

OCCUPATIONS AND PROFESSIONS

676.010 [Amended by 1967 c.470 §64; repealed by 1973 c.31 §5]

676.020 [Amended by 1953 c.203 §1; 1957 c.212 §1; repealed by 1973 c.31 §5]

676.030 [Amended by 1957 c.212 §2; 1967 c.470 §65; repealed by 1973 c.31 §5]

676.035 [1967 c.184 §1; 1971 c.15 §1; repealed by 1973 c.31 §5]

676.040 [Amended by 1957 c.212 §3; repealed by 1973 c.31 §5]

676.050 [Amended by 1953 c.203 §2; 1957 c.212 §4; repealed by 1973 c.31 §5]

676.060 [Repealed by 1973 c.31 §5]

676.070 [Repealed by 1973 c.31 §5]

676.080 [Repealed by 1973 c.31 §5]

676.090 [Repealed by 1973 c.31 §5]

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 Oregon Medical Board 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 Oregon Medical Board 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” and in the case of a person who has completed a program that leads to a doctoral degree in Oriental Medicine and Acupuncture from a school that has federally recognized accreditation, the words “doctor of acupuncture and oriental medicine.” [Amended by 1967 c.470 §66; 1983 c.169 §29; 1983 c.486 §1a; 1983 c.769 §1; 1991 c.314 §4; 1995 c.765 §1; 2007 c.418 §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 §2; 1983 c.769 §2; 1991 c.314 §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 §3]

676.140 [Repealed by 1967 c.470 §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) Board of Examiners of Licensed Dietitians;
- (7) State Board of Massage Therapists;
- (8) State Mortuary and Cemetery Board;
- (9) Board of Naturopathic Examiners;
- (10) Oregon State Board of Nursing;
- (11) Board of Examiners of Nursing Home Administrators;
- (12) Oregon Board of Optometry;
- (13) State Board of Pharmacy;
- (14) Oregon Medical Board;
- (15) Occupational Therapy Licensing Board;
- (16) Physical Therapist Licensing Board;
- (17) State Board of Psychologist Examiners;
- (18) Board of Radiologic Technology;
- (19) Oregon State Veterinary Medical Examining Board; and

(20) Department of Human Services to the extent that the department certifies emergency medical technicians. [1997 c.791 §1; 1999 c.537 §4; 2001 c.274 §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 consid-

ered 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 §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 §4]

Note: See note under 676.160.

676.175 Complaints and investigations confidential; exceptions; fees. (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) If a health professional regulatory board votes to issue a notice of intent to impose a disciplinary sanction, upon written request by the licensee or applicant, the board shall disclose to the licensee or applicant all information obtained by the board in the investigation of the allegations in the notice except:

(a) Information that is privileged or confidential under a law other than this section.

(b) Information that would permit the identification of any person who provided information that led to the filing of the notice and who will not provide testimony at a hearing arising out of the investigation.

(c) Information that would permit the identification of any person as a person who made a complaint to the board about a licensee or applicant.

(d) Reports of expert witnesses.

(4) Information disclosed to a licensee or applicant under subsection (3) of this section may be further disclosed by the licensee or applicant only to the extent necessary to prepare for a hearing on the notice of intent to impose a disciplinary sanction.

(5)(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.

(6) 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.

(7) 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.

(8)(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.

(9) A health professional regulatory board may establish fees reasonably calculated to reimburse the actual cost of disclosing information to licensees or applicants as required by subsection (3) of this section. [1997 c.791 §2; 1999 c.751 §3; 2005 c.801 §1]

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 §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 §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 §1; 1983 c.769 §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 §2; 1979 c.284 §191; 1983 c.769 §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 §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 must notify any law enforcement officer who is at the health care facility and is acting in an official capacity in relation to the motor vehicle accident. If no law enforcement officer is present in an official capacity at the health care facility, the health care facility must notify a law enforcement agency in the county in which the accident occurred, or an Oregon State Police dispatch center, as soon as possible but no more than 72 hours after becoming aware of the results of the blood test.

