

# Chapter 687

2011 EDITION

## Massage Therapists; Direct Entry Midwives

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**OCCUPATIONS AND PROFESSIONS**

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**MASSAGE THERAPISTS**

**(Generally)**

**687.010** [Repealed by 1955 c.492 §15]

**687.011 Definitions.** As used in ORS 687.011 to 687.250, 687.895 and 687.991:

(1) "Board" means the State Board of Massage Therapists.

(2) "Certified class" means a class that is approved by the board and is offered:

(a) By a person or institution licensed as a career school under ORS 345.010 to 345.450;

(b) By a community college and approved by the State Board of Education;

(c) By an accredited college or university; or

(d) In another state and licensed or approved by the appropriate agency in that state.

(3) "Fraud or misrepresentation" means knowingly giving misinformation or a false impression through the intentional misstatement of, concealment of or failure to make known a material fact or by other means.

(4) "Manual" means the use of the hands or the feet, or both, or any part of the body in the performance of massage.

(5) "Massage" or "massage therapy" means the use on the human body of pressure, friction, stroking, tapping or kneading, vibration or stretching by manual or mechanical means or gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps and external baths, and with or without lubricants such as salts, powders, liquids or creams for the purpose of, but not limited to, maintaining good health and establishing and maintaining good physical condition.

(6) "Massage therapist" means a person licensed under ORS 687.011 to 687.250, 687.895 and 687.991 to practice massage.

(7) "Practice of massage" means the performance of massage:

(a) For purposes other than sexual contact, as defined in ORS 167.002 (5); and

(b) For compensation.

(8) "Preceptor" means a licensed massage therapist who contracts with an approved school or program of massage to provide direct on-site clinical supervision of a massage student enrolled in a certified class.

(9) "Supervision" means:

(a) The process of overseeing and directing the training of massage students as set forth in rules of the board;

(b) The process of overseeing and directing a licensee being disciplined by the board; or

(c) Voluntary consultation with, and education of, less experienced licensed massage therapists or practitioners in related fields.

(10) "Treatment" means the selection, application and practice of massage or massage therapy essential to the effective execution and management of a plan of care.

(11) "Unprofessional or dishonorable conduct" means a behavior, practice or condition that is contrary to the ethical standards adopted by the board. [1955 c.492 §1; 1977 c.507 §1; 1979 c.89 §1; 1985 c.82 §1; 1987 c.158 §144; 1989 c.841 §1; 1993 c.45 §295; 1995 c.343 §60; 1997 c.626 §2; 1999 c.39 §9; 1999 c.537 §5; 2011 c.103 §1]

**687.020** [Repealed by 1955 c.492 §15]

**687.021 Practice of massage without license prohibited; injunction against violation.** (1) No person shall engage in or purport to be in the practice of massage without a massage therapist license issued by the State Board of Massage Therapists.

(2) It is unlawful to advertise by printed publication or otherwise:

(a) The giving of massage treatments in this state by a person not licensed under ORS 687.011 to 687.250, 687.895 and 687.991; or

(b) The use of "massage" in the business name unless the person providing the massage is licensed under ORS 687.011 to 687.250, 687.895 and 687.991.

(3) The Attorney General, the prosecuting attorney of any county or the board, in its own name, may maintain an action for an injunction against any person violating this section. An injunction may be issued without proof of actual damage sustained by any person. An injunction does not relieve a person from criminal prosecution for violation of this section or from any other civil, criminal or disciplinary remedy. [1955 c.492 §2; 1971 c.650 §36; 1977 c.507 §2; 1979 c.89 §2; 1985 c.82 §2; 1989 c.841 §2; 1997 c.626 §3; 1999 c.537 §6]

**687.030** [Amended by 1953 c.438 §2; repealed by 1955 c.492 §15]

**687.031 Application of ORS 687.011 to 687.250, 687.895 and 687.991.** (1) ORS 687.011 to 687.250, 687.895 and 687.991 do not apply to:

(a) Persons licensed under any other law of this state to do any acts included in the definition of massage in ORS 687.011 or persons working under the direction of any such person.

(b) Trainers of any amateur, semiprofessional or professional athlete or athletic team.

(c) Massage practiced at the athletic department of any institution maintained by public funds of the state or of any of its political subdivisions.

(d) Massage practiced at the athletic department of any school or college.

(e) Massage clinics operated as part of a certified class for the purpose of student training supervised by an approved instructor or preceptor if:

(A) Any charge for the massage does not exceed the cost incurred in providing the massage; and

(B) The student is not compensated.

(f) Students enrolled in a certified class when practicing massage techniques in a nonclinical setting, at or away from massage school premises or program sites, under the supervision of an approved instructor or preceptor, if:

(A) The student is clearly identified as a student to any member of the public receiving massage services; and

(B) The student is not compensated.

