

## Chapter 676

1999 EDITION

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**676.020** [Amended by 1953 c.203 s.1; 1957 c.212 s.1; repealed by 1973 c.31 s.5]

**676.030** [Amended by 1957 c.212 s.2; 1967 c.470 s.65; repealed by 1973 c.31 s.5]

**676.035** [1967 c.184 s.1; 1971 c.15 s.1; repealed by 1973 c.31 s.5]

**676.040** [Amended by 1957 c.212 s.3; repealed by 1973 c.31 s.5]

**676.050** [Amended by 1953 c.203 s.2; 1957 c.212 s.4; repealed by 1973 c.31 s.5]

**676.060** [Repealed by 1973 c.31 s.5]

**676.070** [Repealed by 1973 c.31 s.5]

**676.080** [Repealed by 1973 c.31 s.5]

**676.090** [Repealed by 1973 c.31 s.5]

**Note:** The name of the Department of Human Resources has been changed to the Department of Human Services and the title of the Director of Human Resources to the Director of Human Services. The name and title changes become operative on July 1, 2000. See sections 10 and 11, chapter 421, Oregon Laws 1999. References to the department and the director in this chapter use the name and the title that become operative on July 1, 2000.

## USE OF TITLES IMPORTING HEALTH CARE PROFESSION

**676.100 Definitions for ORS 676.100 to 676.130.** As used in ORS 676.100 to 676.130, unless the context requires otherwise, “person” means and includes any “clinic,” “institute,” “specialist” or any group or combination of persons.

**676.110 Practitioner to designate particular business or profession.** Any person practicing a health care profession who uses the title “doctor,” or any contraction thereof, “clinic,” “institute,” “specialist” or any other assumed or artificial name or title, in connection with the business or profession, on any written or printed matter, or in connection with any advertising, billboards, signs or professional notices, shall add after the name of the person, or after any such assumed or artificial names, one of the following respective designations in letters or print which shall be at least one-fourth the size of the largest letters used in the title or name, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the title or name:

- (1) In the case of a person practicing podiatry, the word “podiatrist” or the words “podiatric physician” or “podiatric physician and surgeon.”
- (2) In the case of a person practicing chiropractic, the word “chiropractor” or the words “chiropractic physician.”
- (3) In the case of a person practicing dentistry, the word “dentist” or “dentistry.”
- (4) In the case of a person practicing naturopathic medicine, the word “naturopath” or the words “naturopathic physician.”
- (5) In the case of a person practicing optometry, the word “optometrist” or the words “doctor of optometry” or “optometric physician.”
- (6) In the case of a person licensed to practice medicine by the Board of Medical Examiners for the State of Oregon who holds the degree of Doctor of Osteopathy, or the equivalent, the word “osteopath” or the words “osteopathic physician” or “osteopathic physician and surgeon.”
- (7) In the case of a person licensed to practice medicine by the Board of Medical Examiners for the State of Oregon who holds the degree of Doctor of Medicine, or the equivalent, the word “physician” or the word “surgeon” or the words “physician and surgeon.”
- (8) In the case of a person practicing veterinary medicine, the word “veterinarian.”
- (9) In the case of a person practicing acupuncture, the word “acupuncturist.” [Amended by 1967 c.470 s.66; 1983 c.169 s.29; 1983 c.486 s.1a; 1983 c.769 s.1; 1991 c.314 s.4; 1995 c.765 s.1]

**676.120 Use of business or professional designation by unlicensed person prohibited; use of deceased licensee's name.** No person shall use any of the designations stated in ORS 676.110 (1) to (9), in connection with the name, business or profession of the person or in connection with an assumed or artificial name, or “clinic,” “institute”

or “specialist,” unless the person is licensed under the laws of this state to practice the particular health care profession indicated by such designation, as stated in ORS 676.110. However, upon the death of any person duly licensed by any board empowered to license any practitioner of a health care profession, the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent's name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner. [Amended by 1953 c.137 s.2; 1983 c.769 s.2; 1991 c.314 s.5]

**676.130 Enforcement of ORS 676.100 to 676.120.** Each board licensing any of the health care professions, within this state, shall notify the appropriate district attorney of any violation of ORS 676.100 to 676.120 which may be brought to the attention of such board. The district attorney of the county in which any violation of those sections takes place shall prosecute the violation upon being informed of the violation by any person or by one of such boards. [Amended by 1983 c.769 s.3]

