

Chapter 688

2017 EDITION

Therapeutic and Technical Services: Physical Therapists; Medical Imaging Practitioners and Limited X-Ray Machine Operators; Hemodialysis Technicians; Athletic Trainers; Respiratory Therapists and Polysomnographic Technologists

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PHYSICAL THERAPISTS
(Generally)

688.010 Definitions for ORS 688.010 to 688.201. As used in ORS 688.010 to 688.201, unless the context requires otherwise:

(1) “Board” means the Physical Therapist Licensing Board.

(2) “Physical therapist” means a person who is licensed pursuant to ORS 688.010 to 688.201 to practice physical therapy.

(3) “Physical therapist aide” means a person who is trained by a physical therapist or physical therapist assistant to perform designated and supervised routine tasks related to physical therapy and who works under the direct on-site supervision of a physical therapist or physical therapist assistant.

(4) “Physical therapist assistant” means a person who assists a physical therapist in the administration of selected components of physical therapy intervention. A physical therapist assistant works under the supervision and direction of the physical therapist.

(5) “Physical therapy” means the care and services provided by a physical therapist or by a physical therapist assistant under the supervision and direction of a physical therapist.

(6) “Practice of physical therapy” means:

(a) Examining, evaluating and testing for mechanical, physiological and developmental impairments, functional limitations and disabilities or other neuromusculoskeletal conditions in order to determine a physical therapy diagnosis or prognosis or a plan of physical therapy intervention and to assess the ongoing effects of physical therapy intervention.

(b) Alleviating impairments and functional limitations by designing, implementing, administering and modifying physical therapy interventions.

(c) Reducing the risk of injury, impairment, functional limitation and disability by physical therapy interventions that may include as a component the promotion and maintenance of health, fitness and quality of life in all age populations.

(d) Consulting or providing educational services to a patient for the purposes of paragraphs (a), (b) and (c) of this subsection. [1959 c.461 §1; 1965 c.314 §1; 1969 c.339 §1; 1971 c.585 §1; 1975 c.111 §1; 1987 c.726 §5; 2005 c.627 §3]

688.015 Findings and purpose. (1) The Legislative Assembly finds and declares that providing for state administrative control, supervision, licensure and regulation of the practice of physical therapy in this state serves the purpose of protecting the public health, safety and welfare.

(2) It is the intent of the Legislative Assembly that only individuals who meet and maintain prescribed standards of competence may engage in the practice of physical therapy as authorized by ORS 688.010 to 688.201 and implemented by the Physical Therapist Licensing Board. [2005 c.627 §1]

Note: 688.015 and 688.035 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 688 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

688.020 License required to practice physical therapy or use designation. (1) Unless a person is a licensed physical therapist or holds a permit issued under ORS 688.110, a person shall not:

(a) Practice physical therapy; or

(b) Use in connection with the name of the person the words or letters, “P.T.”, “R.P.T.”, “L.P.T.”, “physical therapist”, “physiotherapist” or any other letters, words, abbreviations or insignia indicating that the person is a physical therapist, or purports to be a physical therapist.

(2) Unless a person holds a license as a physical therapist assistant, a person shall not:

(a) Practice as a physical therapist assistant; or

(b) Use in connection with the name of the person the words or letters, “L.P.T.A.”, “P.T.A.”, “physical therapist assistant”, “licensed physical therapist assistant”, or any other letters, words, abbreviations or insignia indicating that the person is a physical therapist assistant or purports to be a physical therapist assistant.

(3) Subsections (1) and (2) of this section do not apply to an individual who is authorized to practice as a physical therapist, or work as a physical therapist assistant, by compact privilege as defined in ORS 688.240. [1959 c.461 §2; 1965 c.314 §2; 1969 c.339 §2; 1971 c.585 §2; 1975 c.111 §2; 2016 c.13 §4]

688.030 Application of ORS 688.010 to 688.201. ORS 688.010 to 688.201 do not apply to:

(1) A person engaging in the domestic application of any activity included in the definition of the practice of physical therapy, if the person does not represent to anyone receiving services or to the public that the person is a physical therapist or a physical therapist assistant.

(2) A person using any procedure included in the practice of physical therapy if the procedure is within the scope of practice of the person and the person:

(a) Is licensed under a health care licensing law of this state; and

(b) Does not represent or imply that the person is a physical therapist or a physical therapist assistant.