(g) Nonresident practitioners holding a valid license, permit, certificate or registration issued by any other state or territory of the United States or by a foreign country and temporarily practicing massage in this state for a period not exceeding 30 days for the purpose of:

(A) Presenting educational or clinical programs, lectures, seminars or workshops;

(B) Furnishing massage services during an emergency as part of a disaster response team; or

(C) Consulting with a massage therapist licensed in this state regarding massage practices or services.

(h) Trained or licensed practitioners of psychotherapy or counseling modalities that use physical techniques to access or support psychotherapeutic processes when practicing within the scope of a license or if the practitioner has an express oral or written agreement that the sole intent in using the physical techniques is to render the psychotherapy or counseling.

(i) Practitioners of reflexology who do not claim expressly or implicitly to be massage therapists and who limit their work to the practice of reflexology through the application of pressure with the thumbs to reflex points on the feet, hands and ears for the purpose of bringing the body into balance, thereby promoting the well-being of clients.

(j) Practitioners who:

(A) Do not claim expressly or implicitly to be massage therapists;

(B) Limit their work to one or more of the following practices:

(i) Using touch, words and directed movement to deepen awareness of existing patterns of movement and suggest new possibilities of movement;

(ii) Using minimal touch over specific points on the body to facilitate balance in the nervous system; or

(iii) Using touch to affect the energy systems or channels of energy of the body;

(C) Are certified by a professional organization or credentialing agency that:

(i) Requires a minimum level of training, demonstration of competence and adherence to an approved scope of practice and ethical standards; and

(ii) Maintains disciplinary procedures to ensure adherence to the requirements of the organization or agency; and

(D) Provide contact information in the practitioner's place of business for any organization or agency that has certified the practitioner.

(2) The State Board of Massage Therapists has the authority to verify that a practitioner claiming to be exempt from application of ORS 687.011 to 687.250, 687.895 and 687.991 under subsection (1)(j) of this section is certified by a professional organization or credentialing agency as required by subsection (1)(j)(C) of this section.

(3) A nonresident practitioner performing massage under subsection (1)(g) of this section must obtain a temporary practice permit if practicing in this state for a total of more than 30 days in a calendar year. Applications must be accompanied by the application fee provided for in ORS 687.071. A temporary practice permit shall allow the nonresident practitioner to practice massage in this state for a maximum of 180 days in a calendar year. [1955 c.492 §12; 1985 c.82 §3; 1993 c.564 §1; 1997 c.626 §4; 1999 c.537 §7; 2007 c.332 §1; 2011 c.44 §1]

**687.040** [Repealed by 1955 c.492 §15]

### (Licensing)

**687.041 Applications for licenses.** (1) Applications to the State Board of Massage Therapists for a massage therapist license shall be made on forms provided by the board and shall contain the information required to assure the board of the applicant's eligibility for a license. The application fee provided for in ORS 687.071 shall accompany the application.

(2) An applicant shall state on the application whether the applicant has ever been arrested for or convicted of a crime exclusive of minor traffic offenses and if so, where and when.

(3) The board may require that an applicant submit to fingerprinting and may use the fingerprints to request a criminal records check of the applicant under ORS 181.534. It may also require the photograph of the applicant.

(4) All law enforcement agencies in this state shall cooperate with the board in the administration of ORS 687.011 to 687.250, 687.895 and 687.991 and shall, when requested, investigate and report to the board their findings regarding the arrest or conviction of the applicant for crimes within or outside this state. [1955 c.492 §3; 1957 c.166 §1; 1977 c.507 §6; 1979 c.89 §3; 1989 c.841 §3; 1997 c.626 §5; 1999 c.537 §8; 2005 c.730 §36]

**687.050** [Repealed by 1955 c.492 §15]

**687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules.** (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall:

(a) Furnish the State Board of Massage Therapists with personal references required by rule of the board.

(b) Have attained the age of 18 years.

(c) Furnish the board with educational certificates or transcripts required by law or rule of the board including but not limited to proof of certification in cardiopulmonary resuscitation.

(d)(A) Have completed a minimum of 500 contact hours of certified classes in the following subjects:

- (i) Anatomy and physiology;
- (ii) Kinesiology;
- (iii) Pathology;
- (iv) Theory; and

(v) Hands-on practice of massage and bodywork techniques and professional practices, including client communication and boundaries, professional and business ethics and sanitation; or

(B) Obtain the approval of the board after the board performs a credentialing review, including but not limited to a review of the classes completed by the applicant and the applicant's professional experience, to determine the applicant's proficiency in the field of massage.

(e) Pass an examination prepared and conducted by the board or its authorized representative establishing competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the board and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage and bodywork. The board shall accept pas-

sage of the National Certification Board for Therapeutic Massage and Bodywork examination or another board-approved national standardized examination as meeting the written examination requirement contained in this paragraph.