(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 requirement to provide notice 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 notice is made. [1995 c.546 §1; 2003 c.89 §2; 2007 c.662 §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 chapter or 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 providing notice pursuant to ORS 676.260 and any person participating in providing notice 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 the notification or

the content of the notice. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from the notice. [1995 c.546 §2; 2003 c.89 §3]

Note: See note under 676.260.

676.300 Authority of health care provider to notify law enforcement agency that patient who is under influence of intoxicants is about to drive vehicle; immunity.

(1) If a health care provider who is providing emergency medical care in a health care facility to a person has reason to believe that the person is under the influence of intoxicants and is about to drive a motor vehicle on a highway as defined in ORS 801.305 or a premises open to the public as defined in ORS 801.400 and is a clear and present danger to society, the health care provider may notify as soon as reasonably possible the law enforcement agency which has jurisdiction over the health care facility site.

(2) The notice shall consist of the name and physical description of the person being treated and the fact that the health care provider believes the person is intoxicated and is about to drive a motor vehicle as described in subsection (1) of this section.

(3) The health care provider may inform the person if the health care provider intends to notify the law enforcement agency described in subsection (1) of this section. The person's consent is not required.

(4) Anyone participating in good faith in the making of a report or not making a report pursuant to subsections (1) to (3) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or the content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [Formerly 441.827]

Note: 676.300 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.

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 §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 §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 clinical nurse specialist certified under ORS 678.370 and 678.372;

(e) A physician assistant licensed under ORS 677.505 to 677.525;

(f) A dental hygienist licensed under ORS 680.010 to 680.205; and

(g) A dentist licensed under ORS 679.060 to 679.180. [1999 c.771 §1; 1999 c.771 §3; 2005 c.462 §2]

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 Oregon Medical Board;

(b) By a nurse, nurse practitioner or clinical nurse specialist, 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 §2; 1999 c.771 §4; 2005 c.462 §3]

Note: See note under 676.340.

676.400 Racial and ethnic composition of regulated health professions; findings; duties of health professional regulatory boards. (1) It is the intention of the Legislative Assembly to achieve the goal of universal access to adequate levels of high quality health care at an affordable cost for all Oregonians, regardless of ethnic or cultural background.

(2) The Legislative Assembly finds that:

(a) Access to health care is of value when it leads to treatment that substantially improves health outcomes;

(b) Health care is most effective when it accounts for the contribution of culture to health status and health outcomes;

(c) Ethnic and racial minorities experience more than their statistically fair share of undesirable health outcomes;

(d) The lack of licensed health care professionals from ethnic and racial minorities or who are bilingual contributes to the inadequacy of health outcomes in communities of color in this state; and

(e) The development of a partnership between health professional regulatory boards and communities of color to increase the representation of people of color and bilingual people in health care professions has significant potential to improve the health outcomes of people of color and bilingual citizens of this state.

(3) Health professional regulatory boards shall establish programs to increase the representation of people of color and bilingual people on the boards and in the professions that they regulate. Such programs must include activities to promote the education, recruitment and professional practice of members of these targeted populations in Oregon.

(4) Each health professional regulatory board shall maintain records of the racial and ethnic makeup of applicants and professionals regulated by the board. Such information shall be requested from applicants and the professionals regulated who shall be informed in writing that the provision of such information is voluntary and not required.

(5) Each health professional regulatory board shall report biennially to the Legislative Assembly in the manner required by ORS 192.245. The report shall contain:

(a) Data detailing the efforts of the board to comply with the requirements of subsection (3) of this section; and

(b) Data collected under subsection (4) of this section documenting the ethnic and racial makeup of the applicants and of the professionals regulated by the board.

(6) For purposes of this section, "health professional regulatory board" has the meaning given that term in ORS 676.160. [2001 c.973 §1]

Note: 676.400 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.

676.440 Duty of health professional regulatory boards to encourage multidisciplinary pain management services. (1) Health professional regulatory boards shall encourage the development of state-of-the-art multidisciplinary pain management services and the availability of these services to the public.

