

A-Engrossed Senate Bill 874

Ordered by the House May 27
Including House Amendments dated May 27

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 Tina Kotek for Oregon Medical Board)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act gets rid of the term "Oriental medicine." (Flesch Readability Score: 75.5). [Digest: The Act says what the term "Oriental medicine" means. (Flesch Readability Score: 75.5).] [Defines "Oriental medicine."] Removes the term "Oriental medicine" and similar terms, and replaces them with "Traditional Eastern medicine." Defines "Traditional Eastern medicine."

A BILL FOR AN ACT

Relating to Oriental medicine; amending ORS 677.010, 677.275, 677.757, 677.759, 677.761 and 677.780.

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

SECTION 1. ORS 677.010 is amended to read:

677.010. As used in this chapter, subject to the exemptions in ORS 677.060 and unless the context requires otherwise:

(1) "Approved internship" means the first year of post-graduate training served in a hospital that is approved by the **Oregon Medical Board** or by the Accreditation Council [of] **for Graduate Medical Education or its successor organization**, the American Osteopathic Association **or its successor organization** or the Royal College of Physicians and Surgeons of Canada **or its successor organization**.

(2) "Approved school of medicine" means a school offering a full-time resident program of study in medicine or osteopathic medicine leading to a degree of Doctor of Medicine or Doctor of Osteopathic Medicine, such program having been fully accredited or conditionally approved by the Liaison Committee on Medical Education, or its successor agency, or the American Osteopathic Association, or its successor agency, or having been otherwise determined by the board to meet the association standards as specifically incorporated into board rules.

[(3) "Board" means the Oregon Medical Board.]

[(4)] (3) "Diagnose" means to examine another person in any manner to determine the source or nature of a disease or other physical or mental condition, or to hold oneself out or represent that a person is so examining another person. It is not necessary that the examination be made in the presence of such other person; [it] **the examination** may be made on information supplied either directly or indirectly by such other person.

[(5)] (4) "Dispense" means the preparation and delivery of a prescription drug, pursuant to a lawful order of a practitioner, in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

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 [(6)] (5) “Dispensing physician” means a physician or podiatric physician and surgeon who pur-
 2 chases prescription drugs for the purpose of dispensing them to patients or other individuals entitled
 3 to receive the prescription drug and who dispenses them accordingly.

4 [(7)] (6) “Drug” means all medicines and preparations for internal or external use of humans,
 5 intended to be used for the cure, mitigation or prevention of diseases or abnormalities of humans,
 6 which are recognized in any published United States Pharmacopoeia or National Formulary, or
 7 otherwise established as a drug.

8 [(8)] (7) “Fellow” means an individual who has not qualified under ORS 677.100 (1) and (2) and
 9 who is pursuing some special line of study as part of a supervised program of a school of medicine,
 10 a hospital approved for internship or residency training, or an institution for medical research or
 11 education that provides for a period of study under the supervision of a responsible member of that
 12 hospital or institution, such school, hospital or institution having been approved by the board.

13 [(9)] (8) “Intern” means an individual who has entered into a hospital or hospitals for the first
 14 year of post-graduate training.

15 [(10)] (9) “License” means permission to practice, whether by license, registration or certifica-
 16 tion.

17 [(11)] (10) “Licensee” means an individual holding a valid license issued by the board.

18 [(12)] (11) “Physical incapacity” means a condition that renders an individual licensed under this
 19 chapter unable to practice under that license with professional skill and safety by reason of physical
 20 illness or physical deterioration that adversely affects cognition, motor or perceptive skill.

21 [(13)] (12) “Physician” means a person who holds a degree of Doctor of Medicine or Doctor of
 22 Osteopathic Medicine, or a person who holds a degree of Doctor of Podiatric Medicine if the context
 23 in which the term “physician” is used does not authorize or require the person to practice outside
 24 the scope of a license issued under ORS 677.805 to 677.840.

