Chapter 678

2009 EDITION

Nurses; Nursing Home Administrators

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PROFESSIONAL NURSES
(Generally)

678.010 Definitions for ORS 678.010 to 678.410. As used in ORS 678.010 to 678.410, unless the context requires otherwise:

(1) "Board" means the Oregon State Board of Nursing.

(2) "Clinical nurse specialist" means a licensed registered nurse who has been certified by the board as qualified to practice the expanded clinical specialty nursing role.

(3) "Diagnosing" in the context of the practice of nursing means identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing care.

(4) "Human responses" means those signs, symptoms and processes which denote the person's interaction with an actual or potential health problem.

(5) "Long term care facility" means a licensed skilled nursing facility or intermediate care facility as those terms are used in ORS 442.015, an adult foster home as defined in ORS 443.705 that has residents over 60 years of age, a residential care facility as defined in ORS 443.400 or an assisted living facility.

(6) "Nurse practitioner" means a registered nurse who has been certified by the board as qualified to practice in an expanded specialty role within the practice of nursing.

(7) "Physician" means a person licensed to practice under ORS chapter 677.

(8) "Practice of nursing" means diagnosing and treating human responses to actual or potential health problems through such services as identification thereof, health teaching, health counseling and providing care supportive to or restorative of life and well-being and including the performance of such additional services requiring education and training which are recognized by the nursing profession as proper to be performed by nurses licensed under ORS 678.010 to 678.410 and which are recognized by rules of the board. "Practice of nursing" includes executing medical orders as prescribed by a physician or dentist but does not include such execution by a member of the immediate family for another member or execution by a person designated by or on behalf of a person requiring care as provided by board rule where the person executing the care is not licensed under ORS 678.010 to 678.410. The practice of nursing includes providing supervision of nursing assistants.

(9) "Practice of practical nursing" means the application of knowledge drawn from basic education in the social and physical sciences in planning and giving nursing care and in assisting persons toward achieving of health and well-being.

(10) "Practice of registered nursing" means the application of knowledge drawn from broad in-depth education in the social and physical sciences in assessing, planning, ordering, giving, delegating, teaching and supervising care which promotes the person's optimum health and independence.

(11) "Treating" means selection and performance of those therapeutic measures essential to the effective execution and management of the nursing care and execution of the prescribed medical orders. [Amended by 1957 c.316 §2; 1973 c.584 §1; 1975 c.205 §1; 1975 c.659 §1; 1995 c.763 §3; 1997 c.204 §1; 1999 c.498 §4; 2001 c.465 §1]

678.015 [1957 c.316 §6; repealed by 1973 c.584 §24]

678.020 [Amended by 1953 c.254 §16; repealed by 1957 c.316 §3 (678.021 enacted in lieu of 678.020)]

678.021 License required to practice nursing. It shall be unlawful for any person to practice nursing or offer to practice nursing in this state or to use any title or abbreviation, sign, card or device to indicate the person is practicing either practical or registered nursing unless the person is licensed under ORS 678.010 to 678.410 at the level for which the indication of practice is made and the license is valid and in effect. [1957 c.316 §4 (enacted in lieu of 678.020); 1973 c.584 §2; 2003 c.14 §431]

678.030 [Repealed by 1957 c.316 §7 (678.031 enacted in lieu of 678.030)]

678.031 Application of ORS 678.010 to 678.410. ORS 678.010 to 678.410 do not apply to:

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

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

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

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

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

(6) Care of the sick with or without compensation when performed in connection with the practice of the religious tenets of a well-recognized church or denomination that relies exclusively on treatment by prayer and spiritual means by adherents thereof so long

as the adherent does not engage in the practice of nursing as defined in ORS 678.010 to 678.410 and 678.990 or hold oneself out as a registered nurse or a licensed practical nurse.

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

(a) Transport teams;

(b) Red Cross Blood Services personnel;

(c) Presentation of educational programs;

(d) Disaster teams;

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

(f) Staffing a long term care facility that is responding to a temporary staffing shortage and would be otherwise unable to meet its staffing requirements. [1957 c.316 §8 (enacted in lieu of 678.030); 1973 c.584 §3; 1981 c.369 §1; 1997 c.110 §1; 2001 c.465 §2; 2001 c.568 §1]

678.034 Hospitals to notify board of nurses employed to meet temporary staffing shortage. (1) Hospitals and long term care facilities employing nurses under ORS 678.031 (7)(e) and (f) shall notify the Oregon State Board of Nursing in writing of the number of nurses so employed, the times of employment, the nature of the staffing shortage and certify that there is no labor dispute affecting nurses at the hospital or long term care facility. In addition, at the request of the board, the hospital or long term care facility shall provide documentation that the nurses so employed are licensed and in good standing in another state or United States territory.

(2) Nurses employed in this state under ORS 678.031 (7)(e) and (f), at the time of employment, also must apply for an Oregon license by indorsement. [1981 c.369 §1a; 2001 c.465 §3; 2001 c.568 §2]

678.035 [1975 c.659 §4; 1977 c.309 §3; repealed by 1981 c.369 §16]

678.036 Liability of nurse supervising nursing assistants; liability when duties delegated. (1) A nurse who is responsible for supervising nursing assistants shall not be considered to be supervising a nursing assistant who administers noninjectable medication while the nurse is absent from the facility at which the administration occurs unless the nursing assistant is acting pursuant to specific instructions from the nurse or the nurse fails to leave instructions when the nurse should have done so.

(2) A nurse who is responsible for supervising nursing assistants shall not be subject to an action for civil damages for the failure of a nursing assistant who administers noninjectable medication to notify the nurse of any patient reaction to the medication perceived by the assistant.

(3) A nurse who delegates the provision of nursing care to another person pursuant to ORS 678.150 shall not be subject to an action for civil damages for the performance of a person to whom nursing care is delegated unless the person is acting pursuant to specific instructions from the nurse or the nurse fails to leave instructions when the nurse should have done so. [1981 c.431 §2; 1987 c.369 §3]

(Licensing)

678.040 Qualifications of applicants for license. Each applicant for a license under ORS 678.010 to 678.445 shall furnish satisfactory evidence that the applicant's physical and mental health is such that it is safe for the applicant to practice, and that:

(1) The applicant has graduated from a registered nurse or licensed practical nurse nursing education program accredited by the Oregon State Board of Nursing;

(2) The applicant has graduated from a nursing program in the United States which program is either accredited by the licensing board for nurses in a particular state or United States territory, or, if the licensing board is not the accrediting agency in that state or United States territory, the program is accredited by the appropriate accrediting agency for that state or United States territory; or

(3) The applicant has graduated in another country and has an education equivalent to that provided by accredited programs in this country. [Amended by 1953 c.254 §16; 1957 c.316 §9; 1973 c.584 §4; 1981 c.369 §2]

678.045 [Formerly 678.250; repealed by 1981 c.369 §16]

678.050 Examining applicants; issuing license; license by indorsement; processing license by indorsement application; limited license; rules. (1) Examinations for the licensing of applicants under ORS 678.010 to 678.445 shall be held at least once a year, and at such times and places as the Oregon State Board of Nursing may determine. Notice of the examination dates shall be given by mail to all accredited nursing education programs in Oregon. The applicant shall be required to pass an examination in such subjects relating to nursing at the practical or registered level as the board may

determine necessary to protect the public health and welfare.

(2) All duly qualified applicants who pass the examination and meet other standards established by the board shall be issued the license provided for in ORS 678.010 to 678.445 according to the nature of the license for which application is made and examination taken and passed. The board shall provide evidence of current licensure. The board shall determine by rule the form and manner of the evidence of current licensure.

(3)(a) The board may issue a license by indorsement to an applicant qualified as provided in ORS 678.040 who has passed the examination used by the Oregon State Board of Nursing and meets other standards established by the board. The board may also require evidence of competency to practice nursing at the level for which application is made.

(b) For the purposes of the licensing procedure, the board shall not accept monetary assistance from anyone except the nurse applying for licensure by indorsement.

(c) The board shall process in order applications for licensure by indorsement of qualified applicants and immediately issue licenses or license memoranda when the applications are received and review of supportive documentation is completed. However, this paragraph does not prohibit the board from immediately issuing a license out of order to applicants appearing in person.

(d) The provisions of paragraphs (b) and (c) of this subsection do not prohibit the board from processing requests to employ nurses to meet temporary staffing shortages, as described in ORS 678.031 or 678.034, in facilities in this state not involved in labor disputes.

(4) Subject to such terms and conditions as the board may impose, the board may issue a limited license to practice registered or practical nursing:

(a) To a graduate of an accredited nursing education program at the appropriate level upon the applicant's filing for the first examination to be given following the applicant's graduation. The license issued under this paragraph expires when the results of the examinations are received by the applicant. The board may extend the limited license if the applicant shows to the satisfaction of the board that an emergency situation has prevented the applicant from taking or completing the first examination administered following graduation. The extension expires when the results of the next examination are received by the applicant or on the filing date of the next examination if the applicant has not reapplied.

(b) To an applicant whose license has become void by reason of nonpayment of fees at either level and who otherwise meets the requirements of the board. The board may, in issuing a limited license, require the applicant to demonstrate ability to give safe nursing care by undergoing a supervised experience in nursing practice as shall be designated by the board, or by satisfactorily completing a continuing education program as approved by the board. The license issued under this paragraph expires on the date set in the license by the board. Upon satisfactorily completing the board's requirements, and payment of the renewal fee and delinquency fee, the board shall issue to the applicant a license to practice nursing.

(c) To an applicant who has not practiced nursing in any state for a period of five years, but has maintained a current license by the payment of fees. Such applicant shall not practice nursing in Oregon unless an application is made to the board for a limited license and it is issued to the applicant. The board, in issuing such limited license, may require the applicant to demonstrate ability to give safe nursing care by undergoing a supervised experience in nursing practice as shall be designated by the board, or by satisfactorily completing a continuing education program approved or designated by the board. No person shall be issued a license if, in the judgment of the board, the person's conduct has been such, during absence from practice, that the applicant would be denied a license if applying for an initial license to practice nursing in this state.

