

CHAPTER 34

AN ACT

SB 1565

Relating to dispensing of drugs; creating new provisions; amending ORS 677.510, 677.515 and 677.545; and declaring an emergency.

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

SECTION 1. Section 2 of this 2012 Act is added to and made a part of ORS 677.495 to 677.545.

SECTION 2. (1)(a) A supervising physician or supervising physician organization may apply to the Oregon Medical Board for authority for a physician assistant to dispense drugs specified by the supervising physician or supervising physician organization.

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

(2) The board shall adopt rules establishing standards and qualifications for physician assistants with dispensing authority. The rules must require:

(a) A physician assistant seeking dispensing authority to complete a drug dispensing training program; and

(b) The supervising physician or supervising physician organization that applies for dispensing authority for a physician assistant to:

(A) Provide the board with a plan for drug delivery and control;

(B) Submit an annual report to the board on the physician assistant's use of dispensing authority;

(C) Submit to the board a list of the drugs or classes of drugs that the supervising physician or supervising physician organization proposes to authorize the physician assistant to dispense; and

(D) Submit to the board documentation showing that the supervising physician or supervising physician organization has registered the facility from which the physician assistant will dispense drugs as a drug outlet with the State Board of Pharmacy under ORS 689.305.

(3) The Oregon Medical Board and the State Board of Pharmacy shall jointly develop a drug dispensing training program for physician assistants and adopt that program by rule.

(4) A supervising physician or supervising physician organization that supervises a physician assistant with dispensing authority shall comply with rules adopted by the State Board of Pharmacy relating to registration, acquisition, storage, integrity, security, access, dis-

pensing and disposal of drugs, record keeping and consultation with pharmacists.

(5) Drugs dispensed by a physician assistant with dispensing authority under this section must be personally dispensed by the physician assistant.

SECTION 3. ORS 677.510 is amended to read:

677.510. (1) A person licensed to practice medicine under this chapter may not use the services of a physician assistant without the prior approval of the Oregon Medical Board.

(2) A supervising physician or a supervising physician organization may apply to the board to use the services of a physician assistant. The application [shall] **must**:

(a) If the applicant is not a supervising physician organization, state the name and contact information of the supervising physician;

(b) If the applicant is a supervising physician organization:

(A) State the names and contact information of all supervising physicians; and

(B) State the name of the primary supervising physician required by subsection (5) of this section;

(c) Generally describe the medical services provided by each supervising physician;

(d) Contain a statement acknowledging that each supervising physician has reviewed statutes and rules relating to the practice of physician assistants and the role of a supervising physician; and

(e) Provide such other information in such a form as the board may require.

(3) The board shall approve or reject an application within seven working days after the board receives the application, unless the board is conducting an investigation of the supervising physician or of any of the supervising physicians in a supervising physician organization applying to use the services of a physician assistant.

(4) A supervising physician organization shall provide the board with a list of the supervising physicians in the supervising physician organization. The supervising physician organization shall continually update the list and notify the board of any changes.

(5) A supervising physician organization shall designate a primary supervising physician and notify the board in the manner prescribed by the board.

(6)(a) A physician assistant may not practice medicine until the physician assistant enters into a practice agreement with a supervising physician or supervising physician organization whose application has been approved under subsection (3) of this section. The practice agreement must:

(A) Include the name, contact information and license number of the physician assistant and each supervising physician.

(B) Describe the degree and methods of supervision that the supervising physician or supervising physician organization will use. The degree of supervision, whether general, direct or personal, must

be based on the level of competency of the physician assistant as judged by the supervising physician.

(C) Generally describe the medical duties delegated to the physician assistant.

(D) Describe the services or procedures common to the practice or specialty that the physician assistant is not permitted to perform.

(E) Describe the prescriptive and medication administration privileges that the physician assistant will exercise.

(F) Provide the list of settings and licensed facilities in which the physician assistant will provide services.

(G) State that the physician assistant and each supervising physician is in full compliance with the laws and regulations governing the practice of medicine by physician assistants, supervising physicians and supervising physician organizations and acknowledge that violation of laws or regulations governing the practice of medicine may subject the physician assistant and supervising physician or supervising physician organization to discipline.

(H) Be signed by the supervising physician or the primary supervising physician of the supervising physician organization and by the physician assistant.

(I) Be updated at least every two years.

(b) The supervising physician or supervising physician organization shall provide the board with a copy of the practice agreement within 10 days after the physician assistant begins practice with the supervising physician or supervising physician organization. The supervising physician or supervising physician organization shall keep a copy of the practice agreement at the practice location and make a copy of the practice agreement available to the board on request. The practice agreement is not subject to board approval, but the board may request a meeting with a supervising physician or supervising physician organization and a physician assistant to discuss a practice agreement.

(7) A physician assistant's supervising physician shall ensure that the physician assistant is competent to perform all duties delegated to the physician assistant. The supervising physician or supervising physician organization and the physician assistant are responsible for ensuring the competent practice of the physician assistant.

(8) A supervising physician or the agent of a supervising physician must be competent to perform the duties delegated to the physician assistant by the supervising physician or by a supervising physician organization.

