

# House Bill 4096

Sponsored by Representative HAYDEN, Senator STEINER HAYWARD; Representative MOORE-GREEN (Presession filed.)

## 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 **as introduced**.

Authorizes health care practitioner authorized in another state or United States territory to practice in this state without compensation for specified number of days without obtaining licensure in this state. Defines "health care practitioner." Requires health care practitioner to submit specified information to health professional regulatory board. Exempts health care practitioner from licensure requirements of this state.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to volunteer health care practitioners; creating new provisions; amending ORS 677.137,  
3 678.031, 679.025, 680.020, 683.030, 685.030 and 689.225; and prescribing an effective date.

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

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

6 (a) **"Health care practitioner" means a person authorized in another state or United**  
7 **States territory to practice as a physician, physician assistant, nurse, nurse practitioner,**  
8 **clinical nurse specialist, dentist, dental hygienist, dental therapist, pharmacist, optometrist**  
9 **or naturopathic physician.**

10 (b) **"Health professional regulatory board" means the:**

11 (A) **Oregon Board of Dentistry;**

12 (B) **Oregon Board of Naturopathic Medicine;**

13 (C) **Oregon Board of Optometry;**

14 (D) **Oregon Medical Board;**

15 (E) **Oregon State Board of Nursing; and**

16 (F) **State Board of Pharmacy.**

17 (2) **A health care practitioner may practice, without compensation and in connection with**  
18 **a coordinating organization or other entity, the health care profession that the health care**  
19 **practitioner is authorized to practice for 15 days each calendar year or the number of days**  
20 **otherwise provided pursuant to subsection (5) of this section. A health care practitioner is**  
21 **not required to apply for licensure or other authorization from a health professional regula-**  
22 **tory board in order to practice under this section.**

23 (3) **To practice under this section, a health care practitioner shall submit, at least 10 days**  
24 **prior to commencing practice in this state, to the health professional regulatory board sub-**  
25 **stantially similar to the health care practitioner's licensing agency:**

26 (a) **Proof that the health care practitioner is in good standing and is not the subject of**  
27 **an active disciplinary action;**

28 (b) **An acknowledgement that the health care practitioner may provide services only**

**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 within the scope of practice of the health care profession that the health care practitioner  
2 is authorized to practice and will provide services pursuant to the scope of practice of this  
3 state or the health care practitioner's licensing agency, whichever is more restrictive;

4 (c) An attestation that the health care practitioner will not receive compensation for  
5 practice in this state;

6 (d) The name and contact information of the coordinating organization or other entity  
7 through which the health care practitioner will practice; and

8 (e) The dates on which the health care practitioner will practice in this state.

9 (4)(a) The coordinating organization or other entity that uses the services of a health  
10 care practitioner shall confirm with the health care practitioner's licensing agency that the  
11 health care practitioner is:

12 (A) Authorized to practice the health care profession claimed by the health care practi-  
13 tioner;

14 (B) In good standing; and

15 (C) Not subject to any active disciplinary actions.

16 (b) The coordinating organization or other entity shall maintain:

17 (A) Records of the information described in paragraph (a) of this subsection related to a  
18 health care practitioner for two years after the termination of the health care practitioner's  
19 practice in this state.

20 (B) Records of patients to whom a health care practitioner provided services, in compli-  
21 ance with all patient confidentiality requirements of this state, except as those requirements  
22 are expressly prohibited by the law of any other state where a patient's medical records are  
23 maintained.

24 (c) A coordinating organization or other entity may pay or reimburse a health care  
25 practitioner for actual incurred travel costs associated with the health care practitioner's  
26 practice under this section.

27 (5)(a) A health professional regulatory board may adopt by rule a duration longer than  
28 15 days each calendar year during which a health care practitioner may practice under sub-  
29 section (2) of this section.

30 (b) A health professional regulatory board may adopt other rules necessary to carry out  
31 this section.

32 (6) This section does not create a private right of action against a health professional  
33 regulatory board.