(f) Submit the application with payment for licensing within one year after notification of having passed the qualifying examination.

(2) An applicant must be a person of good moral character. For purposes of this section, the lack of good moral character may be established by reference to acts or conduct reflecting moral turpitude or to acts or conduct that would cause a reasonable person to have substantial doubts about the applicant's ability to practice massage in accordance with ORS 687.011 to 687.250, 687.895 and 687.991 and rules of the board.

(3) The board may require that an applicant furnish evidence satisfactory to the board that the applicant can safely and competently practice the profession of massage. The board may consider evidence including, but not limited to, indications of impairment as defined in ORS 676.303 or of behavior, practices or conduct that would be considered unprofessional or dishonorable conduct if engaged in by a person licensed under ORS 687.011 to 687.250, 687.895 and 687.991.

(4) The board shall adopt rules establishing the required hours for each subject listed in subsection (1)(d)(A) of this section.

(5) To be eligible for biennial renewal, a renewal applicant shall submit evidence to the board, as determined by the board by rule, that the applicant has completed a minimum of 12 hours of board-approved continuing education.

(6) To be eligible for inactive status, a licensed massage therapist must not be practicing massage in this state. [1955 c.492 §4; 1957 c.166 §2; 1977 c.507 §7; 1979 c.89 §4; 1985 c.82 §4; 1989 c.841 §4; 1995 c.23 §1; 1997 c.32 §1; 1997 c.176 §1; 1997 c.626 §§6,6a; 1999 c.537 §9; 2009 c.536 §36; 2009 c.756 §62; 2011 c.44 §2]

**687.055** [1977 c.507 §5; 1985 c.82 §6; repealed by 1989 c.841 §14]

**687.057 License by indorsement or reciprocity; rules.** (1) The State Board of Massage Therapists may license by indorsement or reciprocity any individual who applies, meets the requirements established by the board and, on the date of making application, is a massage therapist licensed under the laws of any other state or territory of the United States or by a foreign country if the requirements in the state, territory or country where the applicant is licensed are not less than those required in ORS 687.011 to 687.250, 687.895 and 687.991. The board shall adopt rules for determining the necessity of

an examination based on educational preparation, successful completion of other examinations, work experience and the number of years in active practice of massage.

(2) The board may license by indorsement any individual who applies and successfully completes a practical examination if the individual is already licensed under a law of this state to do an act included in the definition of massage in ORS 687.011.

(3) The board may enter into an agreement with the appropriate regulatory body of any other state, territory or foreign country for reciprocal licensing if the board determines that the qualifications and standards of the other state, territory or foreign country are not less than those required in ORS 687.011 to 687.250, 687.895 and 687.991. [1977 c.507 §18; 1985 c.82 §7; 1989 c.841 §5; 1997 c.626 §7; 1999 c.326 §1; 1999 c.537 §10]

**687.060** [Repealed by 1955 c.492 §15]

**687.061 Expiration and renewal of license; rules; fees; sanctions for practicing without valid license.** (1) Licenses issued under ORS 687.011 to 687.250, 687.895 and 687.991 expire on the date established by the State Board of Massage Therapists by rule and may be renewed after payment of the renewal fee established by the board. If the renewal fee is not paid by the expiration date established by the board, a delinquency fee must be paid prior to renewal. Licenses may be renewed within three years after the date of expiration upon payment of the renewal fee and the delinquency fee established by the board.

(2) An individual who practices massage without holding a valid unexpired license issued under ORS 687.011 to 687.250, 687.895 and 687.991 is subject to disciplinary action and civil penalty by the board, injunction and criminal prosecution. No disciplinary action, civil penalty or criminal proceeding shall be initiated under this section after the date that a renewal and delinquency fee is paid. However, payment of a renewal and delinquency fee does not stay any disciplinary action, civil penalty or criminal proceeding already assessed or initiated. [1955 c.492 §5; 1977 c.507 §8; 1979 c.89 §5; 1985 c.82 §8; 1989 c.841 §6; 1997 c.626 §8; 1999 c.537 §11; 2005 c.148 §1]

**687.070** [Repealed by 1955 c.492 §15]

**687.071 Fees; rules; examinations; disposition and use of moneys.** (1) The State Board of Massage Therapists shall impose fees for the following:

- (a) Massage therapist license issuance or renewal.
- (b) Examinations and reexaminations.
- (c) Inactive status.
- (d) Delinquency in renewal of a license.

(e) Temporary practice permit.

(f) Application for massage license examination.

(2) If the effective period of the initial massage therapist license is to be less than 12 months by reason of the expiration date established by rule of the board, the required license fee shall be prorated to represent one-half of the biennial rate.