**676.140** [Repealed by 1967 c.470 s.68]

## PROCESSING OF COMPLAINTS AGAINST HEALTH PROFESSIONALS

**676.160 Definitions for ORS 676.165 to 676.180.** As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

- (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- (2) State Board of Chiropractic Examiners;
- (3) State Board of Clinical Social Workers;
- (4) Oregon Board of Licensed Professional Counselors and Therapists;
- (5) Oregon Board of Dentistry;
- (6) State Board of Denture Technology, and the Health Licensing Office to the extent that the office regulates the practice of denture technology;
- (7) Board of Examiners of Licensed Dietitians;
- (8) State Board of Massage Therapists;
- (9) State Mortuary and Cemetery Board;
- (10) Board of Naturopathic Examiners;
- (11) Oregon State Board of Nursing;
- (12) Board of Examiners of Nursing Home Administrators;
- (13) Oregon Board of Optometry;
- (14) State Board of Pharmacy;
- (15) Board of Medical Examiners;
- (16) Occupational Therapy Licensing Board;
- (17) Physical Therapist Licensing Board;
- (18) State Board of Psychologist Examiners;
- (19) Board of Radiologic Technology;
- (20) Oregon State Veterinary Medical Examining Board; and
- (21) Health Division of the Department of Human Services to the extent that the division certifies emergency medical technicians. [1997 c.791 s.1; 1999 c.537 s.4]

**Note:** 676.160 to 676.180 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapters 676 to 681 or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**676.165 Complaint investigation.** (1) Upon receipt of a complaint by any person against a licensee or applicant, a health professional regulatory board shall assign one or more persons to act as investigator of the complaint.

(2) The investigator shall collect evidence and interview witnesses and shall make a report to the board. The investigator shall have all investigatory powers possessed by the board.

(3) The report to the board shall describe the evidence gathered, the results of witness interviews and any other information considered in preparing the report of the investigator. The investigator shall consider, and include in the

report, any disciplinary history of the licensee or applicant with the board.

(4) The investigator shall make the report to the board not later than 120 days after the board receives the complaint. However, the board may extend the time for making the report by up to 30 days for just cause. The board may grant more than one extension of time.

(5) Investigatory information obtained by an investigator and the report issued by the investigator shall be exempt from public disclosure. [1997 c.791 s.5]

**Note:** See note under 676.160.

**676.170 Immunity of information providers.** A person who reports or supplies information in good faith to a health professional regulatory board or to a committee reporting to a health professional regulatory board shall be immune from an action for civil damages as a result thereof. [1997 c.791 s.4]

**Note:** See note under 676.160.

**676.175 Complaints and investigations confidential; exceptions.** (1) A health professional regulatory board shall keep confidential and not disclose to the public any information obtained by the board as part of an investigation of a licensee or applicant, including complaints concerning licensee or applicant conduct and information permitting the identification of complainants, licensees or applicants. However, the board may disclose information obtained in the course of an investigation of a licensee or applicant to the extent necessary to conduct a full and proper investigation.

(2) Notwithstanding subsection (1) of this section, if a health professional regulatory board votes not to issue a notice of intent to impose a disciplinary sanction:

(a) The board shall disclose information obtained as part of an investigation of an applicant or licensee if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.

(b) The board may disclose to a complainant a written summary of information obtained as part of an investigation of an applicant or licensee resulting from the complaint to the extent the board determines necessary to explain the reasons for the board's decision. An applicant or licensee may review and obtain a copy of any written summary of information disclosed to a complainant by the board after the board has deleted any information that could reasonably be used to identify the complainant.

(3)(a) A health professional regulatory board shall disclose:

(A) A notice of intent to impose a disciplinary sanction against a licensee or applicant that has been issued by vote of the board;

(B) A final order that results from the board's notice of intent to impose a disciplinary sanction;

(C) An emergency suspension order;

(D) A consent order or stipulated agreement that involves licensee or applicant conduct; and

(E) Information to further an investigation into board conduct under ORS 192.685.

(b) A health professional regulatory board may make the information required to be disclosed under paragraph (a)(A) to (D) of this subsection available in electronic form, accessible by use of a personal computer or similar technology that provides direct electronic access to the information.

(4) If a notice of intent to impose a disciplinary sanction has been issued by vote of a health professional regulatory board, a final order that results from the board's notice of intent to impose a disciplinary sanction, an emergency suspension order or a consent order or stipulated agreement that involves licensee or applicant conduct shall summarize the factual basis for the board's disposition of the matter.