34 **SECTION 2.** ORS 677.137 is amended to read:

35 677.137. (1) A person may not engage in the practice of medicine across state lines, claim qual-  
36 ification to engage in the practice of medicine across state lines or use any title, word or abbrevi-  
37 ation to indicate or to induce another to believe that the person is licensed to engage in the practice  
38 of medicine across state lines unless the person is licensed in accordance with ORS 677.139.

39 (2) ORS 677.135 to 677.141 do not apply to:

40 (a) A physician or physician assistant engaging in the practice of medicine across state lines in  
41 an emergency, as defined by rule of the Oregon Medical Board.

42 [(3)] (b) [ORS 677.135 to 677.141 do not apply to] A licensed physician or physician assistant lo-  
43 cated outside this state who:

44 [(a)] (A) Consults with another physician [or physician assistant licensed to practice medicine in  
45 this state; and

1       **[(b)] (B)** Does not undertake the primary responsibility for diagnosing or rendering treatment  
2 to a patient within this state.

3       **[(4)] (c)** *[ORS 677.135 to 677.141 do not apply to]* A licensed physician or physician assistant lo-  
4 cated outside this state who has an established physician-patient relationship with a person who is  
5 in Oregon temporarily and who requires the direct medical treatment by that physician or physician  
6 assistant.

7       **(d) A person authorized to practice as a physician or physician assistant in another state**  
8 **or United States territory and practicing in this state under section 1 of this 2022 Act.**

9       **SECTION 3.** ORS 678.031 is amended to read:

10       678.031. ORS 678.010 to 678.410 do not apply to:

11       (1) The employment of nurses in institutions or agencies of the federal government.

12       (2) The practice of nursing incidental to the planned program of study for students enrolled in  
13 nursing education programs approved by the Oregon State Board of Nursing or accredited or ap-  
14 proved by another state or United States territory as described under ORS 678.040 and approved  
15 by the board.

16       (3) Nursing practiced outside this state that is incidental to a distance learning program pro-  
17 vided by an institution of higher education located in Oregon.

18       (4) The furnishing of nursing assistance in an emergency.

19       (5) The practice of any other occupation or profession licensed under the laws of this state.

20       (6) Care of the sick with or without compensation when performed in connection with the  
21 practice of the religious tenets of a well-recognized church or denomination that relies exclusively  
22 on treatment by prayer and spiritual means by adherents thereof so long as the adherent does not  
23 engage in the practice of nursing as defined in ORS 678.010 to 678.410 and 678.990 or hold oneself  
24 out as a registered nurse or a licensed practical nurse.

25       (7) Nonresident nurses licensed and in good standing in another state if they are practicing in  
26 this state on a single, temporary assignment of not to exceed 30 days, renewable for not to exceed  
27 30 days, for assignments that are for the general public benefit limited to the following:

28       (a) Transport teams;

29       (b) Red Cross Blood Services personnel;

30       (c) Presentation of educational programs;

31       (d) Disaster teams;

32       (e) Staffing a coronary care unit, intensive care unit or emergency department in a hospital that  
33 is responding to a temporary staffing shortage and would be otherwise unable to meet its critical  
34 care staffing requirements;

35       (f) Staffing a long term care facility that is responding to a temporary staffing shortage and  
36 would be otherwise unable to meet its staffing requirements; or

37       (g) Providing health care for students who attend school outside of Oregon and who are partic-  
38 ipating in a school-sponsored event.

39       **(8) Nonresident nurses licensed in another state or United States territory and practicing**  
40 **under section 1 of this 2022 Act.**

41       **SECTION 4.** ORS 679.025 is amended to read:

42       679.025. (1) A person may not practice dentistry or purport to be a dentist without a valid li-  
43 cense to practice dentistry issued by the Oregon Board of Dentistry.

44       (2) Subsection (1) of this section does not apply to:

45       (a) Dentists licensed in another state or country making a clinical presentation sponsored by a

1 bona fide dental society or association or an accredited dental educational institution approved by  
2 the board.