(3) The board shall examine or reexamine any applicant for a massage therapist license who pays a fee for each examination and who meets the requirements of ORS 687.051.

(4) All moneys received by the board shall be paid into the account created by the board under ORS 182.470 and are appropriated continuously to the board and shall be used only for the administration and enforcement of ORS 687.011 to 687.250, 687.895 and 687.991. [1955 c.492 §6; 1957 c.166 §3; 1973 c.427 §32; 1977 c.217 §1; 1977 c.507 §9; 1979 c.89 §6; 1983 c.227 §1; 1989 c.841 §7; 1991 c.703 §30; 1993 c.18 §148; 1997 c.626 §9; 1999 c.326 §2; 1999 c.537 §12; 1999 c.1084 §14; 2005 c.148 §2]

**687.075** [1997 c.626 §1; 1999 c.537 §13; repealed by 2005 c.730 §77]

**687.080** [Repealed by 1955 c.492 §15]

**687.081 Grounds for denial, suspension or revocation of license or refusal to renew license; probation; civil penalties; complaint investigation.** (1) The State Board of Massage Therapists may discipline a licensee, deny, suspend, revoke or refuse to renew a license, issue a reprimand, censure a licensee or place a licensee on probation if the licensee:

(a) Has violated any provision of ORS 687.011 to 687.250, 687.895 and 687.991 or any rule of the board adopted under ORS 687.121.

(b) Has made any false representation or statement to the board in order to induce or prevent action by the board.

(c) Has a physical or mental condition that makes the licensee unable to conduct safely the practice of massage.

(d) Is habitually intemperate in the use of alcoholic beverages or is addicted to the use of habit-forming drugs or controlled substances.

(e) Has misrepresented to any patron any services rendered.

(f) Has been convicted of a crime that bears a demonstrable relationship to the practice of massage.

(g) Fails to meet with any requirement under ORS 687.051.

(h) Violates any provision of ORS 167.002 to 167.027.

(i) Engages in unprofessional or dishonorable conduct.

(j) Has been the subject of disciplinary action as a massage therapist by any other state or territory of the United States or by a foreign country and the board determines that the cause of the disciplinary action would be a violation under ORS 687.011 to 687.250, 687.895 and 687.991 or rules of the board if it occurred in this state.

(2) If the board places a licensee on probation pursuant to subsection (1) of this section, the board may impose and at any time modify the following conditions of probation:

(a) Limitation on the allowed scope of practice.

(b) Referral to the impaired health professional program established under ORS 676.190.

(c) Individual or peer supervision.

(d) Such other conditions as the board may consider necessary for the protection of the public and the rehabilitation of the licensee.

(3) If the board determines that a licensee's continued practice constitutes a serious danger to the public, the board may impose an emergency suspension of the license without a hearing. Simultaneous with the order of suspension, the board shall institute proceedings for a hearing as provided under ORS 687.011 to 687.250, 687.895 and 687.991. The suspension shall continue unless and until the licensee obtains injunctive relief from a court of competent jurisdiction or the board determines that the suspension is no longer necessary for the protection of the public.

(4) In addition to the discipline described in subsection (1) of this section, the board may impose a civil penalty as provided under ORS 687.250. Civil penalties under this subsection shall be imposed pursuant to ORS 183.745.

(5) Prior to imposing any of the sanctions authorized under this section, the board shall consider, but is not limited to, the following factors:

(a) The person's past history in observing the provisions of ORS 687.011 to 687.250, 687.895 and 687.991 and the rules adopted pursuant thereto;

(b) The effect of the violation on public safety and welfare;

(c) The degree to which the action subject to sanction violates professional ethics and standards of practice;

(d) The economic and financial condition of the person subject to sanction; and

(e) Any mitigating factors that the board may choose to consider.

(6) In addition to the sanctions authorized by this section, the board may assess against a licensee the costs associated with the disciplinary action taken against the licensee.

(7) The board shall adopt a code of ethical standards for practitioners of massage and shall take appropriate measures to ensure that all applicants and practitioners of massage are aware of those standards.

(8) Upon receipt of a complaint under ORS 687.011 to 687.250, 687.895 and 687.991, the board shall conduct an investigation as described under ORS 676.165.