(3) A person who is enrolled in an accredited physical therapy education program that leads to a degree as a physical therapist or a physical therapist assistant and who is satisfying supervised clinical education requirements under the direct supervision of a physical therapist.

(4) A person licensed in the practice of physical therapy in another jurisdiction who is, for a period not to exceed 60 days in each calendar year:

(a) Providing consultation from the other jurisdiction by means of telecommunications to a physical therapist in this state;

(b) Providing physical therapy services to an individual employed by or affiliated with a touring theater company, a performing arts company, an athletic team or an athletic organization; or

(c) Performing physical therapy while teaching or participating in an educational conference in this state. [1959 c.461 §3; 1965 c.314 §3; 1975 c.111 §3; 1987 c.726 §6; 2007 c.403 §2; 2013 c.79 §1]

688.035 Short title. ORS 688.010 to 688.201 may be cited as the Oregon Physical Therapy Practice Act. [2005 c.627 §2]

Note: See note under 688.015.

(Licensing)

688.040 Licensing procedure. (1) Any person desiring to be a licensed physical therapist or physical therapist assistant shall apply in writing to the Physical Therapist Licensing Board in the form and manner provided by the board by rule.

(2) Each application shall include or be accompanied by evidence, satisfactory to the board, that the applicant possesses the qualifications prescribed by ORS 688.050 for applicants for licensing as a physical therapist and ORS 688.055 for applicants for licensing as a physical therapist assistant.

(3) An applicant shall include with the application any application and examination fees prescribed by the board by rule.

(4) The board shall notify an applicant of any deficiencies in the application. [1959 c.461 §6; 1969 c.339 §3; 1971 c.585 §3; 1975 c.111 §4; 1995 c.79 §347; 2005 c.21 §7; 2005 c.627 §4a]

688.050 Qualifications of physical therapist; examination; rules. (1) Each applicant for a license as a physical therapist shall:

(a) Be at least 18 years of age.

(b) Be of good moral character as determined by the Physical Therapist Licensing Board.

(c)(A) Be a graduate of an accredited professional physical therapy education program approved by the board; or

(B) Have military experience or training that the board determines is substantially equivalent to the education required by subparagraph (A) of this paragraph.

(d) Pass to the satisfaction of the board an examination approved by the board to determine the fitness of the applicant to practice as a physical therapist or to be entitled to be licensed as provided in ORS 688.080. An applicant for licensure as a physical therapist who does not pass the examination on the first attempt may retake the examination as provided by rules adopted by the board.

(2) In addition to the requirements of subsection (1) of this section, an applicant for a license as a physical therapist who has been educated outside the United States shall:

(a) Provide evidence satisfactory to the board that the applicant's physical therapy education program is recognized or accredited and that the applicant's education is substantially equivalent to the education of physical therapists who graduated from accredited physical therapy education programs approved by the board. If the board determines that the education of an applicant who graduated from a physical therapy education program outside the United States is not substantially equivalent, the board may require the applicant to complete additional course work before the board proceeds with the application process.

(b) Obtain an evaluation of the applicant's educational credentials by a credentials evaluation agency approved by the board.

(c) Demonstrate proficiency in English if required by the board.

(d) Pass to the satisfaction of the board an examination approved by the board.

(3) If an applicant who has been educated outside the United States is a graduate of an accredited physical therapy education program approved by the board, the board may waive the requirements of subsection (2)(a) and (b) of this section. [1959 c.461 §5; 1971 c.585 §4; 1973 c.827 §73; 2005 c.627 §5; 2012 c.43 §15]

688.055 Qualifications of physical therapist assistant; examination. Each applicant for a license as a physical therapist assistant shall:

(1) Be at least 18 years of age.

(2) Be of good moral character as determined by the Physical Therapist Licensing Board.

(3) Be a graduate of an accredited physical therapist assistant education program approved by the board.