(5) A health professional regulatory board record or order, or any part thereof, obtained as part of or resulting from an investigation, contested case proceeding, consent order or stipulated agreement, is not admissible as evidence and may not preclude an issue or claim in any civil proceeding except in a proceeding between the board and the licensee or applicant as otherwise allowed by law.

(6)(a) Notwithstanding subsection (1) of this section, it is not disclosure to the public for a board to permit other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions shall not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, "public official" means a member or member-elect, or any member of the staff or an employee, of a public entity as defined by ORS 676.177. [1997 c.791 s.2; 1999 c.751 s.3]

**Note:** See note under 676.160.

**676.177 Disclosure of confidential information to another public entity; criteria.** (1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, “public entity” means:

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

(c) The Department of Justice;

(d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or

(e) A law enforcement agency of this state, another state or the federal government. [1999 c.751 s.2]

**Note:** See note under 676.160.

**676.180 Notice prior to disclosure.** If a health professional regulatory board intends to disclose a record pursuant to ORS 676.175 (2), the board shall provide the licensee or applicant seven days' prior written notice by first class mail. The notice shall describe the record that the board intends to disclose in sufficient detail to permit the licensee or applicant to know the contents of the record. In any subsequent action for injunctive or declaratory relief, the burden shall be on the person seeking disclosure to demonstrate by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. [1997 c.791 s.3]

**Note:** See note under 676.160.

## ENJOINING PRACTICE AFTER SUSPENSION OR REVOCATION OF LICENSE

**676.210 Practice of health care profession after suspension or revocation of license prohibited.** No person whose license has been revoked or suspended by any board authorized by the statutes of the State of Oregon to issue licenses to practice a health care profession shall continue the practice of this profession after the order or decision of the board suspending or revoking the license of the person has been made. The license shall remain suspended or revoked until a final determination of an appeal from the decision or order of the board has been made by the court. [1953 c.592 s.1; 1983 c.769 s.4]

**676.220 Enjoining health care professional from practicing after suspension or revocation of license.** (1) If at any time the board suspending or revoking the license of any licentiate of a health care profession determines that such licentiate is continuing to practice the health care profession notwithstanding, the board shall in its own name bring an action to enjoin such licentiate.

(2) If the court shall find that the licentiate has been or is continuing the practice of the health care profession for which the license has been revoked or suspended it shall issue an injunction restraining the licentiate. The commission of a single act constituting the practice of the respective health care profession shall be prima facie evidence warranting the issuance of such injunction. [1953 c.592 s.2; 1979 c.284 s.191; 1983 c.769 s.5]

**676.230 Injunction as cumulative remedy.** The remedy herein provided is cumulative and shall be without prejudice to any other civil or criminal remedy. [1953 c.592 s.3]

## DIRECT ENTRY MIDWIFERY

**Note:** Sections 1 to 11 and 15 to 19, chapter 362, Oregon Laws 1993, are repealed December 31, 2001. See section 5a, chapter 990, Oregon Laws 1999. The text is set forth for the user's convenience.

**Sec. 1. "Licensed direct entry midwife" defined.** As used in this Act, "licensed direct entry midwife" means a person who:

- (1) Supervises the conduct of labor and childbirth;
- (2) Advises the parent as to the progress of the childbirth; and
- (3) Renders prenatal, intrapartum and postpartum care. [1993 c.362 s.1]

**Sec. 2. State Board of Direct Entry Midwifery; establishment; appointment; confirmation; membership.**

There is established within the Health Licensing Office the State Board of Direct Entry Midwifery consisting of seven members appointed by the Governor. Each member of the board shall serve a term of three years and until a successor is appointed and qualified. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. All appointments of members of the board are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. The membership of the board shall include:

- (1) Four licensed direct entry midwives.
- (2) Two certified nurse midwives.
- (3) One physician licensed under ORS chapter 677 involved at the time of appointment in obstetrical care or education. [1993 c.362 s.2; 1999 c.885 s.23; 1999 c.990 s.1]

**Sec. 3. Licensure standards; application; fees; payment for services under medical assistance programs. (1)**

The State Board of Direct Entry Midwifery shall establish standards for qualifications for the licensure of direct entry midwives. Such standards shall include:

