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OREGON ADMINISTRATIVE RULES

CHAPTER 847, DIVISION 050 – OREGON MEDICAL BOARD

DRAFT FIRST REVIEW – October 2021

The proposed rulemaking implements House Bill 3036 (2021) sections 1 and 2.

HB 3036 section 1 removes the requirement that a supervising physician apply to the Oregon Medical Board for a physician assistant to dispense prescription drugs, the physician assistant can now register directly with the Board to dispense prescription drugs.

HB 3036 section 2 provides that a physician assistant may provide medical services that are within the scope of practice of the physician assistant and for which the physician assistant has obtained informed consent, if applicable. Some requirements for a physician assistant to provide medical services are removed. A physician assistant's supervising physician no longer has to delegate medical services, the physician assistant is not limited to practicing within the scope of practice of the supervising physician; and the medical services provided by a physician assistant do not have to be supervised nor generally described in the practice agreement.

Although some requirements on physician assistant practice are removed starting January 15, 2022, existing provisions in ORS 677.510 are still in effect until July 15, 2022. Currently, ORS 677.510 provides that a physician assistant may not practice medicine until the physician assistant enters into a practice agreement with a supervising physician or supervising physician organization. The practice agreement must describe the degree and methods of supervision, the medical duties delegated to the physician assistant, the services or procedures common to the practice or specialty that the physician assistant is not permitted to perform, and the prescriptive and medication administration privileges that the physician assistant will exercise.

HB 3036 section 2 also provides the degree of autonomous judgment that a physician assistant may exercise will now 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. Lastly, section 2 removes the requirement that the supervising physician's contact information be included on prescriptions written by a physician assistant.

These proposed rules would be operational on January 15, 2022.

A subsequent rulemaking will address the changes required in HB 3036 sections 10 and 11A, which become operational on July 15, 2022. Those sections will shift physician assistant practice in Oregon from a supervision to a collaboration model and will transition all physician assistants to a collaboration agreement by December 31, 2023.

DRAFT

847-050-0035

Grounds for Discipline

(1) The performance of unauthorized medical services by the physician assistant constitutes a violation of the Medical Practice Act. The supervising physician and/or agent is responsible for the acts of the physician assistant and may be subject to disciplinary action for such violations by the physician assistant. The physician assistant is also subject to disciplinary action for violations. Proceedings under these rules are conducted in the manner specified in ORS 677.200.

(2) In addition to any of the reasons cited in ORS 677.190, the Board may refuse to grant, or may suspend or revoke a license to practice as a physician assistant for any of the following reasons:

(a) The physician assistant has held himself/herself out, or permitted another to represent the physician assistant to be a licensed physician.

(b) The physician assistant has in fact performed medical services without the direction or under the supervision of a Board-approved supervising physician or agent.

(c) The physician assistant has performed a task or tasks beyond the physician assistant's competence, or outside the **physician assistant's** scope of practice ~~of the supervising physician~~, or outside the practice agreement as stated in OAR 847-050-0040. This is not intended to limit the ability of a physician assistant to learn new procedures under personal supervision.

Commented [RE1]: HB 3036 section 2(1) removes requirement that a PA practice within the scope of practice of their supervising physician.

Statutory/Other Authority: ORS 677.190, 677.205 & 677.265

Statutes/Other Implemented: ORS 677.190, 677.205, 677.265 & 677.505

847-050-0037

Supervision

(1) A physician may not use the services of a physician assistant without first obtaining Board approval as a supervising physician.

(2) The supervising physician, agent, or in the case of a supervising physician organization, the primary supervising physician and the supervising physician who is providing supervision for the physician assistant, are personally responsible for the direction, supervision and regular review of the medical services provided by the physician assistant, in keeping with the practice agreement or Board-approved practice description.

(3) The type of supervision and maintenance of supervision provided for each physician assistant must be described in the practice agreement or Board-approved practice description.

(4) The supervising physician, agent or, in the case of a supervising physician organization, the supervising physician who is providing supervision for the physician assistant must be available for direct communication with the physician assistant at all times in person, by telephone, or through other synchronous electronic means, whether the supervising physician and physician assistant practice in the same practice location or a practice location separate from each other.

DRAFT

(5)(a) Each setting and licensed facility in which the physician assistant will provide services must be listed in the practice agreement or Board-approved practice description.

