

Chapter 687

2017 EDITION

Massage Therapists; Direct Entry Midwives

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OCCUPATIONS AND PROFESSIONS

687.010 [Repealed by 1955 c.492 §15]

**MASSAGE THERAPISTS
(Generally)**

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 Higher Education Coordinating Commission;

(c) By an accredited college or university; or

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

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

(4)(a) "Massage," "massage therapy" or "bodywork" means the use of pressure, friction, stroking, tapping or kneading on the human body, or the use of vibration or stretching on the human body by manual or mechanical means or gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps or 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.

(b) "Massage," "massage therapy" and "bodywork" do not include the use of high-velocity, short-amplitude manipulative thrusting procedures to the articulations of the spine or extremities.

(5)(a) "Massage facility" means a facility where a person engages in the practice of massage.

(b) "Massage facility" does not include:

(A) A career school licensed under ORS 345.010 to 345.450;

(B) An accredited college or university or a community college operated under ORS chapter 341; or

(C) A clinic or facility owned or operated by a person authorized to practice a profession by a health professional regulatory board, as defined in ORS 676.160.

(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 student enrolled in a certified class.

(9) "Supervision" means:

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

(b) The process of overseeing and directing a licensee, or a person that has a permit to operate a massage facility, who is being disciplined by the board; or

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

(10) "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; 2013 c.409 §1; 2013 c.747 §183; 2015 c.491 §1]

687.020 [Repealed by 1955 c.492 §15]

687.021 Practice of massage without license prohibited; operation of massage facility without permit prohibited; injunction against violation. (1) A person may not:

(a) Engage in or purport to engage in the practice of massage without a massage therapist license issued by the State Board of Massage Therapists under ORS 687.051.

(b) Operate a massage facility or purport to operate a massage facility without a permit issued by the board under ORS 687.059, unless the person is an individual massage therapist who is working out of the individual's home.

(c) Advertise that the person engages in the practice of massage unless the person is licensed under ORS 687.051 or holds a permit under ORS 687.059.

(d) Use the word "massage" in a business name unless the person is licensed under ORS 687.051 or holds a permit under ORS 687.059.

(2) The board may exempt by rule a type of massage facility from the prohibition in subsection (1)(b) of this section if the board finds that requiring a permit for that type of facility is not necessary to regulate the practice of massage therapy or to protect the health and safety of the public.

(3) The Attorney General, the prosecuting attorney of any county or the board may maintain an action for an injunction against a person violating this section. An injunction may be issued without proof of actual damages sustained by a person. An injunction does not relieve a person from criminal prosecution for violating 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; 2013 c.409 §2]

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 sec-

tion 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 of Massage Therapists and Permitting of Massage Facilities)

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 181A.195. 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 625 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 or 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 State Board of Massage Therapists or its authorized representative establishing the applicant’s 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 State Board of Massage Therapists 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 or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described 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 engage in the practice of 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 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 may no longer be engaged in the practice of 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; 2015 c.491 §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 de-

termines 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]

687.059 Massage facilities; fees; rules.

(1) To be issued a permit to operate a massage facility in this state, an applicant must:

(a) Submit an application to the State Board of Massage Therapists in a form and manner prescribed by the board by rule;

(b) Comply with the health, safety and infection control requirements adopted by the board under ORS 687.121;

(c) Pay the fee required under ORS 687.071 (1)(b);

(d) If the applicant is a natural person, be at least 18 years of age; and

(e) If the applicant is not a natural person, comport with the laws of this state related to business formation, including making an appropriate filing with the Secretary of State.

(2) A massage facility for which a person has been issued a permit under this section may provide massage therapy only through the use of massage therapists licensed under ORS 687.051.

(3) The board may authorize relocating a massage facility if:

(a) The permittee submits an application in a form and manner prescribed by the board by rule;

(b) The permittee pays the fee required under ORS 687.071 (1)(h); and

(c) The permittee complies with any other applicable rule of the board.

(4) The board may authorize transferring a permit to operate a massage facility from one person to another person if the person to whom the permit will be transferred:

(a) Submits an application in a form and manner prescribed by the board by rule;

(b) Pays the fee required under ORS 687.071 (1)(i);

(c) Makes all necessary changes to documents on file with the Secretary of State; and

(d) Complies with any other applicable rule of the board.