- (a) Sufficient knowledge in the following areas:
  - (A) Techniques in taking patient histories;
  - (B) Anatomy and physiology of the female reproductive system;
  - (C) Appropriate use of diagnostic testing;
  - (D) Necessity for referral;
  - (E) Pathology in childbirth;
  - (F) Mechanisms of labor;
  - (G) Aseptic techniques;
  - (H) Postpartum care;
  - (I) Examinations of newborn infants; and
  - (J) Family planning;
- (b) Successful passage of written and oral examinations; and
- (c) Participation in:
  - (A) 25 assisted deliveries;
  - (B) 25 deliveries for which the midwife was the primary care provider;
  - (C) 100 prenatal care visits;
  - (D) 25 newborn examinations; and
  - (E) 40 postnatal examinations;
- (d) Current certification in cardiopulmonary resuscitation for infants and adults; and
- (e) A written plan for emergency transport.

(2) Any person who desires to become licensed as a direct entry midwife shall submit an application to the board stating the applicant's qualifications for licensure. If the applicant meets the standards established under subsection (1) of this section and the applicant is not disqualified from licensure under section 10, chapter 362, Oregon Laws 1993, the board shall issue an annual license to the direct entry midwife. The board shall impose a fee for licensure and examination in the amount established pursuant to section 4 of this 1997 Act.

(3) Any direct entry midwife licensed under this section is entitled to payment under the rules of the medical assistance program for services provided to any eligible recipient of medical assistance. [1993 c.362 s.3; 1997 c.690 s.5]

**Sec. 4. Licensure without examination; out-of-state license.** A person licensed to practice direct entry midwifery under the laws of another state who demonstrates to the satisfaction of the State Board of Direct Entry Midwifery that the person has passed a written examination at least equal to the written examination required of persons eligible for licensure under this Act may have the written examination waived pursuant to standards of the board. [1993 c.362 s.4]

**Sec. 5. Record of proceedings and complaints.** The State Board of Direct Entry Midwifery shall keep a record of its proceedings relating to the issuance, refusal, suspension and revocation of licenses. The board shall keep a record

of all complaints received, including the date of receipt, name of licensee, name and address of each complainant and the nature of the complaint. [1993 c.362 s.5]

**Sec. 6. Officers; meetings; quorum; compensation and expenses.** (1) The State Board of Direct Entry Midwifery shall elect a chairperson. The board shall adopt rules to govern the proceedings of the board. The board shall hold meetings at such times and places as it determines. A majority of the members of the board shall constitute a quorum.

(2) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495. [1993 c.362 s.6]

**Sec. 7. Powers of board.** In addition to the powers otherwise granted by chapter 362, Oregon Laws 1993, the State Board of Direct Entry Midwifery may:

(1) Determine whether applicants meet the qualifications under chapter 362, Oregon Laws 1993, conduct examinations and grant licenses to qualified applicants upon compliance with the rules of the board;

(2) Do any act necessary or proper to effect and carry out the duties required of the board by chapter 362, Oregon Laws 1993;

(3) Adopt rules for the administration of chapter 362, Oregon Laws 1993; and

(4) Accept and expend donations, contributions and grant funds for the purposes of chapter 362, Oregon Laws 1993. [1993 c.362 s.7; 1999 c.990 s.2]

**Sec. 8. Practice standards.** The State Board of Direct Entry Midwifery shall develop practice standards that shall include but not be limited to:

(1) Maintenance of statistical records of births;

(2) Participation in peer review;

(3) Development of a written plan for emergency transport;

(4) Guidelines for equipment; and

(5) Maintenance of patient disclosure forms, which includes information regarding whether the midwife has malpractice insurance. [1993 c.362 s.8]

**Sec. 9. License renewal; requirements; inactive status; notice of renewal.** (1) The State Board of Direct Entry Midwifery annually shall renew a license for a direct entry midwife upon receipt of the renewal application and fee and proof of current cardiopulmonary resuscitation certification for infants and adults, if the applicant is otherwise in compliance with the rules adopted by the board.

(2) The board shall establish a procedure for the renewal of licenses.

(3) The board shall prescribe requirements for license renewal including, but not limited to, continuing education. In addition to continuing education requirements, a midwife who has attended fewer than five births in the previous year shall be required to take an additional 10 hours of continuing education as prescribed by the board. All licensing requirements shall be approved by the board by rule.