25 [(14)] (13) “Podiatric physician and surgeon” means a physician licensed under ORS 677.805 to
 26 677.840 to practice podiatry.

27 [(15)(a)] (14)(a) “Podiatry” means:

28 (A) The diagnosis or the medical, physical or surgical treatment of ailments of the human foot,
 29 ankle and tendons directly attached to and governing the function of the foot and ankle, and treat-
 30 ment involving the use of a general or spinal anesthetic if that treatment is performed in a hospital
 31 licensed under ORS 441.025 or in an ambulatory surgical center licensed by the Oregon Health Au-
 32 thority and is under the supervision of or in collaboration with a podiatric physician and surgeon;

33 (B) Assisting in the performance of surgery, as provided in ORS 677.814; and

34 (C) The treatment of skin, skin-related structures and subcutaneous masses, and wounds involv-
 35 ing skin, skin-related structures and subcutaneous masses, on the human leg no further proximal
 36 than the tibial tubercle.

37 (b) “Podiatry” does not include administering general or spinal anesthetics or the amputation
 38 of the entire foot.

39 [(16)] (15) “Prescribe” means to direct, order or designate the use of or manner of using by
 40 spoken or written words or other means.

41 [(17)] (16) “Resident” means an individual who, after the first year of post-graduate training, in
 42 order to qualify for some particular specialty in the field of medicine, pursues a special line of study
 43 as part of a supervised program of a hospital approved by the board.

44 (17) **“Traditional Eastern medicine” means the practice of medicine, specifically**
 45 **acupuncture and traditional Chinese medicine, regulated by this chapter if the medicine is**

practiced within the context of a person's license to practice acupuncture issued under ORS 677.757 to 677.770.

SECTION 2. ORS 677.275 is amended to read:

677.275. Each administrative law judge conducting hearings on behalf of the **Oregon Medical Board** is vested with the full authority of the board to schedule and conduct hearings on behalf and in the name of the board on all matters referred by the board, including issuance of licenses, proceedings for placing licensees on probation and for suspension and revocation of licenses, and shall cause to be prepared and furnished to the board, for decision thereon by the board, the complete written transcript of the record of the hearing. This transcript shall contain all evidence introduced at the hearing and all pleas, motions and objections, and all rulings of the administrative law judge. Each administrative law judge may administer oaths and issue summonses, notices and subpoenas, but may not place any licensee on probation or issue, refuse, suspend or revoke a license.

SECTION 3. ORS 677.757 is amended to read:

677.757. As used in ORS 677.757 to 677.770:

[(1)(a) "*Acupuncture*" means an Oriental health care practice used to promote health and to treat neurological, organic or functional disorders by the stimulation of specific points on the surface of the body by the insertion of needles. "*Acupuncture*" includes the treatment method of moxibustion, as well as the use of electrical, thermal, mechanical or magnetic devices, with or without needles, to stimulate acupuncture points and acupuncture meridians and to induce acupuncture anesthesia or analgesia.]

[(b) The practice of acupuncture also includes the following modalities as authorized by the Oregon Medical Board:]

[(A) Traditional and modern techniques of diagnosis and evaluation;]

[(B) Oriental massage, exercise and related therapeutic methods; and]

[(C) The use of Oriental pharmacopoeia, vitamins, minerals and dietary advice.]

(1) "Acupuncture" means:

(a) Traditional Eastern medicine used to promote health and treat neurological, organic or functional disorders through the insertion of needles into specific points on the body at varying depths, including insertion into the skin, subcutaneous tissue, muscle layers and fascia, and into or near joint spaces based on anatomical location and the practitioner's clinical assessment. The type of needle inserted, and the depth, angle and technique of insertion, are informed by specialized training in acupuncture theory, biomedical anatomy and diagnostic evaluation to safely stimulate biological and physiological responses and support the body's healing process.

(b) The treatment method of moxibustion and the use of electrical, thermal, mechanical or magnetic devices, with or without needles, to stimulate acupuncture points and acupuncture meridians and to induce acupuncture anesthesia or analgesia.

