

Enrolled
Senate Bill 227

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 Kate Brown for Oregon State Board of Nursing)

CHAPTER

AN ACT

Relating to the Oregon State Board of Nursing; creating new provisions; amending ORS 678.031, 678.034, 678.050 and 678.442; and prescribing an effective date.

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

SECTION 1. ORS 678.031, as amended by section 12, chapter 38, Oregon Laws 2022, is amended to read:

678.031. ORS 678.010 to 678.410 do not apply to:

- (1) The employment of nurses in institutions or agencies of the federal government.
- (2) The practice of nursing incidental to the planned program of study for students enrolled in nursing education programs approved by the Oregon State Board of Nursing or accredited or approved by another state or United States territory as described under ORS 678.040 and approved by the board.
- (3) Nursing practiced outside this state that is incidental to a distance learning program provided by an institution of higher education located in Oregon.
- (4) The furnishing of nursing assistance in an emergency.
- (5) The practice of any other occupation or profession licensed under the laws of this state.
- (6) Care of the sick with or without compensation when performed in connection with the practice of the religious tenets of a well-recognized church or denomination that relies exclusively on treatment by prayer and spiritual means by adherents thereof so long as the adherent does not engage in the practice of nursing as defined in ORS 678.010 to 678.410 and 678.990 or hold oneself out as a registered nurse or a licensed practical nurse.
- (7) Nonresident nurses licensed and in good standing in another state if nonresident nurses are practicing in this state on a single, temporary assignment of not to exceed 90 days, renewable for not to exceed [30] **90** days, for assignments that are for the general public benefit limited to the following:
 - (a) Transport teams;
 - (b) Red Cross Blood Services personnel;
 - (c) Presentation of educational programs;
 - (d) Disaster teams;
 - (e) Staffing in a hospital that is responding to a temporary staffing shortage and would be otherwise unable to meet the hospital's staffing requirements;
 - (f) Staffing a long term care facility that is responding to a temporary staffing shortage and would be otherwise unable to meet its staffing requirements;

(g) Providing health care for students who attend school outside of Oregon and who are participating in a school-sponsored event; or

(h) Staffing any of the following entities that is responding to a temporary staffing shortage and would otherwise be unable to meet its staffing requirements:

(A) An adult or juvenile residential behavioral health treatment facility;

(B) An opioid treatment program;

(C) A withdrawal management program;

(D) A sobering center;

(E) A primary care facility; or

(F) A behavioral health home, as defined in ORS 414.025.

SECTION 2. ORS 678.034, as amended by section 13, chapter 38, Oregon Laws 2022, is amended to read:

678.034. (1)(a) A hospital, long term care facility or entity described in ORS 678.031 (7)(h) that employs nurses under ORS 678.031 (7)(e), (f) or (h) shall:

(A) Notify the Oregon State Board of Nursing in writing of the number of nurses employed under ORS 678.031 (7)(e), (f) or (h), the times of employment and the nature of the staffing shortage;

(B) Certify that there is no labor dispute affecting nurses at the hospital, long term care facility or entity described in ORS 678.031 (7)(h); and

(C) At the request of the board, provide documentation that the nurses employed under ORS 678.031 (7)(e), (f) or (h) are licensed and in good standing in another state or United States territory.

(b) A hospital, long term care facility or entity described in ORS 678.031 (7)(h) that employs nurses as described in paragraph (a) of this subsection shall provide notice in writing of and certify to the nurses' exclusive bargaining representative, if any, the information described in paragraph (a) of this subsection.

(2) Nurses employed in this state under ORS 678.031 (7)(e), (f) or (h), at the time of employment, shall apply for an Oregon license by indorsement **or, if the nurse was previously licensed in this state, for reactivation of the nurse's Oregon license.**

SECTION 3. ORS 678.050, as amended by section 14, chapter 38, Oregon Laws 2022, is amended to read:

678.050. (1) Examinations for the licensing of applicants under ORS 678.010 to 678.448 must be held at least once a year. An applicant must pass an examination in subjects relating to nursing at the practical or registered level as the Oregon State Board of Nursing may determine necessary to protect the public health and welfare.

(2) The board shall issue to all duly qualified applicants who pass the examination and meet other standards established by the board the license provided for in ORS 678.010 to 678.448 according to the nature of the license for which application is made and examination taken and passed. The board shall provide evidence of current licensure. The board shall determine by rule the form and manner of the evidence of current licensure.

(3)(a) The board may issue a license by indorsement to an applicant qualified as provided in ORS 678.040 who has passed the examination used by the board and who meets other standards established by the board. The board may also require evidence of competency to practice nursing at the level for which application is made.

(b) Except as provided in ORS 676.308, the board shall process in order applications for licensure by indorsement of qualified applicants.

(c) Paragraph (b) of this subsection does not prohibit the board from processing requests to employ nurses to meet temporary staffing shortages, as described in ORS 678.031 or 678.034, in facilities in this state not involved in labor disputes.