(9) The board may not require that a supervising physician be physically present at all times when the physician assistant is providing services, but may require that:

(a) The physician assistant have access to personal or telephone communication with a supervising physician when the physician assistant is providing services; and

(b) The proximity of a supervising physician and the methods and means of supervision be appropriate to the practice setting and the patient conditions treated in the practice setting.

(10)(a) A supervising physician organization may supervise any number of physician assistants. The board may not adopt rules limiting the number of physician assistants that a supervising physician organization may supervise.

(b) A physician assistant who is supervised by a supervising physician organization may be supervised by any of the supervising physicians in the supervising physician organization.

(11) If a physician assistant is not supervised by a supervising physician organization, the physician assistant may be supervised by no more than four supervising physicians, unless the board approves a request from the physician assistant, or from a supervising physician, for the physician assistant to be supervised by more than four supervising physicians.

(12) A supervising physician who is not acting as part of a supervising physician organization may supervise four physician assistants, unless the board approves a request from the supervising physician or from a physician assistant for the supervising physician to supervise more than four physician assistants.

(13) A supervising physician who is not acting as part of a supervising physician organization may designate a physician to serve as the agent of the supervising physician for a predetermined period of time.

(14) A physician assistant may render services in any setting included in the practice agreement.

[(15) A physician assistant may apply to the board for emergency drug dispensing authority. The board shall consider the criteria adopted by the Physician Assistant Committee under ORS 677.545 (4) in reviewing the application. A physician assistant with emergency drug dispensing authority may dispense only drugs that have been prepared or prepackaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS chapter 689.]

[(16)] (15) A physician assistant for whom an application under this section has been approved by the board on or after January 2, 2006, shall submit to the board, within 24 months after the approval, documentation of completion of:

(a) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under ORS 413.570; or

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

SECTION 4. ORS 677.515 is amended to read:
677.515. (1) A physician assistant licensed under ORS 677.512 may provide any medical service, including prescribing and administering controlled substances in schedules II through V under the federal Controlled Substances Act:

(a) That is delegated by the physician assistant's supervising physician or supervising physician organization;

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

(c) That is within the scope of practice of the supervising physician or supervising physician organization;

(d) That is provided under the supervision of the supervising physician or supervising physician organization;

(e) That is generally described in and in compliance with the practice agreement; and

(f) 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 board from rendering medical services if the services are rendered in the course of the program.

(3) The degree of independent judgment that a physician assistant may exercise shall be determined by the supervising physician, or supervising physician organization, and the physician assistant in accordance with the practice agreement.

(4) A supervising physician, upon the approval of the board and in accordance with the rules established by the board, may delegate to the physician assistant the authority to administer and *[dispense limited emergency medications and to]* prescribe medications pursuant to this section and ORS 677.535 to 677.545. *[Neither]* The board *[nor]* **and** the Physician Assistant Committee *[shall]* **may not** limit the privilege of administering, dispensing and prescribing 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 *[shall]* **must** bear the name, office address and telephone number of the supervising physician.

(5) This chapter does not require or prohibit a physician assistant from practicing in a hospital licensed pursuant to ORS 441.015 to 441.089.

(6) Prescriptions for medications prescribed by a physician assistant in accordance with this section and ORS 475.005, 677.010, 677.500, 677.510 and 677.535 to 677.545 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 5. ORS 677.545 is amended to read:

677.545. The Physician Assistant Committee shall:

(1) Review and make recommendations to the Oregon Medical Board regarding all matters relating to physician assistants, including but not limited to:

- (a) Applications for licensure;
- (b) Disciplinary proceedings; and
- (c) Renewal requirements.

[(2) Review applications of physician assistants for dispensing privileges.]

[(3)] (2) Recommend approval or disapproval of applications submitted under subsection (1) *[or (2)]* of this section to the board.

[(4) Recommend criteria to be used in granting dispensing privileges under ORS 677.515.]

[(5)] (3) Review the criteria for prescriptive privileges that may include all or parts of Schedules II, III, IV and V controlled substances and the procedures for physician assistants, supervising physicians and supervising physician organizations to follow in exercising the prescriptive privileges. A statement regarding Schedule II controlled substances prescriptive privileges must be included in the practice agreement. The Schedule II controlled substances prescriptive privileges of a physician assistant *[shall be]* **are** limited by the practice agreement and may be restricted further by the supervising physician or supervising physician organization at any time. The supervising physician or supervising physician organization shall notify the physician assistant and the board of any additional restrictions imposed by the supervising physician or supervising physician organization. To be eligible for Schedule II controlled substances prescriptive privileges, a physician assistant must be certified by the National Commission on Certification of Physician Assistants and must complete all required continuing medical education coursework.

SECTION 6. (1) Section 2 of this 2012 Act and the amendments to ORS 677.510, 677.515 and 677.545 by sections 3 to 5 of this 2012 Act become operative on June 1, 2012.

(2) The Oregon Medical Board and the State Board of Pharmacy may take any action on or before the operative date specified in subsection (1) of this section that is necessary to enable the boards 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 boards by section 2 of this 2012 Act and the amendments to ORS 677.510, 677.515 and 677.545 by sections 3 to 5 of this 2012 Act.

SECTION 7. This 2012 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect on its passage.

Approved by the Governor March 5, 2012

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