(2) As used in subsection (1) of this section, "health professional regulatory boards" means the:

(a) Oregon Medical Board;

(b) Board of Naturopathic Examiners;

(c) Oregon Board of Dentistry;

(d) Oregon State Board of Nursing;

(e) Physical Therapist Licensing Board;

(f) State Board of Chiropractic Examiners;

(g) State Board of Pharmacy; and

(h) State Board of Psychologist Examiners. [2003 c.325 §1]

Note: 676.440 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.

OREGON HEALTH LICENSING AGENCY

676.600 [1999 c.885 §1; repealed by 2005 c.648 §121]

676.605 Purpose of Oregon Health Licensing Agency. (1) To provide for the more effective coordination of administrative and regulatory functions of certain health boards, councils and programs involved in 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 Oregon Health Licensing Agency.

(2) The mission of the agency 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. [1999 c.885 §2; 2001 c.54 §1; 2005 c.648 §1]

Note: 676.605 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.

676.606 Oversight and centralized service by agency. Pursuant to ORS 676.607, the Oregon Health Licensing Agency shall provide administrative and regulatory oversight and centralized service for the following boards, advisory councils and program:

(1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

(2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;

(3) State Board of Denture Technology, as provided in ORS 680.500 to 680.570;

(4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

(5) Respiratory Therapist Licensing Board, as provided in ORS 688.800 to 688.840;

(6) Environmental Health Registration Board, as provided in ORS chapter 700;

(7) Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, as provided in ORS 690.350 to 690.430;

(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.185;

(9) Body piercing licensing program, as provided in ORS 690.500 to 690.570; and

(10) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410. [2003 c.547 §6; 2005 c.648 §2; 2007 c.841 §13]

Note: See note under 676.605.

676.607 Agency responsibilities; enumeration of powers not exclusive; rules.

(1) The Oregon Health Licensing Agency is responsible for the administration and regulatory oversight of the boards, councils and programs listed in ORS 676.606. The responsibilities of the agency include, but are not limited to:

(a) Budgeting;

(b) Record keeping;

(c) Staffing;

(d) Contracting;

(e) Consumer protection and investigating complaints;

(f) Approving and collecting fees;

(g) Establishing and administering uniform application processes for the issuance of licenses, certificates, permits and registrations;

(h) Issuing and renewing licenses, certificates, permits and registrations;

(i) Conditioning, limiting, suspending, revoking or refusing to issue or renew a license, certificate, permit or registration or otherwise disciplining applicants, licensees, certificate holders, permit holders and registration holders;

(j) Sanctioning any examination service provider, interpreter or proctor who is under contract or agreement with the agency and who compromises the security, confidentiality or integrity of examinations developed or conducted pursuant to the statutory authority of the boards and councils listed in ORS 676.606;

(k) Adopting and enforcing all administrative rules promulgated under any statute the agency is charged with enforcing, including board, council and program administrative rules establishing professional standards, continuing education requirements or scope of practice issues;

(L) Preparing, tracking and reporting agency performance measures;

(m) Implementing regulatory streamlining initiatives to reduce regulatory burdens without compromising regulatory standards; and

(n) Preparing and circulating printed and electronic materials for educating or otherwise assisting applicants, licensees, certificate holders, permit holders and registration holders and the public.

(2) The enumeration of duties, functions and powers in subsection (1) of this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the agency by other statutes. [1999 c.885 §3; 2005 c.648 §3]

Note: See note under 676.605.

676.608 Investigative authority. (1)

Upon its own motion or upon any complaint, the Oregon Health Licensing Agency may initiate and conduct investigations of matters relating to the practice of occupations or professions subject to the authority of the boards, councils and programs listed in ORS 676.606.

(2) While conducting an investigation authorized under subsection (1) of this section or a hearing related to an investigation, the agency may:

(a) Take evidence;

(b) Administer oaths;

(c) Take the depositions of witnesses, including the person charged;

(d) Compel the appearance of witnesses, including the person charged;

(e) Require answers to interrogatories;

(f) Compel the production of books, papers, accounts, documents and testimony

pertaining to the matter under investigation; and

(g) Conduct criminal and civil background checks to determine conviction of a crime that bears a demonstrable relationship to the field of practice.