(4) Any license that is not renewed at the end of the calendar year shall automatically revert to inactive status. The license may be reactivated only if the license holder meets other qualifications for reactivation as prescribed by the board by rule.

(5) Sixty days prior to the end of the calendar year, the board shall mail a notice of renewal to the last-known address of the license holder. [1993 c.362 s.9]

**Sec. 10. Disciplinary procedure; grounds for refusal to grant license; civil penalty.** (1) The following acts shall be grounds for which the State Board of Direct Entry Midwifery may refuse to grant a license or may exercise disciplinary action against a licensed direct entry midwife:

(a) Procuring, attempting to procure, renewing or attempting to renew a license to practice direct entry midwifery by bribery or fraudulent misrepresentation.

(b) Having a license to practice direct entry midwifery revoked, suspended or denied by the licensing authority of another state, territory or country.

(c) Being convicted or found guilty, in any jurisdiction that authorizes direct entry midwives to practice in the jurisdiction, of a crime that directly relates to the practice of direct entry midwifery or to the ability to practice direct entry midwifery. A plea of nolo contendere shall be considered a conviction for purposes of this subsection.

(d) Making or filing a false report or record that the license holder knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another to do so. Reports or records shall include only reports or records that are signed in the direct entry midwife's capacity as a licensed direct entry midwife.

(e) Advertising falsely, misleadingly or deceptively.

(f) Engaging in unprofessional conduct including, but not limited to, any departure from or the failure to conform

to the standards of practice of direct entry midwifery as established by the board, in which case actual injury need not be established.

(g) Being unable to practice midwifery with reasonable skill and safety to patients by reason of illness or use of controlled substances, alcohol or other materials or as a result of any mental or physical impairment. At reasonable intervals, a direct entry midwife described in this paragraph shall be afforded an opportunity to demonstrate that the direct entry midwife can resume the competent practice of direct entry midwifery with reasonable skill and safety.

(h) Willfully or repeatedly violating any provision of this Act, any rule of the board or any lawful order of the board previously entered in a disciplinary proceeding.

(2) When the board finds any person has violated any grounds set forth in subsection (1) of this section, the board may take one or more of the following disciplinary actions:

(a) Refuse to approve an application for licensure.

(b) Revoke or suspend a license.

(c) Impose a civil penalty not to exceed \$1,000 for each count or separate offense.

(d) Issue a reprimand.

(e) Place the direct entry midwife on probation for a period of time and subject to conditions as the board may specify including, but not limited to, requiring the direct entry midwife to:

(A) Submit to treatment;

(B) Undertake further relevant education or training;

(C) Take an examination; or

(D) Work under the supervision of another licensed direct entry midwife or a physician licensed under ORS chapter 677 or 685.

(3) The board shall not reinstate the license of a direct entry midwife or cause a license to be issued to a person it considers unqualified until such time as the board is satisfied that the person has complied with all the terms and conditions set forth in subsection (2)(e) of this section and that the person is capable of safely engaging in the practice of direct entry midwifery.

(4) The board shall establish guidelines for the disposition of disciplinary cases involving specific types of violations. [1993 c.362 s.10]

**Sec. 11. When license required.** (1) A license authorized by this Act is required only for purposes of reimbursement under medical assistance programs and is not required for the practice of direct entry midwifery in this state.

(2) Nothing in this Act is intended to require a direct entry midwife to become licensed as described in section 3 (2) of this Act. [1993 c.362 s.11]

**Sec. 15. Collection of data on births.** In cooperation with the State Board of Direct Entry Midwifery, the Health Licensing Office shall collect and report data on births for which a direct entry midwife was the primary care provider. The report shall distinguish outcomes between licensed direct entry midwives and direct entry midwives who are not licensed under this Act. [1993 c.362 s.15]

**Sec. 16. When use of title authorized.** No person shall use the title "licensed direct entry midwife," any abbreviation thereof or the initials "L.D.M." unless the person possesses a valid license issued under this Act. [1993 c.362 s.16]

**Sec. 17. Confidentiality of information on discipline.** (1) Any information provided to the State Board of Direct Entry Midwifery under section 10 of this Act is confidential and shall not be subject to public disclosure or admissible as evidence in any judicial proceeding.