(c) The following modalities, as authorized by the Oregon Medical Board:

(A) Traditional Eastern medicine and acupuncture techniques of diagnosis and evaluation;

(B) Traditional Eastern medicine manual therapy, exercise and related therapeutic methods; and

(C) The use of Traditional Eastern medicine pharmacopoeia, vitamins, minerals and dietary advice.

(2) ["Oriental pharmacopoeia"] "Traditional Eastern medicine pharmacopoeia" means a list of herbs described in [traditional Oriental] Traditional Eastern medicine texts commonly used in

accredited schools of *[Oriental]* **Traditional Eastern** medicine if the texts are approved by the Oregon Medical Board.

SECTION 4. ORS 677.759 is amended to read:

677.759. (1) *[No person shall]* **A person may not** practice acupuncture without first obtaining a license to practice medicine and surgery or a license to practice acupuncture from the Oregon Medical Board except as provided in subsection (2) of this section.

(2) Notwithstanding subsection (1) of this section, the board may issue a license to practice acupuncture to an individual licensed to practice acupuncture in another state or territory of the United States if the individual is licensed to practice medicine and surgery or acupuncture in the other state or territory. The board *[shall]* **may** not issue such a license unless the requirements of the other state or territory are similar to the requirements of this state.

(3) The board shall examine the qualifications of an applicant and determine who shall be authorized to practice acupuncture.

(4) Using the term “acupuncture,” “acupuncturist,” *[“Oriental medicine”]* **“Traditional Eastern medicine”** or any other term, title, name or abbreviation indicating that an individual is qualified or licensed to practice acupuncture is prima facie evidence of practicing acupuncture.

(5) In addition to the powers and duties of the board described in this chapter, the board shall adopt rules consistent with ORS 677.757 to 677.770 governing the issuance of a license to practice acupuncture.

SECTION 5. ORS 677.761 is amended to read:

677.761. Nothing in ORS 677.757 to 677.770 is intended to:

(1) Prevent, limit or interfere with an individual licensed or certified by the Oregon Medical Board from practicing health care other than acupuncture within the scope of the license or certification of the individual.

(2) Limit any other licensed or certified health care practitioner from practicing acupressure or other therapy within the scope of the license or certification of the individual.

(3) Limit the activities of any person who engages in the business of providing *[Oriental massage]* **Traditional Eastern medicine manual therapy**, exercise and related therapeutic methods or who provides substances listed in *[an Oriental]* **Traditional Eastern medicine** pharmacopoeia, or vitamins or minerals or dietary advice, so long as the activities of the person are not otherwise prohibited by law.

(4) Limit the ability of practitioners from outside Oregon to demonstrate the practice of acupuncture as part of a recognized and limited duration educational program, lecture or event within this state under rules adopted by the board.

SECTION 6. ORS 677.780 is amended to read:

677.780. (1) There is established an Acupuncture Advisory Committee consisting of six members appointed by the Oregon Medical Board. Of the committee members appointed by the board:

(a) One shall be a person who is a current member of the board.

(b) Two shall be physicians licensed under ORS chapter 677.

(c) Three shall be acupuncturists licensed under ORS *[677.759]* **677.757 to 677.770**. In appointing the three acupuncturists, the board may receive nominations from the *[Oregon Association of Acupuncture and Oriental Medicine]* **Oregon Association of Acupuncturists, or its successor organization**, and other professional acupuncture organizations.

(2) The term of office of each committee member is three years, but a committee member serves at the pleasure of the board. A committee member may not serve more than two consecutive terms.

1 A committee member serves until a successor is appointed and qualified. If there is a vacancy for
2 any cause, the board shall make an appointment to become immediately effective for the unexpired
3 term.

4 (3) A committee member is entitled to compensation and expenses as provided for board mem-
5 bers in ORS 677.235.

6 (4) A majority of the members of the committee constitutes a quorum for the transaction of
7 business.

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