(3) In exercising its authority under this section, the agency may issue subpoenas over the signature of the Director of the Oregon Health Licensing Agency or designated employee thereof and in the name of the State of Oregon.

(4) If a person fails to comply with a subpoena issued under this section, the judge of the Circuit Court for Marion County may compel obedience by initiating proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court.

(5) If necessary, the director, or an employee designated by the director, may appear before a magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer, to enter the described property, to remove any person or obstacle, to defend any threatened violence to the director or a designee of the director or an officer, upon entering private property, or to assist the director in enforcing the agency's authority in any way.

(6) In all investigations and hearings, the agency and any person affected thereby may have the benefit of counsel. [2003 c.547 §1; 2005 c.648 §4]

Note: See note under 676.605.

676.610 Director; appointment and qualifications; responsibilities; duties.

(1)(a) The Oregon Health Licensing Agency is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers and for the organization of the agency.

(b) The Director of the Oregon Department of Administrative Services shall establish the qualifications for and appoint the Director of the Oregon Health Licensing Agency, who holds office at the pleasure of the Director of the Oregon Department of Administrative Services.

(c) The Director of the Oregon Health Licensing Agency shall receive a salary as provided by law or, if not so provided, as prescribed by the Director of the Oregon Department of Administrative Services.

(d) The Director of the Oregon Health Licensing Agency shall be in the unclassified service.

(2) The Director of the Oregon Health Licensing Agency shall be responsible for the

performance of duties and functions of the boards, councils and programs administered by the agency. The Director of the Oregon Health Licensing Agency 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 of the Oregon Health Licensing Agency 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 Oregon Health Licensing Agency shall be responsible for carrying out the duties, functions and powers under ORS 675.360 to 675.410, 680.500 to 680.570, 680.990 (2), 687.405 to 687.495, 688.800 to 688.840, 688.995, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570, 690.992 and 694.015 to 694.185 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the Oregon Health Licensing Agency by other statutes. [1999 c.885 §6; 2001 c.324 §1; 2005 c.648 §5; 2007 c.841 §14]

Note: See note under 676.605.

676.612 Disciplinary authority; authority of agency to require fingerprints.

(1) In the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend or revoke or may place on probation or otherwise discipline a holder of a certificate, permit, license or registration to practice issued by the agency for any of the following reasons:

(a) Fraud, misrepresentation, concealment of material facts or deception in applying for or obtaining an authorization to practice in this state, or in any written or oral communication to the agency concerning the issuance or retention of the authorization.

(b) Using, causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive.

(c) Making a representation that the certificate, permit, license or registration holder knew or should have known is false or misleading regarding skill or the efficacy or

value of treatment or remedy administered by the holder.

(d) Practicing under a false, misleading or deceptive name, or impersonating another certificate, permit, license or registration holder.

(e) Permitting a person other than the certificate, permit, license or registration holder to use the certificate, permit, license or registration.

(f) Practicing with a physical or mental condition that presents an unreasonable risk of harm to the practitioner or to the person or property of others in the course of performing the practitioner's duties.

(g) Practicing while under the influence of alcohol, controlled substances or other skill-impairing substances, or engaging in the illegal use of controlled substances or other skill-impairing substances so as to create a risk of harm to the person or property of others in the course of performing the practitioner's duties.

(h) Failing to properly and reasonably accept responsibility for the actions of employees.

(i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered person to practice a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.

(j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards, councils and programs listed under ORS 676.606.

(k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of the conviction. A plea of no contest or an admission of guilt shall be considered a conviction for purposes of this paragraph.

(L) Failing to report any adverse action, as required by statute or rule, taken against the certificate, permit, license, or registration holder by another regulatory jurisdiction or any peer review body, health care institution, professional association, governmental agency, law enforcement agency or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in this section.

(m) Violation of a statute regulating an occupation or profession subject to the au-

thority of the boards, councils and programs listed in ORS 676.606.

(n) Violation of any rule regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.

(o) Failing to cooperate with the agency in any investigation, inspection or request for information.