(4) Pass to the satisfaction of the board an examination approved by the board to determine the fitness of the applicant to work as a physical therapist assistant or to be entitled to be licensed as provided in ORS 688.080. An applicant for licensure as a physical therapist assistant who does not pass the examination on the first attempt may retake the examination as provided by rules adopted by the board. [1969 c.339 §5; 1971 c.585 §5; 1973 c.827 §74; 1975 c.111 §5; 2005 c.627 §6]

688.060 [1959 c.461 §4; 1969 c.339 §7; 1971 c.585 §6; 1975 c.111 §6; repealed by 1983 c.740 §251]

688.070 [1959 c.461 §7; 1969 c.339 §8; 1971 c.585 §7; 1975 c.526 §7; 1983 c.224 §1; repealed by 2005 c.627 §18]

688.080 Reciprocity; fee. (1) The Physical Therapist Licensing Board may license as a physical therapist or license as a physical therapist assistant, without examination, any person who:

(a) Applies for a license as provided in ORS 688.040;

(b) Is of good moral character as determined by the board; and

(c) On the date of making application, is a physical therapist or physical therapist assistant who has a valid unrestricted license from any other state or territory of the United States if the requirements for licensing of physical therapists or physical therapist assistants in the state or territory in which the applicant is licensed are substantially equivalent to Oregon's licensure requirements and the applicant passed to the satisfaction of the examiner of such state or territory a written examination that is approved by the board of this state.

(2) Each applicant under this section shall pay a fee to the board at the time of filing the application. [1959 c.461 §9; 1969 c.339 §9; 1971 c.585 §8; 1975 c.111 §7; 1975 c.526 §8; 1983 c.224 §1a; 2005 c.627 §7]

688.090 License; certificate. The Physical Therapist Licensing Board shall license as a physical therapist or a physical therapist assistant each applicant who proves to the satisfaction of the board fitness for such license as provided in ORS 688.010 to 688.201. The board shall issue a certificate to each person licensed. The certificate shall be prima facie evidence of the right of the person to whom it is issued to represent that person as a licensed physical therapist or physical therapist assistant, whichever certificate the person holds, subject to the provisions of ORS 688.010 to 688.201. [1959 c.461 §10; 1969 c.339 §10; 1971 c.585 §9; 1975 c.111 §8]

688.100 Renewals; rules; fee; lapse. (1) A person who is licensed as a physical therapist or physical therapist assistant shall renew the person's license pursuant to the rules of the Physical Therapist Licensing Board. A person who fails to renew the license on or before the expiration date specified by board rule may not practice as a physical therapist or work as a physical therapist assistant in this state until the lapsed license is renewed.

(2) The board may reinstate a lapsed license upon payment of all past renewal and delinquency fees.

(3) If a person's license has lapsed for more than five consecutive years, that person shall reapply for a license and pay all applicable fees. The person shall also demonstrate to the board's satisfaction competence to practice physical therapy, or shall serve an internship under a restricted license or take remedial or refresher courses, or both, at the discretion of the board. The board may also require the applicant to take an examination.

(4) A person who is licensed as a physical therapist or physical therapist assistant shall report to the board a name change or any change in business or residential address, electronic mail address or contact telephone number within 30 days after the date of change. [1959 c.461 §11; 1969 c.339 §11; 1971 c.585 §10; 1975 c.526 §9; 1983 c.224 §2; 2005 c.627 §8]

688.110 Temporary permit; fee. (1) The Physical Therapist Licensing Board, in its discretion, may issue without examination a temporary permit to a person to practice as a physical therapist or to work as a physical therapist assistant in this state if the person files an application for license as provided in ORS 688.040 or 688.080, and pays to the board at the time of filing the application the temporary permit fee.

(2) A person holding a temporary permit may practice physical therapy only under the direction of a physical therapist licensed under ORS 688.010 to 688.201.

(3) The temporary permit shall be granted for a period not to exceed three months. The board may renew the temporary permit at its discretion for no more than 90 days. [1959 c.461 §12; 1969 c.339 §12; 1971 c.585 §11; 1975 c.526 §10; 1983 c.224 §3; 1991 c.703 §31; 2005 c.627 §9; 2016 c.13 §5]

688.120 Fraudulent representations prohibited. A person may not obtain or attempt to obtain a license as a physical therapist or as a physical therapist assistant or a temporary permit under ORS 688.110 by any fraudulent representation. [1959 c.461 §13; 1969 c.339 §13; 1971 c.585 §12; 1975 c.111 §9; 2005 c.21 §8; 2005 c.627 §10]