(2) Any person who in good faith provides information to the board shall not be subject to an action for civil damages as a result thereof. [1993 c.362 s.17]

**Sec. 18. Board administrator; qualifications; appointment; compensation.** (1) The Director of the Health Licensing Office shall fix the qualifications of and appoint an administrator for the State Board of Direct Entry Midwifery who shall not be a member of the board. Subject to applicable provisions of the State Personnel Relations Law, the director shall fix the compensation of the administrator who shall be in the unclassified service.

(2) The director shall provide the board with such services and employees as the board requires to carry out its duties. [1993 c.362 s.18]

**Sec. 19. Use of fees.** All moneys received by the Health Licensing Office under chapter 362, Oregon Laws 1993, shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Licensing Office Account. Such moneys are appropriated continuously and shall be used only for the administration and enforcement of chapter 362, Oregon Laws 1993. [1993 c.362 s.19; 1999 c.885 s.24]

**Note:** Section 4, chapter 690, Oregon Laws 1997, which was added to and made a part of sections 1 to 19, chapter 362, Oregon Laws 1993, and which is repealed December 31, 2001, by section 5a, chapter 990, Oregon Laws 1999, provides:

**Sec. 4. Fees.** (1) The Health Licensing Office shall establish fees and charges to carry out the duties, functions and powers of the State Board of Direct Entry Midwifery. Fees and charges established pursuant to this section shall not exceed the following:

- (a) License application, \$100;
- (b) Initial license, \$2,000;
- (c) Annual renewal for active license, \$2,000;
- (d) Written examination, \$500;
- (e) Oral examination, \$150;
- (f) Late fee, \$50;
- (g) Duplicate license, \$25;
- (h) Reciprocity license, \$500; and
- (i) License reactivation, \$500.

(2) Fees and charges established pursuant to subsection (1) of this section shall be subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting fees and charges. The fees and charges shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. The fees and charges shall not exceed the cost of administering the program or the purpose for which the fee or charge is established as authorized by the Legislative Assembly for the board's budget, or as modified by the Emergency Board of future sessions of the Legislative Assembly. [1997 c.690 s.4; 1999 c.885 s.25; 1999 c.990 s.3]

## HEALTH CARE PROVIDER REPORTING OF BLOOD ALCOHOL LEVEL

**676.260 Health care provider notification of blood alcohol level; content of notice.** (1) If a health care provider who is providing medical care in a health care facility immediately after a motor vehicle accident to a person reasonably believed to be the operator of a motor vehicle involved in the accident, becomes aware, as a result of any blood test performed in the course of that treatment, that the person's blood alcohol level meets or exceeds the percent specified in ORS 813.010, the health care provider may notify, as soon as is reasonably possible, any law enforcement officer or agency.

(2) The notice shall consist of the name of the person being treated, the blood alcohol level disclosed by the test and the date and time of the administration of the test.

(3) Nothing contained in ORS 40.225 to 40.295 affects the authority to report imposed by this section, and the health care provider shall not be considered to have breached any duty under ORS 40.225 to 40.295 owed to the person about whom the report is made. Reporting or failing to report is not a violation of any ethical or moral duty. [1995 c.546 s.1]

**Note:** 676.260 and 676.280 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapters 676 to 681 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**676.280 Immunity of person participating in report pursuant to ORS 676.260.** No action or administrative proceeding shall be brought against anyone participating in good faith in the making of a report pursuant to ORS 676.260 and any person participating in making the report shall have immunity from any liability, civil or criminal, and from any professional disciplinary action, that might otherwise be incurred or imposed with respect to making of the report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from the report. [1995 c.546 s.2]

**Note:** See note under 676.260.

## MISCELLANEOUS

**676.310 Fees for laboratory testing; itemized billing; failure to comply considered unprofessional conduct.**

(1) Any person authorized by law to order laboratory testing may charge a reasonable fee for all laboratory and other specialized testing performed by the practitioner or by a person in the practitioner's employ. In addition, the practitioner is entitled to charge a reasonable fee for collecting and preparing specimens to be sent to independent persons or laboratories for testing, and for the preparation of the billing to the patient for the test. However, a practitioner shall not mark up, or charge a commission or make a profit on services rendered by an independent person or laboratory.

(2) A practitioner shall prepare an itemized billing, indicating the charges for each service rendered to the patient. Any services rendered to the patient that were performed by persons other than those in the direct employ of the practitioner and the charges therefor shall be indicated separately on the patient's bill.

(3) Failure to comply with the requirements of this section shall be considered to be unprofessional conduct and may be subject to disciplinary action by the appropriate licensing board.