(d) To a licensee who has been placed on probation or has been otherwise subjected to disciplinary action by the board.

(e) To any of the following persons if the person is affiliated with a planned program of study in Oregon consistent with the standards and requirements established by the board:

(A) A foreign nurse;

(B) A foreign student nurse; or

(C) A nurse licensed in another jurisdiction.

(5) The board may adopt by rule requirements and procedures for placing a license or certificate in inactive status.

(6)(a) Retired status may be granted to a person licensed or certified as a registered nurse, licensed practical nurse, nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist and who surrenders the person's license or certificate while in good standing with the issuing authority if the person is not subject to any pending

disciplinary investigation or action. The board may adopt by rule requirements, procedures and fees for placing a license or certificate in retired status.

(b) A person granted retired status by the Oregon State Board of Nursing under the provisions of paragraph (a) of this subsection:

(A) Shall pay a fee in an amount to be determined by the board for retired status.

(B) May not practice nursing or offer to practice nursing in this state.

(C) May use the title or abbreviation with the retired license or certificate only if the designation "retired" appears after the title or abbreviation. [Amended by 1953 c.254 §16; 1957 c.316 §10; 1969 c.71 §1; 1973 c.584 §5; 1975 c.205 §2; 1981 c.369 §3; 1983 c.221 §1; 1989 c.673 §1; 1999 c.420 §1; 2001 c.275 §1; 2005 c.380 §1; 2009 c.37 §1]

678.060 [Amended by 1953 c.254 §16; repealed by 1957 c.316 §11 (678.061 enacted in lieu of 678.060)]

678.061 [1957 c.316 §12 (enacted in lieu of 678.060); 1963 c.50 §2; 1969 c.71 §2; repealed by 1973 c.584 §24]

678.070 [Repealed by 1953 c.254 §16]

678.080 Evidence of licensure. Any person to whom a license is issued under ORS 678.010 to 678.445, whenever requested to do so in relation to employment as a registered or practical nurse or in relation to enforcement of ORS 678.010 to 678.445, shall provide evidence of current licensure. [Amended by 1953 c.254 §16; 1957 c.316 §13; 1973 c.584 §6; 1981 c.369 §4; 2009 c.37 §2]

678.085 [1953 c.254 §14; 1957 c.316 §14; repealed by 1973 c.584 §24]

678.090 [Repealed by 1953 c.254 §16]

678.100 [Amended by 1953 c.254 §16; repealed by 1957 c.316 §15 (678.101 enacted in lieu of 678.100)]

678.101 Renewal of license; fee; certificate and privilege. (1) Every person licensed to practice nursing shall apply for renewal of the license other than a limited license in every second year before 12:01 a.m. on the anniversary of the birthdate of the person in the odd-numbered year for persons whose birth occurred in an odd-numbered year and in the even-numbered year for persons whose birth occurred in an even-numbered year. Persons whose birthdate anniversary falls on February 29 shall be treated as if the anniversary were March 1.

(2) Each application shall be accompanied by a nonrefundable renewal fee payable to the Oregon State Board of Nursing.

(3) The board may not renew the license of a person licensed to practice nursing unless:

(a) The requirements of subsections (1) and (2) of this section are met; and

(b) Prior to payment of the renewal fee described in subsection (2) of this section the applicant completes, or provides documentation of previous completion of:

(A) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under ORS 409.500; or

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

(4) The license of any person not renewed for failure to comply with subsections (1) to (3) of this section is expired and the person shall be considered delinquent and is subject to the delinquent fee specified in ORS 678.410.

(5) A registered nurse who has been issued a certificate as a nurse practitioner shall apply, personally or by appropriately postmarked letter, for renewal of the certificate and for renewal of the prescriptive privileges in every second year before 12:01 a.m. on the anniversary of the birthdate, as determined for the person's license to practice nursing. [1957 c.316 §16 (enacted in lieu of 678.100); 1965 c.158 §1; 1969 c.71 §3; 1973 c.584 §7; 1975 c.205 §3; 1981 c.369 §5; 1987 c.79 §5; 1999 c.420 §2; 2001 c.987 §15]

678.110 [Repealed by 1957 c.316 §17 (678.111 enacted in lieu of 678.110)]

(Discipline of Nurses)

678.111 Causes for denial, revocation or suspension of license or probation, reprimand or censure of licensee. In the manner prescribed in ORS chapter 183 for a contested case:

(1) Issuance of the license to practice nursing, whether by examination or by indorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such condition as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:

(a) Conviction of the licensee of crime where such crime bears demonstrable relationship to the practice of nursing. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(b) Gross incompetence or gross negligence of the licensee in the practice of nursing at the level for which the licensee is licensed.

(c) Any willful fraud or misrepresentation in applying for or procuring a license or renewal thereof.

(d) Fraud or deceit of the licensee in the practice of nursing or in admission to such practice.

(e) Impairment as defined in ORS 676.303.

(f) Conduct derogatory to the standards of nursing.

(g) Violation of any provision of ORS 678.010 to 678.445 or rules adopted thereunder.

(h) Revocation or suspension of a license to practice nursing by any state or territory of the United States, or any foreign jurisdiction authorized to issue nursing credentials whether or not that license or credential was relied upon in issuing that license in this state. A certified copy of the order of revocation or suspension shall be conclusive evidence of such revocation or suspension.

(i) Physical condition that makes the licensee unable to conduct safely the practice for which the licensee is licensed.

(j) Violation of any condition imposed by the board when issuing a limited license.

(2) A certificate of special competence may be denied or suspended or revoked for the reasons stated in subsection (1) of this section.

(3) A license or certificate in inactive status may be denied or suspended or revoked for the reasons stated in subsection (1) of this section.

(4) A license or certificate in retired status may be denied or suspended or revoked for any cause stated in subsection (1) of this section. [1957 c.316 §18 (enacted in lieu of 678.110); 1973 c.584 §11; 1975 c.205 §4; 1979 c.744 §51; 1981 c.369 §7; 1983 c.221 §2; 1985 c.23 §7; 2001 c.275 §2; 2009 c.756 §31]

678.112 Impaired health professional program. Persons licensed to practice nursing who elect not to participate in the impaired health professional program established under ORS 676.190 or who fail to comply with the terms of participation shall be reported to the Oregon State Board of Nursing for formal disciplinary action under ORS 678.111. [1991 c.193 §2; 2007 c.335 §1; 2009 c.697 §7; 2009 c.756 §§32,94]

Note: The amendments to 678.112 by section 7, chapter 697, Oregon Laws 2009, and section 94, chapter 756, Oregon Laws 2009, become operative July 1, 2010. See section 22, chapter 697, Oregon Laws 2009, as amended by section 76, chapter 828, Oregon Laws 2009, and section 94a, chapter 756, Oregon Laws 2009. The text that is operative until July 1, 2010, including amendments by section 32, chapter 756, Oregon Laws 2009, is set forth for the user's convenience.

678.112. (1) When a person licensed to practice nursing voluntarily seeks treatment for an impairment or physical problem that otherwise may lead to formal disciplinary action under ORS 678.111, the Oregon State Board of Nursing may abstain from taking such formal disciplinary action if the board finds that the licensee can be treated effectively and that there is no danger to the public health, safety or welfare.

(2) If the board abstains from taking such formal disciplinary action, it may require the licensee to be subject to the voluntary monitoring program as established by the board.

(3) All records of the voluntary monitoring program are confidential and shall not be subject to public disclosure, nor shall the records be admissible as evidence in any judicial proceedings.

(4) A licensee voluntarily participating in the voluntary monitoring program shall not be subject to investigation or disciplinary action by the board for the same offense, if the licensee complies with the terms and conditions of the monitoring program.

(5) The board shall establish by rule criteria for eligibility to participate in the voluntary monitoring program and criteria for successful completion of the program.

(6) Licensees who elect not to participate in the voluntary monitoring program or who fail to comply with the terms of participation shall be reported to the board for formal disciplinary action under ORS 678.111.

678.113 When evaluation of mental or physical condition, demonstration of competency or evidence of continuing education may be required; rules. (1) During the course of an investigation into the performance or conduct of an applicant, certificate holder or licensee, the Oregon State Board of Nursing may order mental health, physical condition or chemical dependency evaluations of the applicant, certificate holder or licensee upon reasonable belief that the applicant, certificate holder or licensee is unable to practice nursing with reasonable skill and safety to patients.

(2) When the board has reasonable cause to believe that an applicant, certificate holder or licensee is or may be unable to practice nursing with reasonable skill and safety to patients, the board may order a competency examination of the applicant, certificate holder or licensee for the purpose of determining the fitness of the applicant, certificate holder or licensee to practice nursing with reasonable skill and safety to patients.

(3) A licensee or certificate holder by practicing nursing, or an applicant by applying to practice nursing in Oregon, gives consent to submit to mental health, physical condition or chemical dependency evaluations when ordered by the board and waives any objection on the grounds of privileged communication to the admissibility of information derived from evaluations ordered by the board.

(4) By rule, the board may require evidence of continuing education in an accredited program as a prerequisite for renewal of registered or practical nursing licenses, or both, or may require continuing education for persons whose license has lapsed for nonpayment of fees, who have not practiced nursing for five years, or who have their licenses suspended or revoked as a condition to relicensure. [1973 c.584 §9; 1975 c.205 §5; 1995 c.79 §341; 1999 c.375 §1]

678.115 [1957 c.316 §20 (enacted in lieu of 678.120); 1971 c.734 §121; repealed by 1973 c.584 §24]

678.117 Procedure for imposing civil penalty; amount; rules. (1) The Oregon State Board of Nursing shall adopt by rule a schedule establishing the amount of civil penalty that may be imposed for any violation of ORS 678.010 to 678.445 or any rule of the board. No civil penalty shall exceed $5,000.