(b) Additional, intermittent practice settings such as schools, sporting events, health fairs and long term care facilities, are not required to be listed in the practice agreement or Board-approved practice description if the duties are the same as those listed in the practice agreement or Board-approved practice description. The medical records for the patients seen at these additional practice settings must be held either at the supervising physician's primary practice setting or the additional practice settings. The supervision of the physician assistant must be the same as that described in the practice agreement or Board-approved practice description.

(6) The supervising physician, agent or the supervising physicians in the supervising physician organization must **provide regular and routine oversight and chart review**:

(a) Provide a minimum of eight (8) hours of on-site supervision every month, or as approved by the Board; and

(b) Provide chart review of a number or a percentage of the patients the physician assistant has seen as stated in the practice agreement or Board-approved practice description.

(7) 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. The supervising physician may limit the degree of independent judgment that the physician assistant uses but may not extend it beyond the limits of the practice agreement or Board-approved practice description.

Statutory/Other Authority: ORS 677.265

Statutes/Other Implemented: ORS 677.495, 677.510 & 677.515

847-050-0038 Agents

(1) The supervising physician who is not a member of a supervising physician organization may designate an agent or agents to direct and supervise the physician assistant when the supervising physician is unavailable for short periods of time. The agents must meet the following requirements:

(a) Be a physician licensed under ORS 677.100 to 677.228, or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840, actively registered and in good standing with the Board;

(b) Practice in the same city or practice area as the supervising physician or physician assistant.

(c) Be qualified to supervise as designated in the practice agreement, **and be competent to perform the duties delegated to the physician assistant.**

Commented [RE2]: Until July 15, 2022 ORS 677.495 defines "Supervision" means the acts of overseeing and accepting responsibility for the medical services provided by a physician assistant in accordance with a practice agreement, including regular and routine oversight and chart review.
Updated rule as defined in statute and removed 8 hours of on-site supervision requirement.

Commented [RE3]: Updated rule as written in HB 3036 section 2(3).

Commented [RE4]: HB 3036 section 2(1) removes requirement that a PA practice within the scope of practice of their supervising physician and that the supervising physician delegate duties to the PA.

DRAFT

(2) The supervising physician is responsible for informing the agent of the duties of an agent. Prior to such time as the physician assistant is acting under the direction of an agent, the supervising physician must determine that the agent understands and accepts supervisory responsibility. The agent must sign an acknowledgement of all practice agreements between the supervising physician and the physician assistant(s) the agent will supervise, and a copy must be kept at the primary practice location. Supervision by the agent will continue for a certain, predetermined, limited period of time, after which supervisory duties revert to the supervising physician.

(3) In the absence of the supervising physician, the agent assumes the same responsibilities as the supervising physician.

Statutory/Other Authority: ORS 677.265

Statutes/Other Implemented: ORS 677.495 & ORS 677.510

847-050-0040

Method of Performance

(1) The physician assistant may perform at the direction of the supervising physician, agent or, in the case of a supervising physician organization, the primary supervising physician or the supervising physician who is providing supervision for the physician assistant only those medical services as included in the practice agreement or Board-approved practice description.

(2) A medical service may be ~~delegated to and~~ performed by a physician assistant if:

(a) The services are provided under the **methods of supervision described in and in compliance with the practice agreement or Board-approved practice description** appropriate supervision of a supervising physician;

~~(b) The services are within the scope of practice and the competency of the supervising physician;~~

~~(e)~~ The services are within the scope of practice and the competency of the physician assistant;

~~(d)~~ The services are generally described in and in compliance with the practice agreement or Board-approved practice description; and

~~(e)~~ The physician assistant has obtained informed consent as provided in ORS 677.097, if informed consent is required.

(3) The 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.

Commented [RE5]: HB 3036 section 2(1) removes requirement that the supervising physician delegate duties to the PA.

Commented [RE6]: Until July 15, 2022 ORS 677.510(6)(a) provides a PA may not practice until the PA enters into a practice agreement with a supervising physician and the practice agreement must describe the degree and methods of supervision that the supervising physician or supervising physician organization will use. Updated rule as provided in statute.

Commented [RE7]: HB 3036 section 2(1) removes requirement that a PA practice within the scope of practice of their supervising physician.

Commented [RE8]: HB 3036 section 2(1) removes requirement that the supervising physician delegate duties to the PA.