3 (b) Bona fide full-time students of dentistry who, during the period of their enrollment and as a  
4 part of the course of study in an Oregon accredited dental education program, engage in clinical  
5 studies on the premises of such institution or in a clinical setting located off the premises of the  
6 institution if the facility, the instructional staff and the course of study to be pursued at the off-  
7 premises location meet minimum requirements prescribed by the rules of the board and the clinical  
8 study is performed under the indirect supervision of a member of the faculty.

9 (c) Bona fide full-time students of dentistry who, during the period of their enrollment and as a  
10 part of the course of study in a dental education program located outside of Oregon that is accred-  
11 ited by the Commission on Dental Accreditation of the American Dental Association or its successor  
12 agency, engage in community-based or clinical studies as an elective or required rotation in a clin-  
13 ical setting located in Oregon if the community-based or clinical studies meet minimum requirements  
14 prescribed by the rules of the board and are performed under the indirect supervision of a member  
15 of the faculty of the Oregon Health and Science University School of Dentistry.

16 (d) Candidates who are preparing for a licensure examination to practice dentistry and whose  
17 application has been accepted by the board or its agent, if the clinical preparation is conducted in  
18 a clinic located on premises approved for that purpose by the board and if the procedures are lim-  
19 ited to examination only. This exception shall exist for a period not to exceed two weeks imme-  
20 diately prior to a regularly scheduled licensure examination.

21 (e) Dentists practicing in the discharge of official duties as employees of the United States  
22 Government and any of its agencies.

23 (f) Instructors of dentistry, whether full- or part-time, while exclusively engaged in teaching ac-  
24 tivities and while employed in accredited dental educational institutions.

25 (g) Dentists **who are** employed by public health agencies **and** who are not engaged in the direct  
26 delivery of clinical dental services to patients.

27 (h) Persons licensed to practice medicine in the State of Oregon in the regular discharge of their  
28 duties.

29 (i) Persons qualified to perform services relating to general anesthesia or sedation under the  
30 direct supervision of a licensed dentist.

31 (j)(A) Dentists licensed in another [*state or*] country and in good standing, while practicing  
32 dentistry without compensation for no more than five consecutive days in any 12-month period,  
33 provided the dentist submits an application to the board at least 10 days before practicing dentistry  
34 under this [*paragraph*] **subparagraph** and the application is approved by the board.

35 **(B) Dentists licensed in another state or United States territory and practicing in this**  
36 **state under section 1 of this 2022 Act.**

37 (k) Persons practicing dentistry upon themselves as the patient.

38 (L) Dental hygienists, dental assistants or dental technicians performing services under the  
39 supervision of a licensed dentist in accordance with the rules adopted by the board.

40 (m) A person licensed as a denturist under ORS 680.500 to 680.565 engaged in the practice of  
41 denture technology.

42 (n) An expanded practice dental hygienist who renders services authorized by a permit issued  
43 by the board pursuant to ORS 680.200.

44 **SECTION 5.** ORS 680.020 is amended to read:

45 680.020. (1) It is unlawful for any person not otherwise authorized by law to practice dental

1 hygiene or purport to be a dental hygienist without a valid license to practice dental hygiene issued  
2 by the Oregon Board of Dentistry.

3 (2) Subsection (1) of this section does not apply to:

4 (a) Dental hygienists licensed in another state making a clinical presentation sponsored by a  
5 bona fide dental or dental hygiene society or association or an accredited dental or dental hygiene  
6 education program approved by the board.

7 (b) Bona fide students of dental hygiene who engage in clinical studies during the period of their  
8 enrollment and as a part of the course of study in an Oregon dental hygiene education program. The  
9 program must be accredited by the Commission on Dental Accreditation of the American Dental  
10 Association, or its successor agency, and approved by the board. The clinical study may be con-  
11 ducted on the premises of the program or in a clinical setting located off the premises. The facility,  
12 the instructional staff and the course of study at the off-premises location must meet minimum re-  
13 quirements prescribed by the rules of the board, and the clinical study at the off-premises location  
14 must be performed under the indirect supervision of a member of the faculty.