(2) In imposing a penalty pursuant to this section, the board shall consider the following factors:

(a) The past history of the person incurring the penalty in observing the provisions of ORS 678.010 to 678.445 and the rules adopted pursuant thereto.

(b) The economic and financial conditions of the person incurring the penalty.

(3) Any penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the board considers proper and consistent with the public health and safety.

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

(5) All penalties recovered under this section shall be credited to the special account described in ORS 678.170. [1973 c.584 §22; 1981 c.369 §8; 1985 c.23 §3; 1991 c.734 §72; 1999 c.375 §2]

678.120 [Repealed by 1957 c.316 §19 (678.115 enacted in lieu of 678.120)]

678.121 [1957 c.316 §22; repealed by 1971 c.734 §21]

678.123 Prohibited acts. It shall be unlawful for any person:

(1) To sell or fraudulently obtain or furnish any diploma or license or record thereof for any person not graduated from an accredited nursing program or is not licensed under ORS 678.010 to 678.410 or to sell or fraudulently obtain or furnish any certificate to a person not certified as a nursing assistant.

(2) To practice nursing under authority of a diploma or license or record thereof illegally or fraudulently obtained or issued unlawfully.

(3) To employ unlicensed persons to practice practical or registered nursing. [1973 c.584 §10; 1989 c.800 §4]

678.125 [1957 c.316 §24; repealed by 1973 c.584 §24]

678.126 Confidentiality of information; duty to investigate complaints; immunity. (1) Any information that the Oregon State Board of Nursing obtains pursuant to ORS 678.021, 678.111, 678.113, 678.123, 678.135 or 678.442 is confidential as provided under ORS 676.175.

(2) Upon receipt of a complaint under ORS 678.010 to 678.410 or 678.442, the Oregon State Board of Nursing shall conduct an investigation as described under ORS 676.165.

(3) Any person, facility, licensee or association that reports or provides information to the board under ORS 678.021, 678.111, 678.113, 678.123, 678.135 or 678.442 in good faith shall not be subject to an action for civil damages as a result thereof. [1981 c.369 §14; 1985 c.23 §6; 1997 c.791 §22]

678.128 Liability of complainants, witnesses, investigators, counsel and board members in disciplinary proceedings. (1) Members of the Oregon State Board of Nursing, members of its administrative and investigative staff and its attorneys acting as prosecutors or counsel shall have the same privileges and immunities from civil and criminal proceedings arising by reason of official actions as prosecuting and judicial officers of the state.

(2) No person who has made a complaint as to the conduct of a licensee of the board or who has given information or testimony relative to a proposed or pending proceeding for misconduct against the licensee of the board, shall be answerable for any such act in any proceeding except for perjury. [1981 c.369 §13]

678.130 [Amended by 1953 c.254 §16; 1957 c.316 §25; 1963 c.50 §3; repealed by 1969 c.71 §9]

678.135 Duty to report violations. (1) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed as required by ORS 441.015, or any person licensed by the Oregon State Board of Nursing, shall report to the board any suspected violation of ORS 678.010 to 678.410 or any rule adopted by the board.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, the Oregon Nurses Association or any other organization representing registered or licensed practical nurses shall report to the board any suspected violation of ORS 678.010 to 678.410 or any rule adopted by the board.

(3) Any person may report to the board any suspected violation of ORS 678.010 to 678.410 or any rule adopted by the board, association or other organization representing registered or licensed practical nurses.

(4) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a person licensed by the board who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150. [1985 c.23 §5; 2009 c.536 §14]

(State Board)

678.140 Oregon State Board of Nursing. (1) There is created an Oregon State Board of Nursing composed of nine members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Five must be registered nurses;

(b) One must be a licensed practical nurse;

(c) One must be a certified nursing assistant; and

(d) Two must be members of the public who are otherwise not eligible for appointment to the board.

(2)(a) Board members required to be nurse members may be selected by the Governor from a list of three to five nominees for each vacancy, submitted two months before the expiration of the term of office of a nurse member by:

(A) The Oregon Nurses Association or any other professional organization representing registered nurses, if the vacancy is in a registered nurse position;

(B) The Oregon Licensed Practical Nurses Association or any other professional organization representing licensed practical nurses, if the vacancy is in a licensed practical nurse position; or

(C) A professional organization representing certified nursing assistants, if the vacancy is in a certified nursing assistant position.

(b) Each nurse or certified nursing assistant member must:

(A) Be currently licensed and not under disciplinary status with the board in the category for which the member is appointed; and

(B) Have at least five years' experience in the category in which the member is appointed, three of which were immediately prior to appointment.

(c) The public members and any person who is a spouse, domestic partner, child, parent or sibling of a public member may not be licensed by the board.

(d) In making appointments of registered nurses, the Governor shall ensure that the following areas of practice are represented on the board:

(A) One nursing educator;

(B) One nursing administrator;

(C) Two nonsupervisory nurses involved in direct patient care; and

(D) One nurse practitioner.

(e) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The members of the board shall be appointed by the Governor for terms of three years, beginning on January 1. A member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment. An unexpired term of a board member shall be filled in the same manner as an original appointment is made. The appointment shall be for the remainder of the unexpired term.

(b) A board member shall be removed immediately from the board if, during the member's term, the member:

(A) Is not a resident of this state;

(B) Has been absent from three consecutive board meetings, unless at least one absence is excused; or

(C) Is not a registered nurse or licensed practical nurse or a retired registered nurse or licensed practical nurse who was a registered nurse in good standing or licensed practical nurse in good standing at the time of retirement, if the board member was appointed to serve on the board as a nurse member.

(4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495. [Amended by 1953 c.254 §16; 1957 c.316 §26; 1971 c.650 §27; 1973 c.584 §12; 1973 c.792 §34; 1981 c.206 §1; 1983 c.113 §1; 1995 c.79 §342; 1997 c.141 §1; 2009 c.535 §9]

Note: Sections 36 and 37, chapter 535, Oregon Laws 2009, provide:

Sec. 36. (1) A member serving on the Oregon State Board of Nursing created in ORS 678.140 on the effective date of this 2009 Act [June 25, 2009] continues to serve until the term of office for which the member was appointed terminates by expiration of time, resignation from the board by the member or removal of the member from office.

(2) When a member's term of service on the board terminates, a member who is otherwise eligible for reappointment to the board may be reappointed, unless the appointment exceeds the total appointments authorized for members within the member's classification. [2009 c.535 §36]

Sec. 37. Section 36 of this 2009 Act is repealed on June 30, 2014. [2009 c.535 §37]

678.150 Powers, functions and duties of board, officers and executive director; rules; subpoena powers. (1) The Oregon State Board of Nursing shall elect annually from its number a president, a president-elect and a secretary, each of whom shall serve

until a successor is elected and qualified. The board shall meet on the call of the president or as the board may require. Special meetings of the board may be called by the secretary upon the request of any three members. Five members shall constitute a quorum.

(2) The board shall adopt a seal which shall be in the care of the executive director.

(3) The board shall keep a record of all its proceedings and of all persons licensed and schools or programs accredited or approved under ORS 678.010 to 678.445. The records shall at all reasonable times be open to public scrutiny.

(4) The executive director of the board may hire and define the duties of employees as necessary to carry into effect the provisions of ORS 678.010 to 678.445. The executive director, with approval of the board, may employ special consultants. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board.

(5) The board shall determine the qualifications of applicants for a license to practice nursing in this state and establish educational and professional standards for such applicants subject to laws of this state.

(6) The board shall:

(a) Exercise general supervision over the practice of nursing in this state.

(b) Prescribe standards and approve curricula for nursing education programs preparing persons for licensing under ORS 678.010 to 678.445.

(c) Provide for surveys of nursing education programs at such times as may be necessary.

(d) Accredit such nursing education programs as meet the requirements of ORS 678.010 to 678.445 and of the board.

(e) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed standards.

(f) Examine, license and renew the licenses of duly qualified applicants and administer examinations for other states where requested to do so by the other state.

(g) Issue subpoenas for any records relevant to a board investigation, including patient and other medical records, personnel records applicable to nurses and nursing assistants, records of schools of nursing and nursing assistant training records and any other relevant records; issue subpoenas to persons for personal interviews relating to board investigations; compel the attendance of witnesses; and administer oaths or affirmations to persons giving testimony during an investigation or at hearings. In any proceeding under this subsection, when a subpoena is issued to an applicant, certificate holder or licensee of the board, a claim of nurse-patient privilege under ORS 40.240 or of psychotherapist-patient privilege under ORS 40.230 is not grounds for quashing the subpoena or for refusing to produce the material that is subject to the subpoena.

(h) Enforce the provisions of ORS 678.010 to 678.445, and incur necessary expenses therefor.

(i) Prescribe standards for the delegation of special tasks of patient care to nursing assistants and for the supervision of nursing assistants. The standards must include rules governing the delegation of administration of noninjectable medication by nursing assistants and must include rules prescribing the types of noninjectable medication that can be administered by nursing assistants, and the circumstances, if any, and level of supervision under which nursing assistants can administer noninjectable medication. In formulating the rules governing the administration of noninjectable medication by nursing assistants, the board shall consult with nurses, physicians, gerontologists and pharmacologists. Notwithstanding any other provision of this paragraph, however, determination of the appropriateness of the delegation of a special task of patient care shall remain with the registered nurse issuing the order.

(j) Notify licensees at least annually of changes in legislative or board rules that affect the licensees. Notice may be by newsletter or other appropriate means.

(7) The board shall determine the scope of practice as delineated by the knowledge acquired through approved courses of education or through experience.