688.125 Notice to patient of interest in physical therapy practice. In order to ensure that physical therapy treatment of a patient is based solely on the needs of a patient, any health care practitioner licensed by a health professional regulatory board as defined in ORS 676.160 who owns, in part or in whole, a physical therapy practice, or who employs a physical therapist, shall communicate the facts of that ownership or employment relationship to patients for whom physical therapy is prescribed and inform the patient that alternative sources of physical therapy treatment are available. [1987 c.726 §9; 2009 c.142 §5]

688.130 [1959 c.461 §16; 1965 c.314 §4; 1969 c.339 §14; 1971 c.585 §13; 1975 c.111 §10; 1983 c.224 §4; 1989 c.947 §1; 1991 c.381 §1; 1993 c.211 §1; 1999 c.539 §1; 1999 c.582 §15; repealed by 2005 c.627 §18]

688.132 Duty to refer person. (1) As used in this section, “provider of care” means a physician, chiropractic physician, podiatric physician and surgeon, naturopathic physician, dentist, physician assistant or nurse practitioner.

(2) A licensed physical therapist shall immediately refer a person being treated by the licensed physical therapist to a provider of care if the person exhibits symptoms:

(a) That require treatment or diagnosis by a provider of medical care;

(b) For which physical therapy is contraindicated;

(c) That the physical therapist does not know how to treat; or

(d) For which treatment is outside the scope of practice of physical therapy. [1993 c.211 §4; 1999 c.539 §2; 2001 c.104 §262; 2005 c.627 §11; 2007 c.403 §1; 2013 c.1 §89; 2013 c.80 §1; 2017 c.409 §32]

688.134 [1993 c.211 §7; 1997 c.408 §1; repealed by 2005 c.627 §18]

688.135 Duties and responsibilities of physical therapist. (1) A physical therapist licensed under ORS 688.010 to 688.201 shall:

(a) Be responsible for managing all aspects of the physical therapy care of each patient.

(b) Ensure the qualifications of all physical therapist assistants and physical therapist aides working under the direction and supervision of the physical therapist.

(c) Provide for each patient the therapeutic intervention that requires the expertise of a physical therapist and determine and supervise the use of physical therapist assistants or physical therapist aides to provide care that is safe, effective and efficient.

(2) Responsibility for patient care management shall include accurate documentation and billing of the physical therapy services provided. Information relating to the physical therapist-patient relationship is con-

fidential and a physical therapist shall comply with the laws and rules governing the use and disclosure of a patient’s protected health information as provided in ORS 192.553 to 192.581.

(3) Each physical therapist shall display a copy of the physical therapist’s license or current renewal verification in a location accessible to public view at the physical therapist’s place of practice or employment.

(4) A physical therapist may purchase, store and administer topical and aerosol medications as part of the practice of physical therapy as defined in ORS 688.010. A physical therapist shall comply with any rules adopted by the State Board of Pharmacy specifying protocols for storage of medications.

(5) A physical therapist shall adhere to the standards of ethics recognized by the physical therapy profession as further established by a nationally recognized professional organization of physical therapists and as further adopted by the board.

(6) A physical therapist shall disclose to a patient any direct financial interest in products that the physical therapist endorses and recommends to the patient at the time of such endorsement or recommendation. The disclosure shall be documented in the patient’s record.

(7) A physical therapist may provide compensable services to an injured worker only as authorized by ORS 656.250.

(8) Nothing in ORS 688.010 to 688.201 shall prohibit a physical therapist licensed under ORS 688.010 to 688.201 from accepting a referral from a veterinarian licensed under ORS chapter 686. The referral must be in writing and specify the treatment or therapy to be provided, pursuant to ORS 686.040 (4). A physical therapist practicing under this subsection shall be held to the standard of care for veterinarians set forth in ORS chapter 686.