(2) The agency may refuse to issue or renew, may suspend or revoke or may place on probation or otherwise sanction a holder of a certificate, permit, license or registration to practice issued by the agency for failure to pay an outstanding civil penalty or fee that is due or for failure to meet the terms of any order issued by the agency that has become final.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the agency may require the fingerprints of a person who is:

(a) Applying for a certificate, permit, license or registration that is issued by the agency;

(b) Applying for renewal of a certificate, permit, license or registration that is issued by the agency; or

(c) Under investigation by the agency.

(4) If the agency places a holder of a certificate, permit, license or registration on probation under subsection (1) of this section, the agency, in consultation with the appropriate board, council or program, may determine and at any time modify the conditions of the probation.

(5) If a certificate, permit, license or registration is suspended, the holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the certificate, permit, license or registration may be reinstated by the agency if the conditions of suspension no longer exist and the holder has satisfied all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement. [2003 c.547 §3; 2005 c.648 §6; 2005 c.730 §66; 2007 c.841 §15]

Note: See note under 676.605.

676.613 Injunctions. (1) In addition to all other remedies, when it appears to the Oregon Health Licensing Agency that a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that violates any provision of ORS 675.360 to 675.410, 676.617, 680.500 to 680.570, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570 or 694.015 to 694.185 or ORS chapter 700, the agency may, through the Attorney General or the district attorney of the county in which the act, practice or

transaction occurs or will occur, apply to the court for an injunction restraining the person from the act, practice or transaction.

(2) A court may issue an injunction under this section without proof of actual damages. An injunction issued under this section does not relieve a person from any other prosecution or enforcement action taken for violation of statutes listed in subsection (1) of this section. [2003 c.547 §5; 2005 c.648 §7; 2007 c.841 §16]

Note: See note under 676.605.

676.615 Rulemaking authority. (1) In accordance with applicable provisions of ORS chapter 183, the Director of the Oregon Health Licensing Agency may adopt rules necessary for the administration of the laws that the Oregon Health Licensing Agency is charged with administering.

(2) In accordance with applicable provisions of ORS chapter 183, the director may adopt rules necessary for the administration of ORS 676.605 to 676.625 and 676.992. [1999 c.885 §7; 2005 c.648 §8]

Note: See note under 676.605.

676.617 Single facility license; rules; fees. (1) As used in this section, "single facility license" means a license to provide services in a single location in more than one of the following practice areas:

(a) Cosmetology, as provided in ORS 690.005 to 690.235;

(b) Electrolysis, as provided in ORS 690.350 to 690.430;

(c) Permanent coloring, as provided in ORS 690.350 to 690.430;

(d) Tattooing, as provided in ORS 690.350 to 690.430; and

(e) Body piercing, as provided in ORS 690.500 to 690.550.

(2) The Oregon Health Licensing Agency may issue a single facility license to an applicant that:

(a) Owns the facility to be licensed;

(b) If a natural person, is at least 18 years of age or, if an entity other than a natural person, is formed and operated in accordance with Oregon law;

(c) Has paid all required fees, as determined by the agency; and

(d) Has filed an application in the form and manner required by the agency.

(3)(a) A single facility license expires annually on a date determined by the agency.

(b) A single facility license may be renewed by submitting, prior to the expiration date of the license, the required renewal fees and a renewal application in the form and manner prescribed by the agency.

(c) The agency may impose a late fee or require a new application for the failure to renew a single facility license prior to the date on which it expires.

(4) The agency shall establish by rule and collect fees associated with single facility licenses. Fees shall be established for:

(a) Application for licensure;

(b) An original license;

(c) License renewal;

(d) Late renewal of a license;

(e) Issuance of a duplicate or replacement license; and

(f) Costs of compiling, photocopying, preparing and delivering copies of documents and records.

(5) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency only for the administration and enforcement of the provisions of this section.

(6) The fees established by the agency under subsection (4) of this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering the provisions of this section pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.

(7) A single facility license holder shall ensure that the:

(a) Single facility license is displayed in public view where services are being rendered; and

(b) Facility authorized by the single facility license complies with all statutes and rules governing facilities in which services in the practice areas authorized by the license of the holder are provided.