(8) For local correctional facilities, lockups and juvenile detention facilities, as defined in ORS 169.005, youth correction facilities as defined in ORS 420.005, for facilities operated by a public agency for detoxification of persons who use alcohol excessively, for homes or facilities licensed under ORS 443.705 to 443.825 for adult foster care, and for facilities licensed under ORS 443.400 to 443.455 for residential care, training or treatment, the board shall adopt rules pertaining to the provision of nursing care, and to the various tasks relating to the administration of noninjectable medication including administration of controlled substances. The rules must provide for delegation of nursing care and tasks relating to the administration of medication to other than licensed nursing personnel by a physician licensed by the Oregon Medical Board or by a registered nurse, designated by the facility. Such delegation must occur under

the procedural guidance, initial direction and periodic inspection and evaluation of the physician or registered nurse. However, the provision of nursing care may be delegated only by a registered nurse.

(9) The Oregon State Board of Nursing may require applicants, licensees and certificate holders under ORS 678.010 to 678.445 to provide to the board data concerning the individual's nursing employment and education.

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

(a) Applying for a license or certificate that is issued by the board;

(b) Applying for renewal of a license or certificate that is issued by the board; or

(c) Under investigation by the board.

(11) Pursuant to ORS chapter 183, the board shall adopt rules necessary to carry out the provisions of ORS 678.010 to 678.445. [Amended by 1953 c.254 §16; 1957 c.316 §28; subsections (5) to (9) enacted as 1957 c.316 §30; 1973 c.584 §14; 1975 c.659 §2; 1977 c.309 §2; 1979 c.771 §1; 1981 c.369 §9; 1983 c.511 §1; 1983 c.598 §2; 1987 c.369 §1; 1993 c.114 §1; 1999 c.375 §3; 2001 c.275 §3; 2001 c.763 §1; 2003 c.297 §1; 2005 c.730 §48; 2009 c.535 §10; 2009 c.756 §35]

678.153 Interagency agreement to share results of nationwide criminal records check. The Department of Human Services, the Oregon Health Authority and the Oregon State Board of Nursing shall enter into an interagency agreement to share the results of nationwide criminal records checks conducted under ORS 181.534 on subject individuals who are subject to criminal records checks by the department, the authority and the board. [2005 c.730 §67; 2009 c.595 §1058]

Note: 678.153 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 678 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

678.155 Restrictions on certain standards prescribed by board. (1) In carrying out its duties under ORS 678.150 (5), (6) and (7), the Oregon State Board of Nursing shall not make changes in entry level nursing education or licensure requirements unless such changes are enacted by the Legislative Assembly.

(2) In carrying out its duties under ORS 678.150 (6)(i), the Oregon State Board of Nursing shall not prescribe any standard that would substantially alter the practices followed prior to July 1, 1979, in long term care facilities relating to the administration of noninjectable medication by nursing assistants, except for the training requirements in ORS 678.440. [1979 c.770 §17; 1985 c.208 §2; 1985 c.565 §92a; 1987 c.158 §141; 2009 c.535 §11]

Note: 678.155 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 678 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

678.157 Limitation on authority of board over nurse delegation of authority. Nothing in ORS 678.150 and this section affects the limitation on the authority of the board imposed by ORS 678.155 and 678.445 in carrying out its duties under ORS 678.150 (6)(i). [1979 c.771 §4; 1985 c.565 §92b; 2009 c.535 §12]

Note: 678.157 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 678 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

678.158 Continuing authority of board upon lapse, suspension, revocation or voluntary surrender of license or certificate. The lapse, suspension or revocation of a license or certificate by the operation of law or by order of the Oregon State Board of Nursing or by the decision of a court of law, or the voluntary surrender of a license by a licensee or of a certificate by a certificate holder, shall not deprive the board of jurisdiction to proceed with any investigation of or any action or disciplinary proceeding against the licensee or certificate holder or to revise or render null and void an order of disciplinary action against the licensee or certificate holder. [2001 c.275 §6]

Note: 678.158 was added to and made a part of 678.010 to 678.445 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

678.160 [Amended by 1953 c.254 §16; 1957 c.316 §31; 1967 c.559 §2; 1969 c.314 §79; repealed by 1973 c.584 §24]

678.162 [1953 c.254 §9; repealed by 1973 c.584 §24]

678.164 Enjoining violations or threatened violations. (1) Upon suit by the Oregon State Board of Nursing for which no bond shall be required, the circuit courts have jurisdiction to restrain or enjoin any violation or threatened violation of ORS 678.010 to 678.410. Such suit may be brought against a person who practices nursing without a current license or who practices registered nursing when licensed as a practical nurse or who has failed to become licensed or whose license has been suspended, revoked or declared void.

(2) The remedies provided for in this section are in addition to, and not in lieu of, criminal penalties provided for in ORS 678.990. [1953 c.254 §11; 1957 c.316 §32; 1973 c.584 §15]

678.166 [1953 c.254 §10; repealed by 1973 c.584 §24]

678.168 Disposition of fines. All fines imposed and collected under ORS 678.990 (1) shall be paid into the treasury of the county in which such suits, actions or proceedings

were commenced. All moneys thus paid into the treasury, over and above the amount necessary to reimburse the county for any expense incurred by the county in any suit, action or proceeding shall be paid before January 1 of each year into the General Fund in the State Treasury and placed to the credit of the Criminal Fine and Assessment Account. [1953 c.254 §12; 1973 c.584 §16; 1981 c.369 §11; 1991 c.460 §7]

678.170 Disposition of receipts. (1) All money received by the Oregon State Board of Nursing under ORS 678.010 to 678.445 shall be paid into the General Fund in the State Treasury and placed to the credit of the Oregon State Board of Nursing Account. Such moneys are appropriated continuously and shall be used only for the administration and enforcement of ORS 678.010 to 678.445.

(2) The board shall keep a record of all moneys deposited in the Oregon State Board of Nursing Account. This record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) The board may maintain a petty cash fund in compliance with ORS 293.180 in the amount of $1,000. [Amended by 1973 c.584 §16a; 1981 c.101 §1]

678.210 [Amended by 1959 c.49 §1; repealed by 1973 c.584 §24]

678.220 [Repealed by 1973 c.584 §24]

678.230 [Repealed by 1973 c.584 §24]

678.235 [1959 c.49 §3; 1967 c.559 §3; repealed by 1973 c.584 §24]

678.237 [1967 c.559 §5; repealed by 1973 c.584 §24]

678.240 [Amended by 1959 c.49 §5; repealed by 1973 c.584 §24]

(Nurse Anesthetists)

678.245 Definitions for ORS 678.245 to 678.285. As used in ORS 678.245 to 678.285:

(1) "Anesthesiologist" means a physician who has completed a residency program in anesthesiology that meets or exceeds the standards adopted by the Oregon Medical Board.

(2) "Certified registered nurse anesthetist" means a registered nurse licensed by the Oregon State Board of Nursing as a certified registered nurse anesthetist.

(3) "Medical collaboration" means approval of the anesthesia plan by an anesthesiologist and an anesthesiologist being readily available during the administration of anesthetic agents until the patient's post-anesthesia condition is satisfactory and stable.

(4) "Physician" means a doctor of medicine or osteopathy licensed in Oregon under ORS chapter 677.

(5) "Procedure" means surgery, labor and delivery or other medical services in a hospital or ambulatory surgical center, as defined in ORS 442.015, rendered by a physician or other health care provider qualified by appropriate state license and hospital or center privileges or hospital or center written authorization to render such services. [1997 c.575 §1]

Note: 678.245 to 678.285 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 678 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

678.250 [Amended by 1973 c.584 §17; renumbered 678.045]

678.255 Provision of nurse anesthetist services in ambulatory surgical centers. (1) Except as provided in subsection (2) of this section, anesthesia care in an ambulatory surgical center shall be delivered by an anesthesiologist or by a certified registered nurse anesthetist acting with the medical collaboration of an anesthesiologist.

(2) When no anesthesiologist is readily available for medical collaboration on anesthesia services for a procedure performed in an ambulatory surgical center, a certified registered nurse anesthetist may deliver the following services without medical collaboration:

(a) Assessment of the health status of the patient as that status relates to the relative risks associated with anesthetic management of the patient;

(b) Determination and administration of an appropriate anesthesia plan, including but not limited to selection, ordering and administration of anesthetic agents, airway management and monitoring and recording of vital signs, life support functions, mechanical support use, fluid management and electrolyte and blood component balance;

(c) Action necessary to counteract problems that may develop during implementation of the anesthesia plan; and

(d) Necessary or routine post-anesthesia care.

(3) When no anesthesiologist is readily available for medical collaboration on anesthesia services in an ambulatory surgical center, a certified registered nurse anesthetist shall review the patient's pertinent medical records, including the medical evaluation of the patient, prior to determining an appropriate anesthesia plan.

(4) This section does not prohibit any other licensed health care professional from rendering or supervising anesthesia services if such services are within the scope of the professional's license. [1997 c.575 §2]

Note: See note under 678.245.

678.260 [Repealed by 1973 c.584 §24]

678.265 Ambulatory surgical center oversight of nurse anesthetists. Ambulatory surgical center bylaws, rules and regulations may establish requirements for ready availability of an anesthesiologist for medical collaboration consistent with ORS 678.255 and provide for credentialing, supervision, monitoring, education and professional liability insurance for a certified registered nurse anesthetist consistent with ORS 678.255 and the scope of practice established by the Oregon State Board of Nursing pursuant to ORS 678.285. [1997 c.575 §3]

Note: See note under 678.245.

678.270 [Repealed by 1973 c.584 §24]

678.275 Provision of nurse anesthetist services in hospitals. (1) A certified registered nurse anesthetist may deliver the following services without medical collaboration in connection with a procedure performed in a hospital:

(a) Assessment of the health status of the patient as that status relates to the relative risks associated with anesthetic management of the patient;

(b) Determination and administration of an appropriate anesthesia plan, including but not limited to selection, ordering and administration of anesthetic agents, airway management and monitoring and recording of vital signs, life support functions, mechanical support use, fluid management and electrolyte and blood component balance;

(c) Action necessary to counteract problems that may develop during implementation of the anesthesia plan; and

(d) Necessary or routine post-anesthesia care.