(9) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a physical 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. [2005 c.627 §16; 2009 c.536 §24]

688.140 Grounds for discipline; sanctions; civil penalties. (1) The Physical Therapist Licensing Board, after notice and hearing as provided in ORS 688.145, may impose any or all of the following sanctions or take any of the following actions upon any of the grounds specified in subsection (2) of this section:

- (a) Refuse to license any applicant.
 - (b) Refuse to renew the license of any physical therapist or physical therapist assistant.
 - (c) Suspend or revoke the license of any physical therapist or physical therapist assistant.
 - (d) Suspend or revoke a temporary permit issued under ORS 688.110.
 - (e) Impose a civil penalty not to exceed \$5,000.
 - (f) Impose probation with authority to limit or restrict a license.
 - (g) Impose conditions, restrictions or limitations on practice.
 - (h) Issue letters of reprimand.
 - (i) Impose any other appropriate sanction, including assessment of the reasonable costs of a proceeding under ORS 688.145 as a civil penalty. Costs include, but are not limited to, the costs of investigation, attorney fees, hearing officer costs and the costs of discovery.
- (2) Grounds exist for the imposition of sanctions as specified in subsection (1) of this section when a person:
- (a) Violates any provision of ORS 688.010 to 688.201, board rules or a written order from the board.
 - (b) Practices or offers to practice beyond the scope of practice of physical therapy.
 - (c) Obtains or attempts to obtain or renew a license or temporary permit by fraud or misrepresentation.
 - (d) Provides substandard care as a physical therapist through a deliberate or negligent act or failure to act, regardless of whether injury to the patient occurs.
 - (e) Provides substandard care as a physical therapist assistant by exceeding the authority to perform components of physical therapy interventions selected by the supervising physical therapist or through a deliberate or negligent act or failure to act, regardless of whether injury to the patient occurs.
 - (f) Fails as a physical therapist to supervise physical therapist assistants in accordance with board rules.
 - (g) Fails as a physical therapist or physical therapist assistant to supervise physical therapist aides in accordance with board rules.
 - (h) Subject to the provisions of ORS 670.280, has been convicted of a crime in Oregon or any other state, territory or country. For purposes of this paragraph, conviction includes a verdict of guilty, a plea of guilty or a plea of no contest.
 - (i) Has an impairment as defined in ORS 676.303.
 - (j) Has had an application for licensure refused because of conduct or circumstances that would be grounds for sanctions by the board, or a license revoked or suspended, or other disciplinary action taken by the proper authorities of another state, territory or country.
 - (k) Engages in sexual misconduct. For purposes of this paragraph, sexual misconduct includes but is not limited to:
 - (A) Engaging in sexual conduct or soliciting a sexual relationship with a current patient, whether consensual or nonconsensual.
 - (B) Intentionally exposing or viewing a completely or partially disrobed patient in the course of treatment if the exposure or viewing is not related to patient diagnosis or treatment under current practice standards.
 - (L) Directly or indirectly requests, receives, pays or participates in dividing, transferring or assigning an unearned fee or profits by a means of a credit or other valuable consideration such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy services. This paragraph does not prohibit the members of any regularly and properly organized business entity recognized by law and comprised of physical therapists from dividing fees received for professional services among themselves as they determine.
 - (m) Fails to adhere to the standards of ethics of the physical therapy profession established by board rule.
 - (n) Obtains or attempts to obtain a fee for physical therapy services by fraud or misrepresentation.
 - (o) Makes misleading, deceptive or fraudulent representations in the course of providing physical therapy services.
 - (p) Fails to report to the board, when the person has direct knowledge of an unprofessional, incompetent or illegal act that reasonably appears to be in violation of ORS 688.010 to 688.201 or any rules of the board.
 - (q) Interferes with an investigation or disciplinary proceeding of the board.
 - (r) Aids or abets a person who is not licensed in this state to practice physical therapy.
 - (s) Fails to maintain adequate patient records.
 - (t) Fails to maintain patient confidentiality.
 - (u) Provides treatment intervention that is not warranted by the patient's condition

or continues treatment beyond the point of reasonable benefit to the patient.

(v) Provides physical therapy services or participates in physical therapy services solely for reasons of personal or institutional financial gain.

(w) Aids or causes another person, directly or indirectly, to violate ORS 688.010 to 688.201 or rules of the board, fraudulently uses or permits the use of a license number in any way, or acts with the intent to violate ORS 688.010 to 688.201 or rules of the board.

(3) To enforce the provisions of this section, the board is authorized to initiate an investigation and take the following actions:

(a) Receive complaints filed against persons and conduct timely investigations.

(b) Initiate its own investigation if the board has reason to believe that there may have been a violation of ORS 688.010 to 688.201.

