health care services in this state [*in accordance with ORS 58.375 or 58.376 and that employs a physician or podiatric physician*];

(A) In accordance with ORS 58.375 or 58.376; or

(B) As defined by the Oregon Medical Board by rule;

(b) A group medical practice that is part of a health system; or

(c) A physician or podiatric physician who employs a physician assistant.

(4) “Physician” means a physician licensed under ORS 677.100 to 677.228.

(5) “Physician assistant” means a person who is licensed in accordance with ORS 677.505 to 677.525.

(6) “Podiatric physician” means a podiatric physician and surgeon licensed under ORS 677.805 to 677.840.

SECTION 4. ORS 677.510, as amended by section 11a, chapter 349, Oregon Laws 2021, is amended to read:

677.510. [(1) *A physician assistant is responsible for the care provided by the physician assistant if the physician assistant is acting as an employee.*]

[(2)] (1) A physician assistant shall engage in collaboration with the appropriate health care provider as indicated by the condition of the patient, the standard of care and the physician assistant’s education, experience and competence. The degree of collaboration must be determined at the physician assistant’s primary location of practice. The determination may include decisions made by a physician, podiatric physician or employer with whom the physician assistant has entered into a collaboration agreement, or the group or hospital service and the credentialing and privileging systems of the physician assistant’s primary location of practice.

[(3)(a)] (2)(a) A physician assistant may not [*provide care*] **practice medicine** unless the physician assistant has entered into a collaboration agreement signed by a physician, podiatric physician or employer. The collaboration agreement must include:

(A) The physician assistant’s name, license number and primary location of practice;

(B) A general description of the physician assistant’s process for collaboration with physicians or podiatric physicians; **and**

(C) If the physician assistant has fewer than 2,000 hours of post-graduate clinical experience, a plan for the minimum number of hours per month during which the physician assistant will collaborate, both in person and through technology, with a specified physician or podiatric physician[; and]

[(D) *The performance assessment and review process, as described in subsection (5) of this section.*]

(b) The physician assistant, or physician, podiatric physician or employer with whom the physician assistant has entered into the collaboration agreement, is responsible for tracking the hours described in paragraph (a) of this subsection.

[(4)] (3) The collaboration agreement must be kept on file at the physician assistant's primary location of practice and made available to the Oregon Medical Board upon request.

[(5)] (4) Performance assessments and reviews of a physician assistant may be completed by the physician assistant's employer in accordance with a performance assessment and review process established by the employer.

[(6)] (5) A physician assistant shall submit to the board every 36 months documentation of completion of:

(a) A one-hour pain management education program approved by the board and developed based on recommendations of the Pain Management Commission; or

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

SECTION 5. ORS 677.511 is amended to read:

677.511. (1) **A physician assistant is authorized to write prescriptions, including prescriptions for controlled substances listed in schedules II through V.**

[(1)(a)] (2)(a) A physician assistant may register with the Oregon Medical Board for authority to dispense prescription drugs.

(b) Notwithstanding paragraph (a) of this subsection, and except as permitted under ORS 677.515 [(4)] (5), a physician assistant may not dispense controlled substances classified in Schedule I or II under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified under ORS 475.035.

[(2)] (3) A registration under this section must include any information required by the board by rule.

[(3)] (4) Prescription drugs dispensed by a physician assistant must be personally dispensed by the physician assistant, except that nonjudgmental dispensing functions may be delegated to staff assistants when the accuracy and completeness of the prescription is verified by the physician assistant.

[(4)] (5) The physician assistant shall maintain records of the receipt and distribution of prescription drugs. The records must be readily accessible for inspection by the board upon request of the board.

[(5)] (6) The physician assistant shall ensure that a prescription drug dispensed by the physician assistant is labeled in compliance with the requirements of ORS 677.089 (3).

[(6)] (7) The board has disciplinary authority regarding a physician assistant who has prescription drug dispensing authority.

SECTION 6. ORS 677.515, as amended by section 12, chapter 349, Oregon Laws 2021, is amended to read:

677.515. (1) A physician assistant may [provide] **practice medicine by providing** any medical service, including prescribing and administering controlled substances in Schedules II through V under the federal Controlled Substances Act:

(a) That is within the scope of practice of the physician assistant; and

(b) For which the physician assistant has obtained informed consent as provided in ORS 677.097, if informed consent is required.

(2) This chapter does not prohibit a student enrolled in a program for educating physician assistants approved by the Oregon Medical Board from rendering medical services if the services are rendered in the course of the program.

(3) The degree of autonomous judgment that a physician assistant may exercise shall be determined at the physician assistant's primary location of practice by the community standards of care and the physician assistant's education, training and experience.

(4) A physician assistant's scope of practice is based on the physician assistant's education, training and experience.

[(4)] (5) The board may not limit the privilege of administering, dispensing and prescribing prescription drugs to population groups federally designated as underserved, or to geographic areas of the state that are federally designated health professional shortage areas, federally designated medically underserved areas or areas designated as medically disadvantaged and in need of primary health care providers by the Director of the Oregon Health Authority or the Office of Rural Health.

All prescriptions written pursuant to this subsection must bear the name, office address and telephone number of the physician assistant who writes the prescription.

[(5)] (6) This chapter does not require or prohibit a physician assistant from practicing in a hospital licensed pursuant to ORS 441.015 to 441.087.

[(6)] (7) Prescriptions for medications prescribed by a physician assistant in accordance with this section and ORS 475.005, 677.010, 677.500, 677.511 and 677.535 and dispensed by a licensed pharmacist may be filled by the pharmacist according to the terms of the prescription, and the filling of such a prescription does not constitute evidence of negligence on the part of the pharmacist if the prescription was dispensed within the reasonable and prudent practice of pharmacy.

SECTION 7. (1) The amendments to ORS 677.085, 677.095, 677.495, 677.510, 677.511 and 677.515 by sections 1 to 6 of this 2023 Act become operative on January 1, 2024.

(2) The Oregon Medical Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 677.085, 677.095, 677.495, 677.510, 677.511 and 677.515 by sections 1 to 6 of this 2023 Act.

SECTION 8. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Passed by House March 7, 2023

Received by Governor:

Repassed by House June 23, 2023

.....M.,....., 2023

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2023

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Dan Rayfield, Speaker of House

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Tina Kotek, Governor

Passed by Senate June 21, 2023

Filed in Office of Secretary of State:

.....M.,....., 2023

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Rob Wagner, President of Senate

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Secretary of State