(5) The board may authorize transferring the name of a massage facility to another massage facility if the permittee who operates the massage facility to which the name will be transferred:

(a) Submits an application in a form and manner prescribed by the board by rule;

(b) Pays the fee required under ORS 687.071 (1)(j);

(c) Makes all necessary changes to documents on file with the Secretary of State; and

(d) Complies with any other applicable rule of the board. [2013 c.409 §4]

687.060 [Repealed by 1955 c.492 §15]

687.061 Expiration and renewal of license and permit; rules; fees; sanctions for practicing without valid license or operating without valid permit; penalty.

(1) Licenses issued under ORS 687.051 and permits issued under ORS 687.059 expire on the date established by the State Board of Massage Therapists by rule and may be renewed after payment of a renewal fee established by the board under ORS 687.071. 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 and permits 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 engages in the practice of massage without holding a valid license issued under ORS 687.051 or a person who operates a massage facility without holding a valid permit issued under ORS 687.059 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; 2013 c.409 §6]

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) Issuance or renewal of a massage therapist license.

(b) Issuance or renewal of a permit to operate a massage facility.

(c) Examinations and reexaminations.

(d) Inactive status.

(e) Delinquency in renewal of a license or of a permit to operate a massage facility.

(f) Temporary practice permit.

(g) Application for massage license examination.

(h) Relocation of a massage facility as described in ORS 687.059 (3).

(i) Transferring a permit to operate a massage facility from one person to another person as described in ORS 687.059 (4).

(j) Transferring the name of a massage facility to another massage facility as described in ORS 687.059 (5).

(2) If the effective period of an initial massage therapist license or permit to operate a massage facility 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 rate for a biennial period.

(3) The board shall examine or reexamine an 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 continuously appropriated to the board for the administration and enforcement of ORS 676.850, 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; 2013 c.240 §15; 2013 c.409 §5]

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, or refusal to renew, license or permit; probation; penalties; complaint investigation.

(1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person:

(a) Has violated a 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 a false representation or statement to the board in order to induce or prevent action by the board.

(c) Is licensed under ORS 687.051 or holds a permit under ORS 687.059 and has a physical or mental condition that makes the licensee or permittee unable to conduct safely the practice of massage or operation of a massage facility.

(d) Is licensed under ORS 687.051 or holds a permit under ORS 687.059 and 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 a patron services rendered.

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

(g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051.

(h) Whether permitted to operate a massage facility or applying for a permit to operate a massage facility, fails to meet a requirement under ORS 687.059.

(i) Violates a provision of ORS 167.002 to 167.027.

(j) Engages in unprofessional or dishonorable conduct.

(k) Has been the subject of disciplinary action as a massage therapist or operator of a massage facility by another 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 or 687.991 or the rules of the board if the cause of the disciplinary action had occurred in this state.

(2) If the board places a licensee or permittee 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 scope of the practice of massage or the operation of a massage facility.

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

(c) Individual or peer supervision.

(d) Any other condition that the board considers necessary for the protection of the public or the rehabilitation of the licensee or permittee.

(3) If the board determines that the continued practice of massage by a licensee or the continued operation of a massage facility by a permittee constitutes a serious danger to the public, the board may impose an emergency suspension of the license or permit 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 or permittee 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 or instead of the discipline described in subsection (1) of this section, the board may impose a civil penalty

under ORS 687.250. Civil penalties under this subsection shall be imposed pursuant to ORS 183.745.

(5) Prior to imposing a sanction authorized under this section, the board shall consider, but is not limited to considering, 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 of the board;

(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 person the reasonable costs of a disciplinary action taken against the person.

(7) The board shall adopt a code of ethical standards for massage therapists and shall take appropriate measures to ensure that all applicants and massage therapists 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 the conduct of a person or as part of a contested case proceeding, consent order or stipulated agreement involving the conduct of a person 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; 2013 c.409 §7]

687.086 License and permit 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 and hygienic conditions of, and public health and safety for, premises and facilities used by massage therapists.

(2) Establishing health, safety and infection control requirements for massage facilities.