(2) Consistent with the provisions of ORS 678.245 to 678.285 and the scope of practice established by the Oregon State Board of Nursing pursuant to ORS 678.285, hospital rules and regulations and medical staff bylaws may define whether the delivery of anesthesia services in connection with a procedure in a hospital by a certified registered nurse anesthetist shall be:

(a) Deemed practice by an independent health care provider;

(b) Subject to a requirement of supervision or medical collaboration by an anesthesiologist; or

(c) Subject to any other requirement that may be applied with due regard for patient health and safety. [1997 c.575 §4]

Note: See note under 678.245.

678.280 [Amended by 1969 c.71 §4; repealed by 1973 c.584 §24]

678.285 Board regulation of nurse anesthetists; rules. Consistent with the provisions ORS 678.245 to 678.285, the Oregon State Board of Nursing shall adopt rules necessary to establish:

(1) The scope of practice of a certified registered nurse anesthetist;

(2) Procedures for issuing certification of special competency for a certified registered nurse anesthetist;

(3) Educational and competency requirements required for certification; and

(4) Procedures for the maintenance of certification as a certified registered nurse anesthetist, including but not limited to fees necessary for original or renewal certification. [1997 c.575 §5]

Note: See note under 678.245.

678.290 [Amended by 1957 c.293 §2; 1959 c.49 §6; 1969 c.71 §5; repealed by 1973 c.584 §24]

678.300 [Repealed by 1973 c.584 §24]

678.310 [Amended by 1971 c.734 §122; repealed by 1973 c.584 §24]

678.320 [Repealed by 1971 c.734 §21]

678.325 [1985 c.208 §1; repealed by 1993 c.18 §147]

678.330 [Amended by 1959 c.49 §7; 1967 c.559 §6; 1969 c.314 §80; repealed by 1973 c.584 §24]

678.335 [1967 c.559 §8; repealed by 1973 c.584 §24]

(Nursing Education Programs)

678.340 Requirements for institutions desiring to establish nursing education programs. (1) Any institution desiring to establish a nursing education program leading to licensing or a continuing education program that may be recognized or required by the Oregon State Board of Nursing to supplement such program shall apply to the board and submit satisfactory evidence that it is prepared to meet the curricula and standards prescribed by the board.

(2) In considering applications under subsection (1) of this section the board shall review statewide needs for nursing education programs or supplementary programs, financial resources of the institution making application, its clinical resources and its ability to retain qualified faculty.

(3) No institution or program shall represent itself as qualified or accredited to prepare nurses for licensing unless it is accredited by the board. [Amended by 1973 c.584 §18]

678.350 [Repealed by 1973 c.584 §24]

678.360 Survey to evaluate facilities; ensuring compliance with requirements. (1) From time to time as considered necessary by the Oregon State Board of Nursing, it shall cause a survey of the institutions accredited to provide nursing education programs to be made. A report in writing shall be submitted to the board. The report is to

include an evaluation of physical facilities and clinical resources, courses of study and qualifications of instructors. If, in the opinion of the board, the requirements for accredited programs are not being met by any institution, notice thereof shall be given to the institution in writing specifying the defect and prescribing the time within which the defect must be corrected.

(2) The board shall withdraw accreditation from an institution which fails to correct the defect reported to it under subsection (1) of this section within the period of time prescribed in the report. The institution may request and if requested shall be granted a hearing before the board in the manner required for contested cases under ORS chapter 183. [Amended by 1973 c.584 §19]

(Circulating Nurses)

678.362 Circulating nurses; duties. (1) As used in this section:

(a) "Circulating nurse" means a registered nurse who is responsible for coordinating the nursing care and safety needs of the patient in the operating room and who also meets the needs of operating room team members during surgery.

(b) "Type I ambulatory surgical center" means a licensed health care facility for the performance of outpatient surgical procedures including, but not limited to, cholesystectomies, tonsillectomies or urological procedures, involving general anesthesia or a relatively high infection control consideration.

(2)(a) The duties of a circulating nurse performed in an operating room of a Type I ambulatory surgical center or a hospital shall be performed by a registered nurse licensed under ORS 678.010 to 678.410.

(b) In any case requiring anesthesia or conscious sedation, a circulating nurse shall be assigned to, and present in, an operating room for the duration of the surgical procedure unless it becomes necessary for the circulating nurse to leave the operating room as part of the surgical procedure. While assigned to a surgical procedure, a circulating nurse may not be assigned to any other patient or procedure.

(c) Nothing in this section precludes a circulating nurse from being relieved during a surgical procedure by another circulating nurse assigned to continue the surgical procedure.

(3) At the request of a Type I ambulatory surgical center or a hospital, the Oregon Health Authority may grant a variance from the requirements of this section based on patient care needs or the nursing practices of the surgical center or hospital. [2005 c.665 §3; 2009 c.595 §1059]

Note: 678.362 was added to and made a part of 678.010 to 678.445 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Registered Nurse First Assistants)

678.366 Registered nurse first assistants; rules. The Oregon State Board of Nursing shall adopt rules establishing procedures for the recognition of registered nurses who become registered nurse first assistants by receiving additional certification through nationally recognized professional organizations. [2005 c.628 §5]

(Clinical Nurse Specialists)

678.370 Clinical nurse specialists; certificates. (1) The Oregon State Board of Nursing shall issue a certification to act as a clinical nurse specialist to any nurse who meets the requirements established by the board pursuant to ORS 678.372.

(2) A person may not act as a clinical nurse specialist, use the name, title, designation, initial or abbreviation of clinical nurse specialist or otherwise hold oneself out as a clinical nurse specialist unless the person is certified as a clinical nurse specialist pursuant to subsection (1) of this section.

(3) A certified clinical nurse specialist is authorized to prescribe drugs for the use of and administration to other persons if approval has been given under ORS 678.390. The authority to prescribe and dispense prescription drugs shall be included within the scope of practice of certified clinical nurse specialists as defined by rules of the board. [1999 c.498 §2; 2005 c.462 §4; 2008 c.4 §1]

678.372 Rules for clinical nurse specialists. The Oregon State Board of Nursing shall adopt rules to implement ORS 678.370, including but not limited to rules establishing:

(1) Procedures and requirements for initial issuance and continuation of certification to act as a clinical nurse specialist, including but not limited to educational requirements;

(2) The scope of practice of clinical nurse specialists, including the authority to prescribe and dispense prescription drugs after approval of an application to do so by the board;

(3) Educational requirements for clinical nurse specialists applying for prescriptive authority that include but are not limited to:

(a) At least 45 contact hours in pharmacology; and

(b) Clinical education in patient management, including pharmacotherapeutics, that

is comparable to the requirements for completion of a nurse practitioner program;

(4) The amount of any fees necessary for issuance of the initial certification, renewal of certification, initial application for prescriptive authority and renewal of application for prescriptive authority; and

(5) Such other rules as may be necessary to implement and administer ORS 678.370. [1999 c.498 §3; 2005 c.462 §5]

(Nurse Practitioners)

678.375 Nurse practitioners; certificates; prohibitions; authority to sign death certificates; drug prescriptions. (1) The Oregon State Board of Nursing is authorized to issue certificates of special competency to licensed registered nurses to practice as nurse practitioners if they meet the requirements of the board pursuant to ORS 678.380.

(2) No person shall practice as a nurse practitioner or hold oneself out to the public or to an employer, or use the initials, name, title, designation or abbreviation as a nurse practitioner until and unless such person is certified by the board.

(3) A registered nurse, certified as a nurse practitioner, is authorized to complete and sign death certificates. Death certificates signed by a certified nurse practitioner shall be accepted as fulfilling all the requirements of the laws dealing with death certificates. A certified nurse practitioner who signs a death certificate must comply with all provisions of ORS 432.307.

(4) A registered nurse, certified as a nurse practitioner, is authorized to prescribe drugs for the use of and administration to other persons if approval has been given under ORS 678.390. The drugs which the nurse practitioner is authorized to prescribe shall be included within the certified nurse practitioner's scope of practice as defined by rules of the board.

(5) A licensed pharmacist may fill and a licensed pharmacist or an employee of the licensed pharmacist may dispense medications prescribed by a nurse practitioner in accordance with the terms of the prescription. The filling of such a prescription does not constitute evidence of negligence on the part of the pharmacist if the prescription was dispensed within the reasonable and prudent practice of pharmacy.

(6) As used in this section:

(a) "Drug" means:

(A) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any of them;

(B) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human beings;

(C) Articles other than food that are intended to affect the structure or any function of the body of human beings; and

(D) Articles intended for use as a component of any articles specified in subparagraph (A), (B) or (C) of this paragraph.

(b) "Prescribe" means to direct, order or designate the preparation, use of or manner of using by spoken or written words or other means. [1975 c.205 §8; 1979 c.785 §1; 1993 c.469 §9; 1993 c.571 §28; 2001 c.357 §1; 2001 c.623 §5; 2008 c.4 §2]

678.380 Rules for nurse practitioners; scope. The Oregon State Board of Nursing may adopt rules applicable to nurse practitioners:

(1) Which establish their education, training and qualifications necessary for certification.

(2) Which limit or restrict practice.

(3) Which establish categories of nurse practitioner practice and define the scope of such practice.

(4) Which establish procedures for maintaining certification, including continuing education and procedures for the reinstatement of certificates rendered void by reason of nonpayment of fees. [1975 c.205 §9]

678.385 [1979 c.785 §16; 1987 c.79 §1; 1989 c.1006 §4; 1991 c.295 §1; 1993 c.742 §4; 1999 c.536 §1; 2005 c.462 §7; repealed by 2008 c.4 §5]

(Prescriptive Authority)

678.390 Authority of nurse practitioner and clinical nurse specialist to write prescriptions or dispense drugs; notice; requirements; revocation; rules. (1) The Oregon State Board of Nursing may grant to a certified nurse practitioner or certified clinical nurse specialist the privilege of writing prescriptions, including prescriptions for controlled substances listed in schedules II, III, III N, IV and V.