(c) Issue a subpoena to compel the attendance of any witness or the production of any documentation relating to a matter under investigation. In addition to the board, the executive director or the executive director's designee may issue a subpoena. When the board, in the course of an investigation, requires the production of patient records for inspection and copying by subpoena, or otherwise, the records shall be produced without regard to whether patient consent has been obtained and without regard to any claim of confidentiality or privilege.

(d) Take the deposition of a witness, including a physical therapist or physical therapist assistant being investigated, in the manner provided by law in civil cases.

(e) Take emergency action to suspend a person's license or restrict the person's practice or employment pending proceedings by the board.

(f) Report to the appropriate district attorney all cases that, in the judgment of the board, warrant prosecution.

(g) Require a person to undergo a mental, physical, chemical dependency or competency evaluation at the person's expense when the board has objectively reasonable grounds to believe that the person is or may be unable to practice physical therapy with reasonable skill and safety, with the results being reported to the board. The report shall not be disclosed to the public but may be received into evidence in a proceeding between the board and the person when the mental, physical, chemical dependency or competency of the person is at issue, notwithstanding any claim of privilege by the person.

(4) If the board finds that the information received in a complaint or an investigation does not merit disciplinary action against a person, nondisciplinary actions may ensue. The board may then take the following actions:

(a) Dismiss the complaint.

(b) Issue a confidential advisory letter to the person that is nondisciplinary and that notifies the physical therapist or physical therapist assistant that certain conduct or practices must be modified or eliminated.

(5) The board may apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of ORS 688.010 to 688.201. Injunction proceedings are in addition to, and not in lieu of, penalties or other sanctions prescribed in ORS 688.010 to 688.201. [1959 c.461 §14; 1969 c.339 §15; 1971 c.585 §14; 1975 c.111 §11; 1979 c.744 §59; 1983 c.224 §5; 1985 c.41 §3; 1989 c.947 §2; 1993 c.211 §2; 1999 c.709 §1; 2005 c.627 §12; 2009 c.756 §66]

688.145 Discipline procedure; review of orders; confidential information. (1) When the Physical Therapist Licensing Board proposes to impose any of the sanctions authorized in ORS 688.140, opportunity for hearing shall be accorded as provided in ORS chapter 183.

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

(3) 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. [1971 c.734 §140; 1985 c.41 §4; 1997 c.791 §43]

688.150 [1959 c.461 §15; 1969 c.339 §16; 1971 c.585 §15; repealed by 1971 c.734 §21]

(State Board)

688.160 Physical Therapist Licensing Board; qualifications; terms; vacancies; duties; rules; fees; meetings; executive director. (1) The Physical Therapist Licensing Board operates as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010 to 688.201 and 688.990. The Physical Therapist Licensing Board consists of eight members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Five must be physical therapists who are Oregon residents, possess unrestricted licenses to practice physical therapy in this

state, have been practicing in this state for at least two years immediately preceding their appointments and have been practicing in the field of physical therapy for at least five years.

(b) One must be a licensed physical therapist assistant.

(c) Two must be public members who have an interest in consumer rights and who are not:

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

(B) The spouse, domestic partner, child, parent or sibling of a physical therapist or physical therapist assistant.

(2)(a) Board members required to be physical therapists or physical therapist assistants may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by the Oregon Physical Therapy Association.

(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 reappointment.

(b) In the event of a vacancy in the office of a member of the board other than by reason of the expiration of a term, the Governor, not later than 90 days after the occurrence of the vacancy, shall appoint a person to fill the vacancy for the unexpired term.

(c) 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;

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

(D) Is not a licensed physical therapist assistant or a retired physical therapist assistant who was a licensed physical therapist assistant in good standing at the time of retirement, if the board member was appointed to serve on the board as a retired physical therapist assistant.

(4) Each member of the board is 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) A board member who acts within the scope of board duties, without malice and in reasonable belief that the member's action is warranted by law, is immune from civil liability.