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

(4) Governing the examination and investigation of applicants for a license under ORS 687.051 or a permit under ORS 687.059 and the issuance, renewal, suspension and revocation of such licenses and permits.

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

(6) Requiring that a massage therapist supply the board with the accurate, current address or addresses where the massage therapist engages in the practice of massage.

(7) Requiring that a person who holds a permit to operate a massage facility supply the board with the accurate, current address where the massage facility is located.

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

(9) Establishing requirements for issuance and retention of an inactive massage therapist license or permit to operate a massage facility.

(10) Regarding any other 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; 2013 c.409 §8]

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 massage facilities and other premises. Upon complaint about a massage facility or the premises on which a massage therapist practices massage, the State Board of Massage Therapists or its authorized representative may inspect the massage facility or premises in order to determine whether the massage facility or premises meet the standards set by order of the board under ORS 687.121 (1) or (2). [1989 c.841 §17; 1999 c.537 §19; 2013 c.409 §9]

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; 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 a person who violates a provision of ORS 687.011 to 687.250, 687.895 and 687.991. The board may assess the civil penalty instead 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; 2013 c.409 §10]

DIRECT ENTRY MIDWIVES

(Generally)

687.405 “Direct entry midwifery” defined. As used in ORS 687.405 to 687.495, “direct entry midwifery” means providing the following services for compensation:

(1) Supervision of the conduct of labor and childbirth;

(2) Providing advice to a parent as to the progress of childbirth;

(3) Rendering prenatal, intrapartum and postpartum care; and

(4) Making newborn assessments. [1993 c.362 §1; 2011 c.650 §4; 2013 c.657 §12]

687.410 When use of title authorized.

A person may not use the title “licensed direct entry midwife,” any abbreviation thereof or the initials “L.D.M.” unless the person possesses an active license issued under ORS 687.405 to 687.495. [1993 c.362 §16; 2013 c.314 §25]

687.415 Practice of direct entry midwifery without license prohibited; exceptions.

(1) Except as provided in subsection (2) of this section, a person may not practice direct entry midwifery in this state unless the person holds a license to practice direct entry midwifery under ORS 687.405 to 687.495.

(2) A person may practice direct entry midwifery in this state without a license to practice direct entry midwifery if:

(a) The person is a licensed health care practitioner and the services described in ORS 687.405 are within the scope of the person’s license; or

(b)(A) The person is acting as a traditional midwife and does not use legend drugs or devices, the use of which requires a license under the laws of this state;

(B) The person does not advertise that the person is a midwife; and

(C) The person discloses to each client on a form adopted by the State Board of Direct Entry Midwifery by rule:

(i) That the person does not possess a professional license issued by the state;

(ii) That the person’s education and qualification have not been reviewed by the state;

(iii) That the person is not authorized to carry and administer potentially life saving medications;

(iv) That the risk of harm or death to a mother or newborn may increase as a result of the information described in sub-subparagraphs (i) and (ii) of this subparagraph;

(v) A plan for transporting the client to the nearest hospital, as defined in ORS 442.015, if a problem arises during labor or childbirth;

(vi) That the client will not have recourse through a complaint process; and

(vii) The types of midwives who are licensed by the state.

(3) If supervised by a person licensed to practice direct entry midwifery, a student

midwife, birth assistant or other individual may assist the direct entry midwife in the provision of services described in ORS 687.405.

(4) A license to practice direct entry midwifery under ORS 687.405 to 687.495 is required for purposes of reimbursement under medical assistance programs. [1993 c.362 §11; 2013 c.657 §1]

(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:

(a) Be consistent with the requirements for becoming a certified professional midwife as established by the North American Registry of Midwives;

(b) Require the applicant to hold a Certified Professional Midwife credential established by the North American Registry of Midwives;

(c) Require the applicant to successfully complete an examination approved by the board;

(d) Require the applicant to be certified in cardiopulmonary resuscitation for infants and adults;

(e) Require the applicant to submit a written plan for emergency transport of prospective patients;

(f) Require the applicant to hold a high school diploma or a modified diploma or to successfully pass a high school equivalency course; and

(g) Require that the applicant participate in at a minimum:

(A) 25 assisted deliveries;

(B) 25 deliveries for which the applicant was the primary care provider;

(C) 100 prenatal care visits;

(D) 25 newborn examinations; and

(E) 40 postnatal examinations.