(2) A certified nurse practitioner or certified clinical nurse specialist may submit an application to the Oregon State Board of Nursing to dispense prescription drugs. The Oregon State Board of Nursing shall provide immediate notice to the State Board of Pharmacy upon receipt and upon approval of an application from a certified nurse practitioner or certified clinical nurse specialist for authority to dispense prescription drugs to the patients of the applicant.

(3) An application for the authority to dispense prescription drugs as authorized

under subsection (1) of this section must include:

(a) Evidence of completion of a prescription drug dispensing training program jointly developed and adopted by rule by the Oregon State Board of Nursing and the State Board of Pharmacy.

(b) Except when a certified nurse practitioner is seeking authority to dispense prescription drugs at a qualified institution of higher education as defined in ORS 399.245, demonstration of a lack of readily available access to pharmacy services in the practice area of the applicant and that the lack of access would be corrected by granting authority to dispense prescription drugs by the applicant. Lack of readily available access to pharmacy services for patients may be established by evidence:

(A) That the patients of the applicant are located:

(i) Outside the boundaries of a metropolitan statistical area;

(ii) Thirty or more highway miles from the closest hospital within the major population center in a metropolitan statistical area; or

(iii) In a county with a population of less than 75,000; or

(B) Of financial barrier to access, including but not limited to receiving services from a health care safety net clinic or eligibility for participation in a patient assistance program of a pharmaceutical company.

(c) Any other information required by the Oregon State Board of Nursing.

(4) Prescription drugs dispensed by a certified nurse practitioner or certified clinical nurse specialist shall be personally dispensed by the certified nurse practitioner or certified clinical nurse specialist, except that nonjudgmental dispensing functions may be delegated to staff assistants when:

(a) The accuracy and completeness of the prescription is verified by the certified nurse practitioner or certified clinical nurse specialist; and

(b) The prescription drug is labeled with the name of the patient to whom it is being dispensed.

(5) The Oregon State Board of Nursing shall adopt rules requiring:

(a) Drugs dispensed by certified nurse practitioners and certified clinical nurse specialists to be either prepackaged by a manufacturer registered with the State Board of Pharmacy or repackaged by a pharmacist licensed by the State Board of Pharmacy under ORS chapter 689;

(b) Labeling requirements for drugs dispensed by certified nurse practitioners and certified clinical nurse specialists that are the same as labeling requirements required of pharmacies licensed under ORS chapter 689;

(c) Record keeping requirements for prescriptions and drug dispensing by a certified nurse practitioner and a certified clinical nurse specialist that are the same as the record keeping requirements required of pharmacies licensed under ORS chapter 689;

(d) A dispensing certified nurse practitioner and a dispensing certified clinical nurse specialist to have available at the dispensing site a hard copy or electronic version of prescription drug reference works commonly used by professionals authorized to dispense prescription medications; and

(e) A dispensing certified nurse practitioner and a dispensing certified clinical nurse specialist to allow representatives of the State Board of Pharmacy, upon receipt of a complaint, to inspect a dispensing site after prior notice to the Oregon State Board of Nursing.

(6) The Oregon State Board of Nursing has sole disciplinary authority regarding certified nurse practitioners and certified clinical nurse specialists who have drug dispensing authority.

(7) The privilege of writing prescriptions and dispensing drugs may be denied, suspended or revoked by the Oregon State Board of Nursing upon proof that the privilege has been abused. The procedure shall be a contested case under ORS chapter 183. Disciplinary action under this subsection is grounds for discipline of the certified nurse practitioner or certified clinical nurse specialist in the same manner as a licensee may be disciplined under ORS 678.111. [1979 c.785 §17; 1981 c.693 §29; 1983 c.486 §58; 1985 c.747 §53; 1987 c.79 §2; 1993 c.742 §5; 2003 c.617 §1; 2005 c.462 §6; 2005 c.471 §13; 2008 c.4 §3; 2009 c.456 §1]

678.395 [1995 c.627 §3; repealed by 1996 c.21 §1]

(Fees)

678.410 Fees; how determined. (1) The Oregon State Board of Nursing may impose fees for the following:

(a) License renewal.

(b) Examination.

(c) License by indorsement.

(d) Limited license.

(e) Examination proctor service.

(f) Duplicate license.

(g) Extension of limited license.

(h) Nurse practitioner certificate.

(i) Reexamination for licensure.

(j) Delinquent fee.

(k) Renewal fee nurse practitioner.

(L) Verification of a license of a nurse applying for license by indorsement in another state.

(m) Certified nurse practitioner's initial application and registration for writing prescriptions.

(n) Renewal of certified nurse practitioner's application for writing prescriptions.

(o) Approval of training program for nursing assistants.

(p) Issuance, renewal and delinquency of a nursing assistant certificate.

(q) Clinical nurse specialist certification established pursuant to ORS 678.370.

(r) Clinical nurse specialist's initial application for prescriptive authority.

(s) Renewal of clinical nurse specialist's application for prescriptive authority.

(t) Inactive license or certificate.

(u) Retired license or certificate.

(v) Nationwide criminal records check.

(2) Fees are nonrefundable.

(3) 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 established under this section shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the board's budget, as the budget may be modified by the Emergency Board. If federal or other funds are available to offset costs of administering the program, fees shall be established based on net costs to the state but not to exceed $75 per biennium for the certification fee under subsection (1)(p) of this section. [1969 c.71 §7; 1973 c.584 §20; 1975 c.205 §6; 1983 c.221 §4; 1987 c.79 §3; 1989 c.800 §5; 1991 c.193 §3; 1991 c.536 §2; 1991 c.703 §24; 1999 c.420 §3; 1999 c.498 §5; 2001 c.275 §4; 2005 c.380 §3; 2005 c.462 §10; 2007 c.532 §1; 2009 c.697 §8]

Note: The amendments to 678.410 by section 8, chapter 697, Oregon Laws 2009, become operative July 1, 2010. See section 22, chapter 697, Oregon Laws 2009, as amended by section 76, chapter 828, Oregon Laws 2009. The text that is operative until July 1, 2010, is set forth for the user's convenience.

678.410. (1) The Oregon State Board of Nursing may impose fees for the following:

(a) License renewal.

(b) Examination.

(c) License by indorsement.

(d) Limited license.

(e) Examination proctor service.

(f) Duplicate license.

(g) Extension of limited license.

(h) Nurse practitioner certificate.

(i) Reexamination for licensure.

(j) Delinquent fee.

(k) Renewal fee nurse practitioner.

(L) Verification of a license of a nurse applying for license by indorsement in another state.

(m) Certified nurse practitioner's initial application and registration for writing prescriptions.

(n) Renewal of certified nurse practitioner's application for writing prescriptions.

(o) Approval of training program for nursing assistants.

(p) Issuance, renewal and delinquency of a nursing assistant certificate.

(q) Voluntary monitoring program for chemical dependency or an emotional or physical problem.

(r) Clinical nurse specialist certification established pursuant to ORS 678.370.

(s) Clinical nurse specialist's initial application for prescriptive authority.

(t) Renewal of clinical nurse specialist's application for prescriptive authority.

(u) Inactive license or certificate.

(v) Retired license or certificate.

(w) Nationwide criminal records check.

(2) Fees are nonrefundable.

(3) 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 established under this section shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the board's budget, as the budget may be modified by the Emergency Board. If federal or other funds are available to offset costs of administering the program, fees shall be established based on net costs to the state but not to exceed $75 per biennium for the certification fee under subsection (1)(p) of this section.

(Miscellaneous)

678.420 Declaration of nursing workforce and faculty shortage. There is declared a nursing workforce and nursing faculty shortage in Oregon. The declaration of the nursing workforce shortage shall remain in effect until the Governor suspends the declaration by executive action. [2007 c.789 §1]

Note: 678.420 and 678.425 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 678 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

678.425 Advisory organizations. The Oregon Center for Nursing and the Oregon Healthcare Workforce Institute may serve in advisory capacities to the State Workforce Investment Board, the Joint Boards of Education and other related entities. The Oregon Center for Nursing may advise on education and workforce development issues affecting nursing. The Oregon Healthcare Workforce Institute may advise on education and workforce development issues affecting doctors, dentists and other allied health professionals.

The Oregon Center for Nursing and the Oregon Healthcare Workforce Institute may work together to develop comprehensive solutions to the healthcare workforce shortages in Oregon. [2007 c.789 §2]

Note: See note under 678.420.

(Nursing Assistants)

678.440 Nursing assistants; training; effect of employing untrained assistant; civil penalties. (1) It is the intent of the Legislative Assembly to require that nursing assistants be adequately trained.

(2) The Oregon State Board of Nursing shall prepare curricula and standards for training programs for nursing assistants. Such curricula and standards shall provide for additional training for nursing assistants to administer noninjectable medications.

(3) The Department of Human Services may impose civil penalties or revoke the license of any long term care facility that employs any untrained nursing assistant for a period of more than eight weeks without providing for the training prescribed by the board. Any license which is revoked shall be revoked as provided in ORS 441.030.

(4) The Oregon Health Authority may impose civil penalties or revoke the license of any health care facility that employs any untrained nursing assistant for a period of more than eight weeks without providing for the training prescribed by the board. Any license which is revoked shall be revoked as provided in ORS 441.030.

(5) As used in this section, "nursing assistant" means a person who assists licensed nursing personnel in the provision of nursing care. [1977 c.309 §1; 2009 c.595 §1060]

678.442 Certification of nursing assistants; rules. (1) The Oregon State Board of Nursing shall establish standards for certifying and shall certify as a nursing assistant any person who applies therefor, shows completion of an approved training program for nursing assistants and passes a board approved examination.

(2) In the manner prescribed in ORS chapter 183, the board may revoke or suspend a certificate issued under this section or may reprimand a nursing assistant for the following reasons:

(a) Conviction of the certificate holder of a crime where such crime bears demonstrable relationship to the duties of a nursing assistant. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(b) Any willful fraud or misrepresentation in applying for or procuring a certificate or renewal thereof.