15 (c) Bona fide students of dental hygiene who engage in community-based or clinical studies as  
16 an elective or required rotation in a clinical setting located in Oregon during the period of their  
17 enrollment and as a part of the course of study in a dental hygiene education program located out-  
18 side of Oregon. The program must be accredited by the Commission on Dental Accreditation of the  
19 American Dental Association or its successor agency. The community-based or clinical studies must:

20 (A) Meet minimum requirements prescribed by the rules of the board; and

21 (B) Be performed under the indirect supervision of a member of the faculty of the Oregon Health  
22 and Science University School of Dentistry or another Oregon institution with an accredited dental  
23 hygiene education program approved by the board.

24 (d) Students of dental hygiene or graduates of dental hygiene programs who engage in clinical  
25 studies as part of a course of study or continuing education course offered by an institution with a  
26 dental or dental hygiene program. The program must be accredited by the Commission on Dental  
27 Accreditation of the American Dental Association or its successor agency.

28 (e) Candidates who are preparing for licensure examination to practice dental hygiene and  
29 whose application has been accepted by the board or its agent, if the clinical preparation is con-  
30 ducted in a clinic located on premises approved for that purpose by the board and if the procedures  
31 are limited to examination only.

32 (f) Dental hygienists practicing in the discharge of official duties as employees of the United  
33 States Government and any of its agencies.

34 (g) Instructors of dental hygiene, whether full- or part-time, while exclusively engaged in teach-  
35 ing activities and while employed in accredited dental hygiene educational programs.

36 (h) Dental hygienists **who are** employed by public health agencies **and** who are not engaged in  
37 direct delivery of clinical dental hygiene services to patients.

38 (i) Counselors and health assistants who have been trained in the application of fluoride  
39 varnishes to the teeth of children and who apply fluoride varnishes only to the teeth of children  
40 enrolled in or receiving services from the Women, Infants and Children Program, the Oregon  
41 prekindergarten program or a federal Head Start grant program.

42 (j) Persons acting in accordance with rules adopted by the State Board of Education under ORS  
43 336.213 to provide dental screenings to students.

44 (k) Dental hygienists licensed in another state [*and in good standing, while practicing dental*  
45 *hygiene without compensation for no more than five consecutive days in any 12-month period, provided*

1 *the dental hygienist submits an application to the Oregon Board of Dentistry at least 10 days before*  
 2 *practicing dental hygiene under this paragraph and the application is approved by the board] or*  
 3 **United States territory and practicing in this state under section 1 of this 2022 Act.**

4 **SECTION 6.** ORS 683.030 is amended to read:

5 683.030. (1) ORS 683.010 to 683.340 may not be construed to:

6 [(1) To] (a) Prevent any person duly licensed to practice medicine and surgery from treating or  
 7 fitting glasses to the human eye;

8 [(2) To] (b) Prohibit the sale of complete ready-to-wear eye glasses as merchandise from a per-  
 9 manent place of business in good faith and not in evasion of ORS 683.010 to 683.340 by any person  
 10 not purporting to be competent to examine and prescribe for the human eye;

11 [(3) To] (c) Prohibit vision or eye care practices by persons working under the direct supervision  
 12 of an optometrist authorized to practice in this state; or

13 [(4) To] (d) Prohibit vision screening by:

14 [(a)] (A) Employees of a school or an education provider as defined in ORS 336.211;

15 [(b)] (B) Persons or nonprofit entities designated by the Department of Education to provide  
 16 vision screening to students for the purpose of ORS 336.211; or

17 [(c)] (C) Employees of the Department of Transportation.