(9) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175. [1955 c.492 §9; 1977 c.507 §10; 1979 c.89 §7; 1979 c.744 §58; 1985 c.82 §9; 1989 c.841 §8; 1997 c.627 §§1,1a; 1997 c.791 §42a; 1999 c.537 §14; 2009 c.697 §10]

**687.086 License denial procedure; review of rules and board orders.** (1) If the State Board of Massage Therapists proposes to impose any of the sanctions authorized in ORS 687.081 or take other disciplinary action, opportunity for hearing shall be accorded as provided in ORS chapter 183. Hearings under this section must be conducted by an administrative law judge assigned from the Office of Administrative Hearings established by ORS 183.605.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided in ORS chapter 183. [1971 c.734 §138; 1977 c.507 §11; 1997 c.626 §11; 1997 c.627 §2; 1999 c.537 §15; 1999 c.849 §§166,167; 1999 c.1084 §§15,15a; 2003 c.75 §59]

**687.087** [1989 c.841 §§9,12; 1991 c.734 §74; renumbered 687.895 in 1991]

**687.090** [Repealed by 1955 c.492 §15]

**687.091** [1955 c.492 §10; repealed by 1971 c.734 §21]

**(Reporting Obligations)**

**687.095 Duty to report prohibited conduct.** Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a massage therapist 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. [2009 c.536 §11]

**687.100** [Repealed by 1955 c.492 §15]

**687.101** [1955 c.492 §11; repealed by 1971 c.734 §21]

**687.110** [Repealed by 1955 c.492 §15]

**687.111** [1955 c.492 §8; 1977 c.507 §12; 1979 c.89 §8; 1981 c.398 §1; 1985 c.82 §10; repealed by 1989 c.841 §14]

**(State Board)****687.115 State Board of Massage Therapists; members; appointment; terms; meetings; compensation; administrator.**

(1) The State Board of Massage Therapists operates as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991. The board consists of seven 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) Four must be licensed massage therapists.

(b) Three must be members of the public, including one public member selected from a health related field. Public members may not be:

(A) Massage therapists; or

(B) A spouse, domestic partner, child, parent or sibling of a massage therapist.

(2)(a) Board members required to be licensed massage therapists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a professional organization representing massage therapists.

(b) 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 term of office of each member is four 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. A member is eligible for re-appointment. If there is a vacancy in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective 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 licensed massage therapist or a retired massage therapist who was a licensed massage therapist in good standing at the time of retirement, if the board member was appointed to serve on the board as a massage therapist.

(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.

(5) The board may:

(a) Hold meetings at times and locations determined by the board.

(b) Hire, define the duties and fix the salary of an administrator who may hire and define the duties and provide supervision and evaluation of other employees as necessary to carry out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991. The administrator, with approval of the board, may also employ special consultants. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board. [1971 c.650 §37; 1973 c.792 §42; 1977 c.217 §2; 1977 c.507 §13; 1985 c.82 §11; 1989 c.69 §2; 1997 c.177 §1; 1997 c.626 §12; 1997 c.632 §11; 1999 c.537 §16; 1999 c.1084 §16; 2009 c.535 §23; 2009 c.756 §64]

**687.120** [Repealed by 1955 c.492 §15]

**687.121 Rules.** The State Board of Massage Therapists may adopt rules:

(1) Establishing reasonable standards concerning the sanitary, hygienic and healthful conditions of premises and facilities used by massage therapists.

(2) Relating to the methods and procedures used in the practice of massage.

(3) Governing the examination and investigation of applicants for the licenses issued under ORS 687.011 to 687.250, 687.895 and 687.991 and the issuance, renewal, suspension and revocation of such licenses.

(4) Setting standards for certifying classes under ORS 687.051.

(5) Requiring that massage therapists supply the board with the accurate, current address or addresses where they practice massage.

(6) Fixing the educational, training and experience requirements for licensing by endorsement or reciprocity.

(7) Establishing requirements for issuance and retention of an inactive license.

(8) Regarding any matter that the board reasonably considers necessary and proper for the administration and enforcement of ORS 687.011 to 687.250, 687.895 and 687.991. [1955 c.492 §7; 1977 c.507 §14; 1985 c.82 §12; 1989 c.841 §13; 1997 c.626 §13; 1999 c.537 §17]

**687.122 Investigation of violations; power of board; subpoenas.** (1) Upon the complaint of any citizen of this state, or upon its own motion, the State Board of Massage Therapists may investigate any alleged violation of ORS 687.011 to 687.250, 687.895 and 687.991.

(2) In the conduct of investigations, the board may:

- (a) Take evidence;
- (b) Take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases;
- (c) Compel the appearance of witnesses, including the person charged, before the board in person the same as in civil cases;
- (d) Require answers to interrogatories; and
- (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas over the signature of the board chairperson and the seal of the board in the name of the State of Oregon.