(c) Impairment as defined in ORS 676.303.

(d) Violation of any provisions of ORS 678.010 to 678.445 or rules adopted thereunder.

(e) Physical condition that makes the certificate holder unable to perform safely the duties of a nursing assistant.

(f) Conduct unbecoming a nursing assistant in the performance of duties.

(3) The board shall establish by rule a procedure for the biennial renewal of nursing assistant certificates. The certificate renewal procedure shall be substantially like the procedure established for the licensing of nurses under ORS 678.101. [1989 c.800 §3; 1991 c.536 §1; 2009 c.756 §36]

678.444 Standards for training programs for nursing assistants. The Oregon State Board of Nursing shall establish standards for training programs for nursing assistants. Upon application therefor, the board shall review and approve programs that meet board standards. The board by means of a contested case proceeding under ORS chapter 183 may revoke approval of any training program that ceases to meet board standards. [1989 c.800 §2]

678.445 Authority of nursing assistants to administer noninjectable medication; authority of nurse to report questions about continuation of medication. (1) It is the intent of the Legislative Assembly that the Oregon State Board of Nursing not adopt any standard the practical effect of which is to prohibit a nursing assistant in a long term care facility from administering noninjectable medication except under direct supervision of a registered nurse.

(2) Where a nurse employed by the long term care facility questions the efficacy, need or safety of continuation of medications being dispensed by that nurse or by another employee of the facility to a patient therein, the nurse shall report that question to the physician or a nurse practitioner, if authorized to do so, ordering or authorizing the medication and shall seek further instructions concerning the continuation of the medication. [1979 c.770 §18]

678.505 [1977 c.635 §2; 1981 c.469 §2; renumbered 342.455]

678.510 [1955 c.489 §1(1),(3),(4),(5); 1957 c.579 §1; repealed by 1971 c.663 §17]

678.515 [1977 c.635 §§3,4; 1981 c.469 §3; renumbered 342.475]

678.520 [1955 c.489 §11; 1957 c.579 §2; repealed by 1971 c.663 §17]

678.525 [1977 c.635 §5; 1981 c.469 §4; renumbered 342.465]

678.530 [1955 c.489 §1(2); 1957 c.579 §3; repealed by 1971 c.663 §17]

678.540 [1955 c.489 §5; 1957 c.579 §4; 1961 c.371 §1; repealed by 1971 c.663 §17]

678.550 [1955 c.489 §6; 1957 c.579 §5; 1967 c.487 §1; repealed by 1971 c.663 §17]

678.560 [1955 c.489 §§7,8; 1957 c.579 §6; repealed by 1971 c.663 §17]

678.570 [1955 c.489 §4; 1957 c.579 §7; repealed by 1971 c.663 §17]

678.575 [1957 c.579 §17; repealed by 1971 c.663 §17]

678.580 [1955 c.489 §9; repealed by 1957 c.579 §8 (678.581 enacted in lieu of 678.580)]

678.581 [1957 c.579 §9 (678.581 enacted in lieu of 678.580); repealed by 1971 c.663 §17]

678.590 [1955 c.489 §10; repealed by 1957 c.579 §10 (678.591 enacted in lieu of 678.590)]

678.591 [1957 c.579 §11 (678.591 enacted in lieu of 678.590); repealed by 1971 c.663 §17 and 1971 c.734 §21]

678.593 [1957 c.579 §13; repealed by 1971 c.663 §17 and 1971 c.734 §21]

678.596 [1957 c.579 §15; repealed by 1971 c.663 §17]

678.600 [1955 c.489 §2; 1957 c.579 §18; repealed by 1971 c.663 §17]

678.610 [1955 c.489 §3; 1957 c.579 §19; 1969 c.314 §81; repealed by 1971 c.663 §17]

678.620 [1955 c.489 §13; repealed by 1971 c.663 §17]

LICENSED NURSING HOME ADMINISTRATORS

(Generally)

678.710 Definitions for ORS 678.710 to 678.820. As used in ORS 678.710 to 678.820, unless the context requires otherwise:

(1) "Dual facility" means a facility that operates both a hospital and a long term care facility on the same campus.

(2) "Nursing home" means any institution or facility defined as a long term care facility for licensing purposes under state statute or the rules of the Department of Human Services, including a long term care facility operated as part of a dual facility.

(3) "Nursing home administrator" means an individual responsible for planning, organizing and managing the operation of a nursing home, whether or not such individual has an ownership interest in such home and whether or not such functions are shared by one or more other individuals, if:

(a) Final responsibility and authority are retained in the nursing home administrator; and

(b) In the case of a dual facility, the nursing home administrator may be subject to the authority of the administrator of the dual facility or the dual facility administrator may administer the nursing home if the administrator is licensed or otherwise qualified by statute to administer a nursing home.

(4) "Provisional license" means a temporary license issued to a provisional nursing home administrator under the rules of the Oregon Health Licensing Agency. [1971 c.663 §1; 1973 c.829 §57; 1989 c.495 §1; 1995 c.643 §1; 2009 c.768 §14]

678.720 Prohibited acts relating to administration of nursing homes. (1) Unless an individual holds a valid license issued under the provisions of ORS 678.710 to 678.820, an individual may not:

(a) Practice or offer to practice as a nursing home administrator; or

(b) Use in connection with the name of the individual the words or letters "nursing home administrator," "NHA" or any other words, letters or abbreviations or insignia tending to indicate that the individual is a licensed nursing home administrator.

(2) A nursing home shall be conducted or operated under the supervision of a nursing home administrator who holds a valid license issued under the provisions of ORS 678.710 to 678.820. [1971 c.663 §2; 2009 c.768 §15]

678.725 Reporting unlawful or unsatisfactory nursing home conditions and prohibited conduct; confidentiality of information; limitation of liability. (1)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed under ORS 441.015, any licensee licensed by the Oregon Health Licensing Agency, any physician licensed by the Oregon Medical Board, any licensed professional nurse and any licensed pharmacist shall report to the agency suspected violations of ORS 678.710 to 678.820 and unsanitary or other unsatisfactory conditions in a nursing home.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee licensed under ORS 678.710 to 678.820 who has reasonable cause to believe that a licensee of any board as defined in ORS 676.150 has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150.

(c) Any person may report to the agency suspected violations of ORS 678.710 to 678.820 or unsanitary conditions in a nursing home.

(2) Information acquired by the agency pursuant to subsection (1) of this section is confidential and is not subject to public disclosure.

(3) Any person who reports or provides information to the agency under subsection (1) of this section and who provides information in good faith may not be subject to an action for civil damages as a result of mak-

ing the report or providing the information. [1985 c.47 §7; 1995 c.643 §2; 2009 c.768 §§16,16a]

(Licensing)

678.730 Licensing qualifications of administrator; rules. (1) An individual qualifies for licensure as a nursing home administrator if the individual:

(a) Meets the education, training and other standards established by rules of the Nursing Home Administrators Board. The board shall establish standards that accept one year of experience as an administrator serving a dual facility in lieu of any residency or intern requirement that may be established by the board; and

(b) Has passed an examination as provided in ORS 678.740.

(2) A license holder may renew a license as provided by ORS 678.760. The board may require up to 50 hours of continuing education in any one-year period for a renewed license.

(3) In establishing educational standards pursuant to subsection (1)(a) of this section, the board shall require a baccalaureate degree from an accredited school of higher education. However, the educational requirement does not apply to any person who:

(a) Was a licensed administrator in any jurisdiction of the United States prior to January 1, 1983; or

(b) Was an administrator of a dual facility meeting the experience requirements pursuant to subsection (1)(a) of this section.

(4) Notwithstanding the requirements established under subsection (1) of this section, upon the request of the governing body of a hospital, as defined in ORS 442.015, the board shall adopt standards by rule that deem a health care administrator to have met the requirements for licensure as a nursing home administrator if the health care administrator possesses an advanced degree in management and has at least 10 years of experience in health care management. [1971 c.663 §6; 1973 c.827 §68; 1973 c.829 §58a; 1985 c.47 §3; 1987 c.544 §1; 1989 c.495 §2; 1995 c.667 §5; 2001 c.104 §260; 2009 c.595 §1061; 2009 c.768 §17; 2009 c.792 §47]

678.740 Examination for license. (1) Examinations for licensure as a nursing home administrator shall be conducted at such times and places as the Nursing Home Administrators Board designates, but not less than once a year. The fee for examination or reexamination shall be determined by the Oregon Health Licensing Agency under ORS 678.775.

(2) The board shall, consistent with the purposes for which the examination is given, determine the subjects, scope, content and the minimum passing grade for examinations. [1971 c.663 §7; 1973 c.829 §59; 1979 c.127 §1; 1993 c.572 §1; 2009 c.768 §18]

678.750 Applicability of licensing requirements to administrators of organizations that rely on spiritual care and treatment. (1) Nothing in ORS 678.710 to 678.820 or the rules adopted under ORS 678.710 to 678.820 may be construed to require an individual, who is employed to administer an institution exempted under ORS 441.065 as an institution that is operated by and for persons who rely on spiritual means alone for the care and treatment of the sick, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in the institution. Any license issued under ORS 678.710 to 678.820 to an individual described in this subsection shall indicate the limited extent of the authority of the individual to act as an administrator.

(2) Subsection (1) of this section does not limit or prohibit the operator of an institution from enforcing any religious affiliation requirements imposed as a bona fide occupational qualification or business necessity or as otherwise permitted by section 703(e) of Title VII of the Civil Rights Act of 1964 or other provision of federal law. [1971 c.663 §8; 1997 c.574 §1; 2009 c.768 §19]

678.760 License; application; renewal; reactivation; provisional licenses; rules. (1) Subject to ORS 676.612 and subsection (2) of this section, the Oregon Health Licensing Agency shall:

(a) Issue a license as a nursing home administrator to a qualified applicant upon satisfactory evidence of meeting the requirements of ORS 678.730 and other qualifications adopted by the Nursing Home Administrators Board by rule.