(2) A person who desires to become licensed as a direct entry midwife shall submit an application to the Health Licensing Office 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 office shall issue an annual license to the direct entry midwife. The office shall impose the applicable fees for application, licensure and examination established under ORS 676.576.

(3) A direct entry midwife licensed under this section is entitled to payment under the rules of the medical assistance program for services provided to an 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; 2013 c.314 §26; 2013 c.568 §53; 2013 c.657 §2; 2017 c.726 §14]

687.425 Renewal of license; effect of failure to renew. (1) The Health Licensing Office shall renew a direct entry midwife license upon:

(a) The applicant's satisfaction of the requirements for renewal under ORS 676.572;

(b) Receipt of proof of current cardiopulmonary resuscitation certification for infants and adults;

(c) Receipt of the applicable renewal fee established under ORS 676.576; and

(d) The applicant's satisfaction of the requirements for renewal prescribed by the State Board of Direct Entry Midwifery under subsections (2) and (3) of this section.

(2) 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.

(3) The board shall require a midwife who has attended fewer than five births in the previous year to take an additional 10 hours of continuing education as prescribed by the board. [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; 2013 c.314 §27; 2013 c.568 §54]

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 Health Licensing Office 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; 2013 c.568 §55]

687.435 [1997 c.690 §4; 1999 c.885 §25; 1999 c.990 §3; 2003 c.547 §22; 2005 c.648 §36; 2009 c.701 §22; repealed by 2013 c.314 §65]

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 Health Licensing Office, the State Board of Direct Entry Midwifery may impose a form of discipline specified in ORS 676.612 and 676.992 (1) and (2) 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 under ORS 687.405 to 687.495.

[2003 c.547 §28; 2005 c.648 §37; 2013 c.568 §57; 2013 c.657 §11]

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 Office)

687.470 State Board of Direct Entry Midwifery; establishment; appointment; confirmation; membership; compensation and expenses. (1) There is established within the Health Licensing Office 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 el-

igible 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 office 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; 2013 c.568 §58]

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 Rules; practice standards. (1) The State Board of Direct Entry Midwifery shall adopt rules for the administration of ORS 687.405 to 687.495.

(2) The board shall adopt practice standards that include:

(a) Maintenance of records of care, including patient charts;

(b) Participation in peer review;

(c) Development of a written plan for emergency transport of patients;

(d) Guidelines for equipment; and

(e) Maintenance of patient disclosure forms, which must include information regarding whether the midwife has malpractice insurance. [1993 c.362 §8; 2001 c.53 §4a; 2013 c.657 §3]

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 Health Licensing Office may not be used to replace office regulatory investigations of complaints against licensed direct entry midwives. [2011 c.650 §2; 2013 c.568 §59]

687.485 Authority of Health Licensing Office; rules. In addition to the powers otherwise granted by ORS 687.405 to 687.495, the Health Licensing Office, 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 and grant licenses to qualified applicants upon compliance with the rules of the board;

(2) Do any act necessary or proper to effect and carry out the duties required of the office by ORS 687.405 to 687.495; and

(3) 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; 2013 c.568 §60; 2013 c.657 §4]

687.490 Protection for person providing information to board or office. A person who in good faith provides information to the State Board of Direct Entry Midwifery or the Health Licensing Office for purposes related to an investigation conducted under ORS 676.560 to 676.625, if the investigation is related to the regulation of direct entry midwifery, or ORS 687.405 to 687.495 is not subject to an action for civil damages as a result of providing the information. [1993 c.362 §17; 2001 c.53 §7; 2003 c.547 §26; 2005 c.648 §40; 2013 c.568 §61; 2017 c.101 §7]

(Miscellaneous)

687.493 Authority to purchase and administer certain legend drugs and devices. (1) A direct entry 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 antibiotics for Group B Streptococcal antibiotic prophylaxis, postpartum antihemorrhagics, Rh₀(D) immune globulin, epinephrine, intravenous fluids, local anesthetic and oxygen.

(3) Legend devices authorized under subsection (1) of this section are limited to de-

VICES 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; 2013 c.657 §13]

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]