(4) If a person fails to comply with a subpoena issued under this section, the judge of the circuit court shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court. [1989 c.843 §8; 1997 c.626 §14; 1999 c.537 §18]

**687.123 Inspection of premises.** Upon complaint about the premises on which a massage therapist practices massage, the State Board of Massage Therapists or its authorized representative may inspect such premises in order to determine whether the premises meet the standards set by order of the board under ORS 687.121 (1). [1989 c.841 §17; 1999 c.537 §19]

**687.125** [1977 c.507 §17; 1997 c.626 §15; renumbered 687.890 in 1997]

**687.130** [Repealed by 1955 c.492 §15]

**687.135** [1977 c.507 §4; repealed by 1989 c.841 §14]

**687.140** [Repealed by 1955 c.492 §15]

**687.150** [Repealed by 1955 c.492 §15]

**687.160** [Repealed by 1955 c.492 §15]

**687.170** [Repealed by 1955 c.492 §15]

**687.180** [Repealed by 1955 c.492 §15]

**687.190** [Repealed by 1955 c.492 §15]

**687.200** [Repealed by 1955 c.492 §15]

**687.210** [Repealed by 1955 c.492 §15]

**687.220** [Repealed by 1955 c.492 §15]

**687.230** [Repealed by 1955 c.492 §15]

**687.240** [Repealed by 1955 c.492 §15]

**687.250 Enforcement; civil penalty.** (1) The State Board of Massage Therapists shall report to the proper district attorney all cases that in the judgment of the board warrant criminal prosecution under ORS 687.991.

(2) The board may, in its own name, assess a civil penalty against any licensed or unlicensed person violating a provision of ORS 687.011 to 687.250, 687.895 and 687.991. The board may assess the civil penalty in-

stead of or in addition to disciplinary action under ORS 687.081, an injunction issued under ORS 687.021 or criminal prosecution by the district attorney under this section. The amount of the civil penalty may not exceed \$1,000 for any single violation. Except as the board may otherwise provide under ORS 182.462 (1)(e), moneys collected through the assessment of civil penalties by the board under this subsection or ORS 687.081 shall be deposited into the account created by the board pursuant to ORS 182.470 and are continuously appropriated to the board for carrying out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991. [Formerly 687.890; 2011 c.110 §4]

**DIRECT ENTRY MIDWIVES**

**(Generally)**

**687.405 “Direct entry midwifery” defined.** As used in ORS 687.405 to 687.495, “direct entry midwifery” means:

- (1) Supervision of the conduct of labor and childbirth;
- (2) Providing advice to a parent as to the progress of childbirth; or
- (3) Rendering prenatal, intrapartum and postpartum care. [1993 c.362 §1; 2011 c.650 §4]

**687.410 When use of title authorized.** No person shall use the title “licensed direct entry midwife,” any abbreviation thereof or the initials “L.D.M.” unless the person possesses a valid license issued under ORS 687.405 to 687.495. [1993 c.362 §16]

**687.415 When license required.** (1) A license authorized by ORS 687.405 to 687.495 is required only for purposes of reimbursement under medical assistance programs and is not required for the practice of direct entry midwifery in this state.

(2) Nothing in ORS 687.405 to 687.495 is intended to require a direct entry midwife to become licensed as described in ORS 687.420 (2). [1993 c.362 §11]

**(Licensing)**

**687.420 Standards for licensing; application; payment by medical assistance program for services provided by licensed midwife.** (1) The State Board of Direct Entry Midwifery shall establish standards for qualifications for the licensure of direct entry midwives. Such standards shall include:

- (a) Sufficient knowledge in the following areas:
  - (A) Techniques in taking patient histories;
  - (B) Anatomy and physiology of the female reproductive system;
  - (C) Appropriate use of diagnostic testing;

- (D) Necessity for referral;
- (E) Pathology in childbirth;
- (F) Mechanisms of labor;
- (G) Aseptic techniques;
- (H) Postpartum care;
- (I) Examinations of newborn infants; and
- (J) Family planning;
- (b) Successful passage of written and oral examinations;
- (c) Participation in:
  - (A) 25 assisted deliveries;
  - (B) 25 deliveries for which the midwife was the primary care provider;
  - (C) 100 prenatal care visits;
  - (D) 25 newborn examinations; and
  - (E) 40 postnatal examinations;
- (d) Current certification in cardiopulmonary resuscitation for infants and adults; and
- (e) A written plan for emergency transport.

(2) Any person who desires to become licensed as a direct entry midwife shall submit an application to the Oregon Health Licensing Agency stating the applicant's qualifications for licensure. If the applicant meets the standards established under subsection (1) of this section and the applicant is not disqualified from licensure under ORS 676.612, the agency shall issue an annual license to the direct entry midwife. The agency shall impose a fee for licensure and examination in the amount established pursuant to ORS 687.435.

(3) Any direct entry midwife licensed under this section is entitled to payment under the rules of the medical assistance program for services provided to any eligible recipient of medical assistance. [1993 c.362 §3; 1997 c.690 §5; 2001 c.53 §1; 2003 c.547 §20; 2005 c.648 §33]

**687.425 Renewal of license; effect of failure to renew; rules.** (1) Except as provided in subsection (2) of this section, a license issued by the Oregon Health Licensing Agency for a direct entry midwife expires after one year. The agency shall renew a license upon receipt of the renewal application and fee and proof of current cardiopulmonary resuscitation certification for infants and adults. The applicant must be in compliance with the rules adopted by the State Board of Direct Entry Midwifery and the agency.