(b) Renew a license as a nursing home administrator if, by a date specified by the agency by rule, the license holder submits to the agency a completed renewal application, required renewal fees and satisfactory evidence of completion of any required continuing education credits.

(2) For up to one year from the date of a denial, suspension, revocation or expiration of a nursing home administrator license, the agency may refuse to grant or renew the license of a nursing home administrator whose license has expired or been denied, suspended or revoked.

(3)(a) Except as provided by paragraph (b) of this subsection, a nursing home administrator license expires on the last day of the month, one year from the date of issuance.

(b) The agency may adopt by rule an expiration date that is different than the date provided by paragraph (a) of this subsection if the license holder is provided written notice of the different renewal date and the renewal fee is prorated.

(4) The agency may adopt rules for the reactivation of an expired license, including additional requirements for a license that has been expired for three years or more.

(5) The agency may establish requirements for the issuance of a temporary provisional license. The fee for a provisional license is established by rules of the agency under ORS 678.775. [1971 c.663 §9; 1973 c.829 §60; 1979 c.127 §2; 1979 c.696 §17; 1993 c.572 §2; 1995 c.643 §3; 2007 c.768 §44; 2009 c.768 §20]

678.770 Licensing reciprocity. (1) The Nursing Home Administrators Board may establish by rule standards for the issuance of a license by endorsement, without examination, to an applicant who:

(a) Meets the requirements as established by the board; and

(b) On the date of making application, is a nursing home administrator licensed under the laws of any other state or territory of the United States if the requirements for licensing of nursing home administrators in the state or territory in which the applicant is licensed are not less than those required by ORS 678.710 to 678.820.

(2) Each applicant under this section shall pay to the Oregon Health Licensing Agency at the time of filing the application a fee determined by the agency under ORS 678.775. [1971 c.663 §11; 1973 c.829 §61; 1993 c.572 §3; 2009 c.768 §22]

678.775 Fees; disposition of moneys. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees and charges for the following under ORS 678.710 to 678.820:

(a) Application;

(b) Examination or reexamination;

(c) Original license;

(d) License renewal;

(e) Provisional or temporary license;

(f) Licensure by reciprocity or endorsement;

(g) License reactivation;

(h) Issuance of a replacement license;

(i) Delinquency fee;

(j) License verification; and

(k) Costs of providing copies of official documents or records and for recovering administrative costs associated with compiling, copying or preparing and delivering the records.

(2) All moneys received by the agency under subsection (1) of 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 as authorized by ORS 676.625. [1993 c.572 §4; 2009 c.768 §23]

(Discipline of Administrators)

678.780 Grounds for discipline. (1) In the manner prescribed in ORS chapter 183 for contested cases, the Oregon Health Licensing Agency may impose a form of discipline as specified in ORS 676.612 against any person practicing as a nursing home administrator for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 678.710 to 678.820, or the rules adopted under ORS 678.710 to 678.820.

(2) In addition to any discipline that may be imposed as provided by subsection (1) of this section, the agency may impose disciplinary sanctions against a person practicing as a nursing home administrator for any of the following causes:

(a) Violation of or noncompliance with any applicable provisions of ORS 678.710 to 678.820 or of any rule or order of the agency;

(b) Any continuous or substantial violation of the rules adopted under ORS 441.025; or

(c) Discipline imposed by any other licensing body in this or any other state based on conduct that would be grounds for discipline under this section or rules adopted by the agency. [1971 c.663 §14; 1973 c.58 §1; 1979 c.744 §52; 1985 c.47 §4; 1995 c.643 §4; 1997 c.791 §23; 1999 c.849 §§160,161; 2003 c.75 §58; 2009 c.768 §24; 2009 c.792 §74]

678.790 Procedure; review of orders. (1) When the Oregon Health Licensing Agency proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license under ORS 678.710 to 678.820, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under subsection (1) of this section shall be in accordance with ORS chapter 183.

(3) If the final order of the court on review reverses the agency's order of suspension, revocation or refusal to renew, the agency shall issue the license and reinstate the appellant not later than the 30th day after the decision of the court. [1971 c.734 §124; 2009 c.768 §26]

(Board)

678.800 Nursing Home Administrators Board. (1) The Nursing Home Administrators Board is established within the Oregon Health Licensing Agency.

(2) The board consists of nine members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be concerned with the care and treatment of the chronically ill or infirm elderly patients and must be residents of this state. Of the members of the board:

(a) Three must be nursing home administrators licensed under ORS 678.710 to 678.820;

(b) One must be a medical doctor licensed by the Oregon Medical Board actively engaged in private practice and conversant with the care and treatment of the long-term patient;

(c) One must be a licensed professional nurse actively engaged in caring for chronically ill and infirm patients and licensed by the Oregon State Board of Nursing;

(d) One must be a pharmacist licensed by the State Board of Pharmacy; and

(e) Three must be members of the public who are not:

(A) Otherwise eligible for appointment to the board; or

(B) A spouse, domestic partner, child, parent or sibling of a nursing home administrator.

(3)(a) Board members required to be nursing home administrators may be selected by the Governor from a list of three to five nominees submitted by any professional organization representing nursing home administrators.

(b) Except for those persons described in paragraph (a) of this subsection, no member of the board may have a direct financial interest in a nursing home.

(c) No more than two of the members of the board may be officials or full-time employees of state or local governments.

(d) At least one public member must be at least 62 years of age.

(e) No public members of the board may hold any pecuniary interest in, or have any employment contract with, a long term care facility.

(f) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

(A) Geographic areas of this state; and

(B) Ethnic group.

(4)(a) The term of office of each member is three years but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term.

(b) A board member shall be removed immediately from the board if, during the member's term, the member:

(A) Is not a resident of this state;

(B) Has been absent from three consecutive board meetings, unless at least one absence is excused; or

(C) Is not a licensed nursing home administrator or a retired nursing home administrator whose license as a nursing home administrator was in good standing at the time of retirement, if the member was appointed to serve on the board as a nursing home administrator.

(5) The members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495. [1971 c.663 §3; 1973 c.58 §2; 1973 c.792 §35; 1975 c.234 §1; 1979 c.500 §1; 2009 c.535 §13; 2009 c.768 §3a]

678.810 Board meetings; officers. (1) The Nursing Home Administrators Board shall hold at least one meeting each year. A majority of the members of the board constitutes a quorum for the transaction of business.

(2) The board shall select one of its members as chairperson and another as vice chairperson, for a one-year term and with such duties and powers necessary for the performance of the functions of the offices as the board determines. [1971 c.663 §4; 2005 c.726 §8; 2009 c.768 §12]

678.820 Duties and powers of board and Oregon Health Licensing Agency; rules. (1) The Nursing Home Administrators Board is responsible for advising the Oregon Health Licensing Agency in all matters relating to the administration of ORS 678.710 to 678.820, including:

(a) Developing standards for education and training;

(b) Developing standards of practice and professional conduct;

(c) Establishing standards related to the issuance, denial, revocation, suspension or renewal of licenses to practice as a nursing home administrator;

(d) Preparing or approving the examinations required under ORS 678.710 to 678.820, in accordance with standards provided by the agency; and

(e) Assisting the agency in administering the provisions of ORS 678.710 to 678.820.

(2) The Oregon Health Licensing Agency shall administer ORS 678.710 to 678.820 by:

(a) Determining the qualifications and fitness of applicants for licenses, renewed licenses, reciprocal licenses and provisional licenses under ORS 678.710 to 678.820.

(b) Examining, approving, issuing, denying, revoking, suspending and renewing licenses to practice as a nursing home administrator.

(c) Providing for waivers of examinations or provisional licenses.

(d) Establishing and carrying out procedures to ensure compliance with professional standards adopted by the board.

(e) Pursuant to ORS 676.608, receiving and investigating complaints filed regarding nursing home administrators.

(f) Establishing and collecting fees and charges to carry out the agency's duties under ORS 678.710 to 678.820.

(g) In accordance with ORS 183.330 and 676.615, adopting, amending and repealing rules that are necessary to carry out the administration of ORS 678.710 to 678.820.

(h) Maintaining a register of all licensed nursing home administrators.

(3) The agency shall consider and be guided by the recommendations of the board in all matters relating to the administration of ORS 678.710 to 678.820. [1971 c.663 §5; 1985 c.47 §5; 1995 c.79 §343; 2009 c.768 §13]

Note: Section 9, chapter 768, Oregon Laws 2009, provides:

Sec. 9. Notwithstanding the transfer of duties, functions and powers by section 4 of this 2009 Act, the rules of the Nursing Home Administrators Board with respect to such duties, functions or powers that are in effect on the effective date of section 4 of this 2009 Act [July 22, 2009] continue in effect until superseded or repealed by rules of the Oregon Health Licensing Agency. References in such rules of the Nursing Home Administrators Board to the Nursing Home Administrators Board or an officer or employee of the Nursing Home Administrators Board are considered to be references to the Oregon Health Licensing Agency or an officer or employee of the Oregon Health Licensing Agency. [2009 c.768 §9]

678.825 [1985 c.47 §9; 1997 c.791 §24; repealed by 2009 c.768 §34]

678.830 [1971 c.663 §12; 1973 c.427 §20; 2005 c.726 §7; repealed by 2009 c.768 §34]

678.840 [1971 c.663 §15; repealed by 2009 c.768 §34]

PENALTIES

678.990 Penalties. (1) Violation of any provision of ORS 678.010 to 678.410 is a Class C misdemeanor.

(2) It shall be a misdemeanor for any person to:

(a) Sell or fraudulently obtain or furnish any license or permit or aid or abet therein under ORS 678.710 to 678.820; or

(b) Violate any of the provisions of ORS 678.720. [Amended by 1953 c.254 §16; subsections (1) and (2) enacted as 1953 c.254 §15; subsection (3) enacted as 1955 c.489 §12; 1957 c.316 §33; 1971 c.663 §16; subsection (3) enacted as 1971 c.663 §13; 1973 c.584 §21]