DRAFT

- (4) The physician assistant or student must be clearly identified as such when performing duties. The physician assistant must at all times when on duty wear a name tag with the designation of "physician assistant" or "PA" thereon and clearly identify himself or herself as a "physician assistant" or "PA" in oral communications with patients and other professionals.
- (5) The supervising physician must furnish reports, as required by the Board, on the performance of the physician assistant or student.
- (6) The practice agreement must be submitted to the Board within ten days after the physician assistant begins practice with the supervising physician or supervising physician organization.
- (7) The supervising physician must notify the Board of any changes to the practice agreement within ten days of the effective date of the change.
- (8) Supervising physicians must update the practice agreement biennially during the supervising physician's license renewal process.
- (9) A supervising physician and physician assistant who have a Board-approved practice description that was approved prior to January 1, 2012 and who wish to make changes to the practice description must enter into a practice agreement in accordance with ORS 677.510(6)(a).
- (10) Failure to comply with any section of this rule is a violation of ORS 677.510 and is grounds for a \$195 fine imposed on the non-compliant licensee. The licensee may be subject to further disciplinary action by the Board.

Statutory/Other Authority: ORS 677.265

Statutes/Other Implemented: ORS 677.205, 677.510 & 677.515

847-050-0041

Prescribing and Dispensing Privileges

- (1) An **physician assistant registered prior to July 12, 1984, who does not possess the qualifications of OAR 847-050-0020 may retain all practice privileges which have been granted prior to July 12, 1984. Under these conditions,** ~~Oregon grandfathered~~ physician assistant may issue written, electronic or oral prescriptions for Schedule III-V medications, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description, if the physician assistant has passed a specialty examination approved by the Board prior to July 12, 1984, and the following conditions are met:
- (a) The ~~Oregon grandfathered~~ physician assistant has passed the Physician Assistant National Certifying Examination (PANCE); and
- (b) The ~~Oregon grandfathered~~ physician assistant has documented adequate education or experience in pharmacology commensurate with the practice agreement or Board-approved practice description.

Commented [RE9]: Housekeeping edit not directly related to HB 3036. Updated rule language to remove outdated term "grandfathered." This definition is existing in the PA definitions rule, OAR 847-050-0010.

DRAFT

(2) A physician assistant may issue written, electronic, or oral prescriptions for Schedule III-V medications, **for** which **the supervising physician has determined** the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description, if the physician assistant has met the requirements of OAR 847-050-0020(1).

Commented [RE10]: HB 3036 section 2(4) removes requirement for a supervising physician to delegate to the PA the authority to administer and prescribe medications.

(3) A physician assistant may issue written or electronic prescriptions or emergency oral prescriptions followed by a written authorization for Schedule II medications if the requirements in (1) or (2) are fulfilled and if the following conditions are met:

(a) A statement regarding Schedule II controlled substances prescription privileges is included in the practice agreement or Board-approved practice description. The Schedule II controlled substances prescription privileges of a physician assistant are limited by the practice agreement or Board-approved practice description and may be restricted further by the supervising physician at any time.

(b) The physician assistant is currently certified by the National Commission for the Certification of Physician Assistants (NCCPA) and must complete all required continuing medical education coursework.

(4) A physician assistant may prescribe and dispense buprenorphine for medication-assisted treatment for opioid dependency if the requirements in (1) or (2) are fulfilled and the following conditions are met:

(a) The physician assistant has obtained a buprenorphine waiver from the Drug Enforcement Administration;

(b) The physician assistant has been granted dispensing authority if the physician assistant will dispense buprenorphine;

(c) The scope of practice of the physician assistant **'s supervising physician** includes use of buprenorphine for medication-assisted treatment for opioid dependency;

Commented [RE11]: HB 3036 section 2(4) removes requirement for a supervising physician to delegate to the PA the authority to administer and prescribe medications.

(d) The physician assistant's practice agreement includes use of buprenorphine for medication-assisted treatment for opioid dependency as a **delegated** medical service; and

Commented [RE12]: HB 3036 section 2(1) removes requirement that the supervising physician delegate duties to the PA.

(e) The physician assistant complies with all federal and state requirements for recordkeeping specific to buprenorphine treatment.

(5) All prescriptions given whether written, electronic, or oral must include the name, office address, and telephone number of **the supervising physician and the name of** the physician assistant. The prescription must also bear the name of the patient and the date on which the prescription was written. The physician assistant must sign the prescription and the signature must be followed by the letters "P.A." Also the physician assistant's Federal Drug Enforcement Administration number must be shown on prescriptions for controlled substances.

Commented [RE13]: HB 3036 section 2(4) removes requirement for the supervising physician's information be on prescriptions written by a PA.