(2) The agency shall establish a procedure for the renewal of licenses. The agency may vary the renewal date of a license by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

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

(4) The agency shall adopt by rule requirements for late renewal of a license, reactivation of an expired license or reinstatement of a license that has been expired for more than three consecutive years.

(5) If the license of a direct entry midwife has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the agency may refuse to issue or renew the license for up to one year from the date of denial, suspension or revocation.

(6) The agency may mail a notice of renewal to the last-known address of the license holder. [1993 c.362 §9; 2001 c.53 §5; 2001 c.274 §3; 2001 c.462 §4; 2003 c.547 §21; 2005 c.648 §34; 2009 c.701 §21]

**687.430 Waiver of required written examination.** A person licensed to practice direct entry midwifery under the laws of another state who demonstrates to the satisfaction of the Oregon Health Licensing Agency that the person has passed a written examination at least equal to the written examination required of persons eligible for licensure under ORS 687.405 to 687.495 may have the written examination waived pursuant to standards of the State Board of Direct Entry Midwifery. [1993 c.362 §4; 2001 c.53 §2; 2005 c.648 §35]

**687.435 Fees; rules.** (1) The Oregon Health Licensing Agency shall establish by rule and collect fees and charges for the following related to direct entry midwives:

- (a) Application;
- (b) Original license;
- (c) License renewal;
- (d) Examinations;
- (e) Delinquent renewal;
- (f) Replacement or duplicate license;
- (g) Reciprocity;
- (h) License reactivation; and
- (i) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing

Agency Account, and are appropriated continuously to and shall be used by the agency as authorized by ORS 676.625. [1997 c.690 §4; 1999 c.885 §25; 1999 c.990 §3; 2003 c.547 §22; 2005 c.648 §36; 2009 c.701 §22]

**687.440** [1993 c.362 §19; 1999 c.885 §24; repealed by 2005 c.648 §121]

**687.445 Discipline.** In the manner prescribed in ORS chapter 183 for contested cases and in consultation with the State Board of Direct Entry Midwifery, the Oregon Health Licensing Agency may impose a form of discipline specified in ORS 676.612 against any person practicing direct entry midwifery for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 687.405 to 687.495, or the rules adopted thereunder. [2003 c.547 §28; 2005 c.648 §37]

**687.450** [1993 c.362 §10; 2001 c.53 §6; repealed by 2003 c.547 §118]

**687.455** [1993 c.362 §5; 2001 c.53 §3; 2003 c.547 §24; repealed by 2005 c.648 §121]

**(Reporting Obligations)**

**687.460 Duty to report prohibited conduct.** Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensed direct entry midwife 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. [2009 c.536 §28]

**(State Board and Health Licensing Agency)**

**687.470 State Board of Direct Entry Midwifery; establishment; appointment; confirmation; membership; compensation and expenses.** (1) There is established within the Oregon Health Licensing Agency the State Board of Direct Entry Midwifery. The board consists of seven 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) Four must be licensed direct entry midwives.
- (b) One must be a certified nurse midwife.
- (c) One must be a physician licensed under ORS chapter 677 involved at the time of appointment in obstetrical care or education.
- (d) One must be a member of the public.

(2)(a) Board members required to be licensed direct entry midwives may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a

professional organization representing direct entry midwives.

(b) 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 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. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least three years must elapse before the person is again eligible for appointment to serve on the board.

(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 direct entry midwife or a retired direct entry midwife who was a licensed direct entry midwife in good standing at the time of retirement, if the board member was appointed to serve on the board as a direct entry midwife.

(4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The agency 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. [1993 c.362 §2; 1999 c.885 §23; 1999 c.990 §1; 2005 c.648 §38; 2009 c.535 §24; 2009 c.701 §23a; 2011 c.650 §6]

**Note:** Section 8, chapter 650, Oregon Laws 2011, provides:

**Sec. 8.** (1) The amendments to ORS 687.470 by section 6 of this 2011 Act apply to appointments to the State Board of Direct Entry Midwifery made on or after the effective date of this 2011 Act [August 2, 2011].