(4) As used in this section, "practitioner" means a person licensed to practice medicine, dentistry, naturopathic medicine or chiropractic or to be a nurse practitioner. [1979 c.428 s.1]

**676.330 Approved osteopathic residency training and certification included as medical specialty certification.**

Any health care entity, hospital, hospital medical staff, health care service contractor, independent practice association, health insurance company or any other entity that requires physicians to be certified or eligible for certification in a medical specialty shall include residency training and certification approved by the American Osteopathic Association and the American Board of Medical Specialties. [1995 c.627 s.1]

**Note:** 676.330 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapters 676 to 681 or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**676.340 Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability.** (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient's informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

- (a) A physician licensed under ORS 677.100 to 677.228;
- (b) A nurse licensed under ORS 678.040 to 678.101;
- (c) A nurse practitioner licensed under ORS 678.375 to 678.390;
- (d) A physician assistant licensed under ORS 677.505 to 677.525;
- (e) A dental hygienist licensed under ORS 680.010 to 680.205; and
- (f) A dentist licensed under ORS 679.060 to 679.180. [1999 c.771 s.1; 1999 c.771 s.3]

**Note:** 676.340 and 676.345 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapters 676 to 681 or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**676.345 Registration program for health care professionals claiming liability limitation; program requirements.** (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

- (a) By a physician or physician assistant, with the Board of Medical Examiners;
- (b) By a nurse or nurse practitioner, with the Oregon State Board of Nursing; and
- (c) By a dentist or dental hygienist, with the Oregon Board of Dentistry.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

- (a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;
- (b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and
- (c) A statement that the health practitioner will only provide health care services without compensation that are within the scope of the health practitioner's license.

(3) Registration under this section must be made annually. The health professional regulatory boards listed in subsection (1) of this section shall charge no fee for registration under this section. [1999 c.771 s.2; 1999 c.771 s.4]

**Note:** See note under 676.340.

## HEALTH LICENSING OFFICE

**676.600 Definition for ORS 676.600 to 676.625.** As used in ORS 676.600 to 676.625, unless the context requires otherwise, “agency” means the Health Licensing Office. [1999 c.885 s.1]

**Note:** 676.600 to 676.625 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapters 676 to 681 or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**676.605 Purpose; responsibilities.** (1) To provide for the more effective coordination of administrative functions of certain health boards, councils and programs charged with responsibility for protecting the public through the licensing and regulation of health-related professions and occupations practiced in this state under uniform mission and goals, there is hereby created the Health Licensing Office.

(2) The mission of the Health Licensing Office is to serve the public by providing a uniform structure and accountability for the boards, councils and programs under its administration to protect the public from harm. The agency's focus is to:

- (a) Promote effective health policy that protects the public from incompetent or unauthorized individuals and allows consumers to select a provider from a range of safe options.
- (b) Provide outreach and training to stakeholders to improve compliance with public health and safety standards, and to involve stakeholders in the regulation of the various disciplines and fields of practice.
- (c) Form partnerships and work in collaboration with each constituency, local and state governmental agencies, educators, organizations and other affected entities to encourage diverse opinions and perspectives.
- (d) Provide the boards, councils and programs with a standardized administrative forum and procedures for operation, fiscal services, licensing, enforcement and complaint resolution.
- (e) Resolve disputes between regulatory entities regarding the scope of practice of persons licensed by those entities.

(3) The agency is responsible for:

- (a) Establishing and administering a uniform application process for licensing, certification or registration of health-related professions or occupations;
- (b) Approving and collecting fees proposed by the boards, councils and programs administered by the agency;
- (c) Issuing and renewing licenses, certificates and registrations as recommended by the boards, councils and programs;
- (d) Conditioning, limiting, suspending, revoking or refusing to issue or renew a license, certificate or registration as recommended by the appropriate board, council or program; and
- (e) Reviewing board, council and program administrative rules establishing professional standards, continuing education requirements, scope of practice limits and practitioner discipline. [1999 c.885 s.2]

**Note:** See note under 676.600.

**676.607 Enumeration of powers not exclusive.** The enumeration of duties, functions and powers in ORS 676.605 is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the Health Licensing Office by other statutes. [1999 c.885 s.3]

**Note:** See note under 676.600.

**676.610 Director; appointment and qualifications; responsibilities; duties; confirmation.** (1)(a) The Health Licensing Office is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the agency.