DRAFT

(6) A ~~supervising physician or primary supervising physician of a supervising physician organization~~ **physician assistant** may ~~register with~~ **apply to** the Board for a physician assistant to dispense drugs **commensurate with the practice agreement or Board-approved practice description** ~~specified by the supervising physician or supervising physician organization.~~

Commented [RE14]: HB 3036 section 1 allows a PA to register with the Board to dispense drugs.

(a) The physician assistant must have prescribing privileges and be in good standing with the Board and the NCCPA to qualify for dispensing authority. The physician assistant may dispense Schedule II medications only if the physician assistant's **practice agreement or Board-approved practice description allows** ~~has been delegated~~ Schedule II prescription privileges ~~by the supervising physician.~~

(b) If the facility where the physician assistant will dispense medications serves population groups federally designated as underserved, geographic areas federally designated as health professional shortage areas or medically underserved areas, or areas designated as medically disadvantaged and in need of primary health care providers as designated by the State, the application must include:

(A) Location of the practice site;

(B) Accessibility to the nearest pharmacy; and

(C) Medical necessity for dispensing.

(c) If the facility where the physician assistant will be dispensing medications is not in one of the designated areas or populations described in subsection (6)(b) of this rule,:

~~(A) The physician assistant may not dispense Schedule I through II controlled substances.~~

~~(B) The physician assistant must complete a drug dispensing training program jointly developed by the Oregon Medical Board and the State Board of Pharmacy; and~~

Commented [RE15]: HB 3036 section 1 removes required training program.

~~(C) The supervising physician or primary supervising physician of a supervising physician organization must submit to the Board:~~

Commented [RE16]: HB 3036 section 1 removes requirements to submit information to OMB and OHA.

~~(i) A plan for drug delivery and control;~~

~~(ii) An annual report on the physician assistant's use of dispensing authority;~~

~~(iii) A list of the drugs or classes of drugs the physician assistant will dispense; and~~

~~(iv) A list of all facilities where the physician assistant will dispense and documentation that each of these facilities has been registered with the State Board of Pharmacy as a supervising physician dispensing outlet; and~~

DRAFT

(d) The physician assistant must report the dispensing of any Schedule III or IV controlled substance to the Oregon Health Authority consistent with the requirements for pharmacies as described in ORS 431A.855 to 431A.900.

(7) A physician assistant with dispensing authority must:

(a) Dispense medications personally, **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**;

Commented [RE17]: Added requirement to align with HB 3036 section 1.

(b) Maintain records of the receipt and distribution of prescription drugs and the records must be readily accessible for inspection by the Board upon request;

(c) Dispense drugs packaged by the practitioner, a pharmacy, or a manufacturer registered with the Oregon Board of Pharmacy; only medications that are pre-packaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS 689, and the physician assistant must maintain records of receipt and dispensing; and

Commented [RE18]: Rewrote to align with Oregon Board of Pharmacy rule, OAR 855-043-0545(4)

(d) Label dispensed prescription drugs in compliance with the requirements of ORS 677.089(3); and

Commented [RE19]: Moved to its own subsection see (b) above.

(e) Dispense prescription drugs in containers complying with the federal Poison Prevention Packaging Act unless the patient requests a noncomplying container; and

Commented [RE20]: Added to align with HB 3036 section 1.

(f) Register with the Drug Enforcement Administration and maintain a controlled substances log as required in OAR 847-015-0015.

Commented [RE21]: Added from ORS 677.089(4) required for physician dispensing.

(8) Distribution of samples, without charge, is not dispensing under this rule. Administering drugs in the facility is not dispensing under this rule. Distribution of samples and administration of drugs must be documented in the patient record. Documentation must include the name of the drug, the dose, the quantity distributed or administered, and the directions for use if applicable.

(9) A supervising physician or primary supervising physician of a supervising physician organization for a physician assistant who is applying for dispensing authority must be registered with the Oregon Medical Board as a dispensing physician.

(10) Failure to comply with any subsection of this rule is a violation of the ORS Chapter 677 and is grounds for a \$195 fine. The licensee may be subject to further disciplinary action by the Board.

Statutory/Other Authority: 21 U.S.C. 823 as amended by the Comprehensive Addiction and Recovery Act of 2016 & ORS 677.265

Statutes/Other Implemented: 21 U.S.C. 823 as amended by the Comprehensive Addiction and Recovery Act of 2016, ORS 677.190, ORS 677.205, ORS 677.265, ORS 677.470, ORS 677.511, ORS 677.515 & ORS 677.545