(2) A member serving on the board on the effective date of this 2011 Act continues to serve until the term of office for which the member was appointed terminates by expiration of time, resignation from the board or removal of the member from office. [2011 c.650 §8]

**687.475 Officers; meetings; quorum; rules.** The State Board of Direct Entry Midwifery shall elect a chairperson. The board shall adopt rules to govern the proceedings of the board. The board shall hold meetings at such times and places as it determines. A majority of the members of the board shall constitute a quorum. [1993 c.362 §6; 2009 c.535 §25]

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

- (1) Maintenance of records of care, including client charts;
- (2) Participation in peer review;
- (3) Development of a written plan for emergency transport;
- (4) Guidelines for equipment; and
- (5) Maintenance of patient disclosure forms, which includes information regarding whether the midwife has malpractice insurance. [1993 c.362 §8; 2001 c.53 §4a]

**687.482 Peer review.** (1) Peer review of a licensed direct entry midwife conducted under ORS 687.480 is subject to the provisions of ORS 41.675. Charts and records created during or for the purpose of the practice of direct entry midwifery are not data under ORS 41.675.

(2) Peer review that is conducted outside of the Oregon Health Licensing Agency may not be used to replace agency regulatory investigations of complaints against licensed direct entry midwives. [2011 c.650 §2]

**687.485 Authority of Oregon Health Licensing Agency; rules.** In addition to the powers otherwise granted by ORS 687.405 to 687.495, the Oregon Health Licensing Agency, in consultation with the State Board of Direct Entry Midwifery, may:

- (1) Determine whether applicants meet the qualifications under ORS 687.405 to 687.495, conduct examinations and grant licenses to qualified applicants upon compliance with the rules of the board and the agency;
- (2) Do any act necessary or proper to effect and carry out the duties required of the agency by ORS 687.405 to 687.495;
- (3) Adopt rules for the administration of ORS 687.405 to 687.495; and
- (4) Accept and expend donations, contributions and grant funds for the purposes of ORS 687.405 to 687.495. [1993 c.362 §7; 1999 c.990 §2; 2001 c.53 §4; 2001 c.462 §3; 2003 c.547 §25; 2005 c.648 §39]

**687.490 Confidentiality of information provided to board or agency.** (1) Any information provided to the State Board of Direct Entry Midwifery or the Oregon Health Licensing Agency under ORS 687.445 is confidential and is not subject to public disclosure or admissible as evidence in any judicial proceeding.

(2) Any person who in good faith provides information to the board or the agency is not subject to an action for civil damages as a result thereof. [1993 c.362 §17; 2001 c.53 §7; 2003 c.547 §26; 2005 c.648 §40]

**(Miscellaneous)**

**687.493 Authority to purchase and administer certain legend drugs and devices.** (1) A midwife licensed under ORS 687.405 to 687.495 may purchase and administer authorized scheduled legend drugs and devices that are used in pregnancy, birth, postpartum care, newborn care or resuscitation and that are deemed integral to providing safe care to the public by the State Board of Direct Entry Midwifery by rule.

(2) Legend drugs authorized under subsection (1) of this section are limited:

(a) For neonatal use to prophylactic ophthalmic medications, vitamin K and oxygen; and

(b) For maternal use to postpartum antihemorrhagics, Rh<sub>0</sub>(D) immune globulin, epinephrine, intravenous fluids, local anesthetic and oxygen.

(3) Legend devices authorized under subsection (1) of this section are limited to devices for injection of medications, for the administration of intravenous fluids, for adult and infant resuscitation and for rupturing the amniotic membranes.

(4) A pharmacist who dispenses drugs and devices to a licensed midwife as authorized by this section and in conformity with the provisions of ORS chapter 689 is not liable for any adverse reactions caused by administration of the legend drugs and devices by the midwife. [2001 c.462 §2]

**687.495 Collection of data on birth and fetal death outcomes.** (1) The Center for Health Statistics established under ORS 432.010 shall collect and report data on birth and fetal death outcomes occurring in this state, including intrapartum and neonatal transfers to hospital care from another birthing facility, hospital or other location. The center shall report the data by attendant type. The report shall distinguish outcomes between licensed direct entry midwives and direct entry midwives who are not licensed under ORS 687.405 to 687.495.

(2) The Oregon Health Authority may accept gifts, grants and contributions from any public or private source for the purpose of carrying out the provisions of this section. [1993 c.362 §15; 2005 c.648 §41; 2011 c.650 §5]

**687.890** [Formerly 687.125; 1999 c.537 §20; 1999 c.1084 §17; renumbered 687.250 in 2001]

**PENALTIES**

**687.895 Procedure for civil penalties.**

Any civil penalty under ORS 687.011 to 687.250, 687.895 and 687.991 shall be imposed as provided in ORS 183.745. [Formerly 687.087; 1997 c.626 §16]

**687.990** [Repealed by 1955 c.492 §15]

**687.991 Criminal penalties.** (1) Violation of ORS 687.021 or of any rule adopted under ORS 687.121 is a Class A misdemeanor.

(2) Violation of ORS 687.410 is a Class A misdemeanor. [1955 c.492 §14; 1977 c.507 §15; 2003 c.547 §27]

**OCCUPATIONS AND PROFESSIONS**

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