(4) Subject to terms and conditions that the board may impose, the board may issue a limited license to practice registered or practical nursing:

(a) To an applicant whose license has become void for nonpayment of fees at either level and who otherwise meets the requirements of the board. The board may, in issuing a limited license, require the applicant to demonstrate ability to give safe nursing care by undergoing a supervised

experience in nursing practice designated by the board, or by satisfactorily completing a continuing education program approved by the board. The license issued under this paragraph expires on the date set in the license by the board. Upon the applicant's satisfactory completion of the board's requirements, and payment of the renewal fee and delinquency fee, the board shall issue to the applicant a license to practice nursing.

(b) To an applicant who has not practiced nursing in any state for a period of five years, but has maintained a current license by the payment of fees. The applicant may not practice nursing in Oregon unless the applicant applies to the board for a limited license and the board issues the limited license to the applicant. The board may, in issuing a limited license, require the applicant to demonstrate ability to give safe nursing care by undergoing a supervised experience in nursing practice designated by the board, or by satisfactorily completing a continuing education program approved or designated by the board. The board may not issue a license if, in the judgment of the board, the applicant's conduct has been such, during absence from practice, that the applicant would be denied a license if applying for an initial license to practice nursing in this state.

(c) To a licensee who has been placed on probation or has been otherwise subjected to disciplinary action by the board.

(d) To any of the following persons if the person is affiliated with a planned program of study in Oregon consistent with the standards and requirements established by the board:

- (A) A foreign nurse;
- (B) A foreign student nurse; or
- (C) A nurse licensed in another jurisdiction.

(e) During an emergency declared by the Governor pursuant to ORS 401.165, to a nurse licensed in another jurisdiction. The board shall adopt rules to establish criteria for issuance of a license under this paragraph.

(5) The board may adopt by rule requirements and procedures for placing a license or certificate in inactive status.

(6)(a) Retired status may be granted to a person licensed as a registered nurse, licensed practical nurse, nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist and who surrenders the person's license while in good standing with the issuing authority if the person is not subject to any pending disciplinary investigation or action. The board may adopt by rule requirements, procedures and fees for placing a license in retired status.

(b) A person granted retired status by the board under the provisions of paragraph (a) of this subsection:

- (A) Shall pay a fee in an amount to be determined by the board for retired status.
- (B) May not practice nursing or offer to practice nursing in this state.
- (C) May use the title or abbreviation with the retired license only if the designation "retired" appears after the title or abbreviation.

SECTION 4. ORS 678.442 is amended to read:

678.442. (1) The Oregon State Board of Nursing shall establish standards for certifying and shall certify as a nursing assistant any person who:

- (a) Submits an application;
- (b)(A) Shows completion of an approved training program for nursing assistants; or
- (B) Has military training or experience that the board determines is substantially equivalent to the training required by subparagraph (A) of this paragraph; and
- (c) Passes a board approved examination.

(2) In the manner prescribed in ORS chapter 183, the board may revoke or suspend a certificate issued under this section or may reprimand a nursing assistant for the following reasons:

(a) Conviction of the certificate holder of a crime where such crime bears demonstrable relationship to the duties of a nursing assistant. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(b) Any willful fraud or misrepresentation in applying for or procuring a certificate or renewal thereof.

- (c) Impairment as defined in ORS 676.303.
- (d) Violation of any provisions of ORS 678.010 to 678.448 or rules adopted thereunder.
- (e) Physical condition that makes the certificate holder unable to perform safely the duties of a nursing assistant.

(f) Conduct unbecoming a nursing assistant in the performance of duties.

(3) The board shall establish by rule a procedure for the biennial renewal of nursing assistant certificates. The certificate renewal procedure must be substantially like the procedure established for the licensing of nurses under ORS 678.101.

(4) Notwithstanding ORS 192.345, the board may use the results of a nursing assistant examination for the continuing education of applicants for certification as a nursing assistant.

(5) During an emergency declared by the Governor pursuant to ORS 401.165 and subject to terms and conditions that the board may impose, the board may issue a limited certificate to a nursing assistant authorized in another jurisdiction. The board shall adopt rules to establish criteria for issuance of a limited certificate under this subsection.

SECTION 5. (1) The amendments to ORS 678.050 and 678.442 by sections 3 and 4 of this 2023 Act become operative on January 1, 2024.

(2) The Oregon State Board of Nursing 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 678.050 and 678.442 by sections 3 and 4 of this 2023 Act.

SECTION 6. 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 Senate February 2, 2023

Received by Governor:

Repassed by Senate June 15, 2023

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

Approved:

.....
Lori L. Brocker, Secretary of Senate

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

.....
Rob Wagner, President of Senate

.....
Tina Kotek, Governor

Passed by House May 23, 2023

Filed in Office of Secretary of State:

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

.....
Dan Rayfield, Speaker of House

.....
Secretary of State