(b) The Governor shall establish the qualifications for and appoint the director, who holds office at the pleasure of the Governor.

(c) The director shall receive a salary as provided by law or, if not so provided, as prescribed by the Governor.

(d) The director shall be in the unclassified service.

(2) The director shall be responsible for the performance of duties and functions of the boards, councils and programs administered by the agency. The director shall provide the boards, councils and programs with such services and employees as the agency requires to carry out its duties. Subject to any applicable provisions of the State Personnel Relations Law, the director shall appoint all subordinate officers and employees of the agency, prescribe their duties and fix their compensation.

(3) Except as provided in section 18, chapter 885, Oregon Laws 1999, the Director of the Health Licensing Office shall be responsible for carrying out duties, functions and powers under ORS 680.500 to 680.572, 680.990 (2), 688.800 to 688.835, 688.995, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570, 690.992, 690.995, 690.996, 690.997, 690.999 and 694.015 to 694.185, ORS chapter 700 and chapter 362, Oregon Laws 1993, that prior to October 23, 1999, have been carried out by the Health Division of the Department of Human Resources or the Assistant Director for Health. The director succeeds to all rights and obligations of the Health Division and the Assistant Director for Health.

(4) The appointment of the Director of the Health Licensing Office is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. [1999 c.885 s.6]

**Note:** See note under 676.600.

**676.615 Rulemaking authority.** (1) In accordance with applicable provisions of ORS 183.310 to 183.550, the Director of the Health Licensing Office may adopt rules necessary for the administration of the laws that the Health Licensing Office is charged with administering.

(2) In accordance with applicable provisions of ORS 183.310 to 183.550, the Director of the Health Licensing Office may adopt rules necessary for the administration of ORS 676.600 to 676.625. [1999 c.885 s.7]

**Note:** See note under 676.600.

**676.620 Use of services of Oregon Department of Administrative Services.** In performing its powers and duties under chapter 885, Oregon Laws 1999, the Health Licensing Office may utilize the administrative assistance of the Oregon Department of Administrative Services. It shall pay to the department a proportionate share of the cost of such administrative services, such share to be fixed by biennial negotiation between the agency and the department. [1999 c.885 s.13]

**Note:** Legislative Counsel has substituted “chapter 885, Oregon Laws 1999,” for the words “this 1999 Act” in section 13, chapter 885, Oregon Laws 1999, compiled as 676.620. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 1999 Comparative Section Table located in Volume 18 of ORS.

**Note:** See note under 676.600.

**676.625 Health Licensing Office Account; fees; record keeping; disposition of receipts.** (1) The Health Licensing Office Account is established in the General Fund of the State Treasury. The account shall consist of the moneys appropriated to the account by the Legislative Assembly. All moneys in the account are appropriated continuously and shall be used by the Health Licensing Office for carrying out the duties and obligations of the boards, councils and programs imposed by law.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges shall not exceed the cost of administering the boards, councils and programs within the agency pertaining to the purposes for which the fee or charge is established, as authorized by the Legislative Assembly within the agency's budget, as the budget may be modified by the Emergency Board.

(3) The agency shall keep a record of all moneys deposited into the account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity of each board, council or program.

(4) The moneys received from civil penalties assessed by any of the entities administered under the Health Licensing Office shall be deposited and accounted for as are other moneys received by the agency and shall be for the administration and enforcement of those laws of the boards, councils and programs administered by the Health Licensing Office.

(5) All unexpended moneys appropriated or otherwise available to a state officer or agency for the purposes of any of its duties, functions or powers transferred by chapter 885, Oregon Laws 1999, to the Health Licensing Office, are appropriated to the Health Licensing Office.

(6) Moneys appropriated to the Health Licensing Office under subsection (5) of this section are subject to any expenditure limitations placed on those moneys prior to the appropriation to the Health Licensing Office. [1999 c.885 s.14]

**Note:** Legislative Counsel has substituted “chapter 885, Oregon Laws 1999,” for the words “this 1999 Act” in section 14, chapter 885, Oregon Laws 1999, compiled as 676.625. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 1999 Comparative Section Table located in Volume 18 of ORS.

**Note:** See note under 676.600.

## PENALTIES

**676.990 Penalties.** Violation of any of the provisions of ORS 676.100 to 676.130 is punishable, upon conviction, by a fine of not more than \$250, or by imprisonment in the county jail for not more than 30 days, or by both.

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