18 **(2) ORS 683.010 to 683.340 do not apply to a person licensed in the practice of optometry**  
 19 **in another state or United States territory and practicing in this state under section 1 of this**  
 20 **2022 Act.**

21 **SECTION 7.** ORS 685.030 is amended to read:

22 685.030. (1) This chapter does not apply to any:

23 (a) Physician licensed by the Oregon Medical Board to practice medicine or podiatry;

24 (b) Chiropractor licensed by the State Board of Chiropractic Examiners; [or]

25 (c) Christian Scientist or other person who by religious or spiritual means endeavors to prevent  
 26 or cure disease or suffering in accord with the tenets of any church[.]; **or**

27 **(d) Person authorized to practice naturopathic medicine in another state or United States**  
 28 **territory who is practicing in this state under section 1 of this 2022 Act.**

29 (2) This chapter does not authorize licensees to:

30 (a) Practice optometry or administer chiropractic adjustments;

31 (b) Practice any system or method of treatment not authorized in this chapter; or

32 (c) Do major surgery.

33 (3) A licensee under this chapter may perform health maintenance and restoration measures  
 34 consistent with generally recognized and accepted principles of naturopathic medicine, including but  
 35 not limited to:

36 (a) Administering, dispensing or writing prescriptions for drugs;

37 (b) Recommending the use of specific and appropriate over-the-counter pharmaceuticals;

38 (c) Administering anesthetics or antiseptics in connection with minor surgery as defined in ORS  
 39 685.010;

40 (d) Ordering diagnostic tests;

41 (e) Using radiopaque substances administered by mouth or rectum necessary for Roentgen di-  
 42 agnostic purposes; or

43 (f) Administering substances by penetration of the skin or mucous membrane of the human body  
 44 for diagnostic, preventive or therapeutic purposes. The Oregon Board of Naturopathic Medicine may  
 45 adopt by rule appropriate procedures for administering substances under this paragraph.

**SECTION 8.** ORS 689.225 is amended to read:

689.225. (1) A person may not engage in the practice of pharmacy unless the person is licensed under this chapter **or authorized in another state or United States territory and is practicing under section 1 of this 2022 Act.** Nothing in this section prevents physicians, dentists, veterinarians or other practitioners of the healing arts who are licensed under the laws of this state from dispensing and administering prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by law of this state.

(2) A person may not take, use or exhibit the title of pharmacist or the title of druggist or apothecary, or any other title or description of like import unless the person is licensed to practice pharmacy under this chapter.

(3) A pharmacist may not possess personally or store drugs other than in a licensed pharmacy except for those drugs legally prescribed for the personal use of the pharmacist or when the pharmacist possesses or stores the drugs in the usual course of business and within the pharmacist's scope of practice. An employee, agent or owner of any registered manufacturer, wholesaler or pharmacy may lawfully possess legend drugs if the person is acting in the usual course of the business or employment of the person.

(4) The State Board of Pharmacy shall adopt rules relating to the use of pharmacy technicians working under the supervision, direction and control of a pharmacist. For retail and institutional drug outlets, the board shall adopt rules which include requirements for training, including provisions for appropriate on-the-job training, guidelines for adequate supervision, standards and appropriate ratios for the use of pharmacy technicians. Improper use of pharmacy technicians is subject to the reporting requirements of ORS 689.455.

(5) The mixing of intravenous admixtures by pharmacy technicians working under the supervision, direction and control of a pharmacist is authorized and does not constitute the practice of pharmacy by the pharmacy technicians.

(6) Any person who is found to have unlawfully engaged in the practice of pharmacy is guilty of a Class A misdemeanor.

**SECTION 9. (1) Section 1 of this 2022 Act and the amendments to ORS 677.137, 678.031, 679.025, 680.020, 683.030, 685.030 and 689.225 by sections 2 to 8 of this 2022 Act become operative on January 1, 2023.**

**(2) The Oregon Board of Dentistry, Oregon Board of Naturopathic Medicine, Oregon Board of Optometry, Oregon Medical Board, Oregon State Board of Nursing and State Board of Pharmacy may take any action 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 1 of this 2022 Act and the amendments to ORS 677.137, 678.031, 679.025, 680.020, 683.030, 685.030 and 689.225 by sections 2 to 8 of this 2022 Act.**

**SECTION 10. This 2022 Act takes effect on the 91st day after the date on which the 2022 regular session of the Eighty-first Legislative Assembly adjourns sine die.**