(8) The agency may suspend, condition, limit, revoke or refuse to issue or renew a single facility license, or may place on probation or otherwise discipline a single facility license holder, for the reasons specified in ORS 676.612, 690.167, 690.407 or 690.515 or for failure to comply with subsection (7) of this section. [2005 c.648 §10]

Note: See note under 676.605.

676.618 Inspection of facilities. (1) Upon its own motion or upon any complaint, the Oregon Health Licensing Agency may conduct an inspection to determine whether a facility or a part of the facility that is the subject of the inspection complies with the

licensing, safety, infection control and sterilization requirements imposed by statute or rule of the agency or the boards, councils and programs administered by the agency.

(2) The agency shall provide for the periodic inspection of facilities, business premises or other locations where services are performed by the practitioners of the occupations or professions subject to the authority of the boards, councils and programs that are administered and regulated by the agency pursuant to ORS 676.606. [2003 c.547 §2; 2005 c.648 §11]

Note: See note under 676.605.

676.620 Use of services of Oregon Department of Administrative Services. In performing its powers and duties under chapter 885, Oregon Laws 1999, the Oregon Health Licensing Agency may utilize the administrative assistance of the Oregon Department of Administrative Services. The agency 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 §13; 2001 c.104 §259; 2005 c.648 §12]

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 20 of ORS.

Note: See note under 676.605.

676.625 Oregon Health Licensing Agency Account; fees; record keeping; disposition of receipts. (1) The Oregon Health Licensing Agency Account is established in the General Fund of the State Treasury. The account shall consist of the moneys credited to the account by the Legislative Assembly. All moneys in the account are appropriated continuously to and shall be used by the Oregon Health Licensing Agency for payment of expenses of the agency in carrying out the duties and obligations of the boards, councils and programs administered and regulated by the agency pursuant to ORS 676.606.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting fees and charges credited to the account, 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 under ORS 676.992 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 agency. [1999 c.885 §14; 2005 c.648 §13]

Note: See note under 676.605.

PENALTIES

676.990 Criminal 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.

676.992 Civil penalties. (1) Except as provided in subsection (3) of this section, and in addition to any other penalty or remedy provided by law, the Oregon Health Licensing Agency may impose a civil penalty not to exceed \$5,000 for each violation of the following statutes and any rule adopted thereunder:

- (a) ORS 688.701 to 688.734 (athletic training);
- (b) ORS 690.500 to 690.570 (body piercing);
- (c) ORS 690.005 to 690.235 (cosmetology);
- (d) ORS 680.500 to 680.570 (denture technology);
- (e) ORS 687.405 to 687.495 (direct entry midwifery);
- (f) ORS 690.350 to 690.430 (electrology and permanent coloring or tattooing);
- (g) ORS 694.015 to 694.185 (dealing in hearing aids);
- (h) ORS 688.800 to 688.840 (respiratory therapy);
- (i) ORS chapter 700 (environmental sanitation);
- (j) ORS 676.617 (single facility licensure); and
- (k) ORS 675.360 to 675.410 (sex offender treatment).

(2) The agency may take any other disciplinary action that it finds proper, including but not limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any statute or rule adopted under any statute listed in subsection (1) of this section.

(3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a violation of ORS 694.042.

(4) In imposing a civil penalty pursuant to this section, the agency shall consider the following factors:

(a) The immediacy and extent to which the violation threatens the public health or safety;

(b) Any prior violations of statutes, rules or orders;

(c) The history of the person incurring a penalty in taking all feasible steps to correct any violation; and

(d) Any other aggravating or mitigating factors.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(6) The moneys received by the agency from civil penalties under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account established under ORS 676.625. Such moneys are continuously appropriated to the agency for the administration and enforcement of the laws the agency is charged with administering and enforcing that govern the person against whom the penalty was imposed. [2003 c.547 §4; 2005 c.648 §14; 2007 c.841 §17]

Note: 676.992 was added to and made a part of 676.605 to 676.625 by legislative action but was not added to ORS chapters 676 to 681 or any chapter or series therein. See Preface to Oregon Revised Statutes for further explanation.

OCCUPATIONS AND PROFESSIONS