(6) The board shall have power to:

(a) Establish matters of policy affecting administration of ORS 688.010 to 688.201;

(b) Provide for examinations for physical therapists and physical therapist assistants and adopt passing scores for the examinations;

(c) Adopt rules necessary to carry out and enforce the provisions of ORS 688.010 to 688.201;

(d) Establish standards and tests to determine the qualifications of applicants for licenses to practice physical therapy in this state;

(e) Issue licenses to persons who meet the requirements of ORS 688.010 to 688.201;

(f) Adopt rules relating to the supervision and the duties of physical therapist aides who assist in performing routine work under supervision;

(g) Adopt rules establishing minimum continuing competency requirements for all licensees;

(h) Exercise general supervision over the practice of physical therapy within this state;

(i) Establish and collect fees for the application or examination for, or the renewal, reinstatement or duplication of, a license under ORS 688.040, 688.080 or 688.100 or for the issuance of a temporary permit under ORS 688.110; and

(j) Establish and collect fees to carry out and enforce the provisions of ORS 688.010 to 688.201.

(7) The board shall meet as determined by the board and at any other time at the call of the board chairperson, who shall be elected by the members of the board. All members have equal voting privileges.

(8) The board may appoint and fix the compensation of staff as necessary to carry out the operations of the board.

(9) The board shall:

(a) Maintain a current list of all persons regulated under ORS 688.010 to 688.201, including the persons' names, current business and residential addresses, telephone numbers,

electronic mail addresses and license numbers.

(b) Provide information to the public regarding the procedure for filing a complaint against a physical therapist or physical therapist assistant.

(c) Publish at least annually, and in a format or place determined by the board, final disciplinary actions taken against physical therapists and physical therapist assistants and other information, including rules, in order to guide physical therapists and physical therapist assistants regulated pursuant to ORS 688.010 to 688.201. [1959 c.461 §17; 1969 c.339 §17; 1971 c.585 §16; 1971 c.650 §38; 1973 c.792 §43; 1975 c.111 §12; 1985 c.41 §5; 1993 c.387 §1; 1999 c.1084 §26; 2005 c.627 §13; 2009 c.535 §26; 2009 c.756 §100; 2011 c.597 §282; 2016 c.13 §6]

688.170 [1959 c.461 §19; 1969 c.314 §88; 1971 c.585 §17; 1999 c.1084 §27; repealed by 2005 c.627 §18]

688.180 [1959 c.461 §20; 1969 c.339 §18; 1971 c.585 §18; 1975 c.111 §13; repealed by 2005 c.627 §18]

688.190 [1959 c.461 §21; 1969 c.339 §19; repealed by 1971 c.585 §23]

688.200 [1959 c.461 §24; 1961 c.593 §4; 1967 c.637 §33; 1971 c.585 §19; repealed by 1973 c.427 §33 (688.201 enacted in lieu of 688.200)]

688.201 Disposition of receipts. (1) All moneys received under ORS 688.010 to 688.201 shall be paid into an account established by the Physical Therapist Licensing Board under ORS 182.470. The board may establish an additional account under ORS 182.470 for the purpose of meeting financial obligations imposed on the State of Oregon as a result of this state's participation in the Physical Therapy Licensure Compact established under ORS 688.240.

(2) The moneys paid into the accounts established by the board under ORS 182.470 are continuously appropriated to the board and may be used only for the administration and enforcement of ORS 676.850, 676.860 and 688.010 to 688.201 and for the purpose of meeting financial obligations imposed on the State of Oregon as a result of this state's participation in the Physical Therapy Licensure Compact established under ORS 688.240. [1973 c.427 §34 (enacted in lieu of 688.200); 1999 c.1084 §28; 2013 c.240 §16; 2016 c.13 §§7,8; 2017 c.511 §11]

688.210 [1959 c.461 §23; 1969 c.339 §20; 1971 c.585 §20; 1975 c.111 §14; repealed by 2005 c.627 §18]

688.220 [1959 c.461 §22; 1971 c.585 §21; 1997 c.791 §44; 1999 c.59 §203; repealed by 2005 c.627 §18]

(Enforcement)

688.230 Report of suspected violation; confidentiality of report; liability of person reporting. (1) Any licensed health facility, licensed physical therapist, licensed physical therapist assistant, the Oregon Physical Therapy Association, physician licensed under ORS chapter 677 or dentist

shall, and any other person may, report suspected violations of ORS 688.010 to 688.201 to the Physical Therapist Licensing Board. The reports are confidential as provided under ORS 676.175.

(2) Any person who reports or provides information to the board under subsection (1) of this section and who provides information in good faith shall not be subject to an action for civil damages as a result thereof. [1985 c.41 §7; 1997 c.791 §45; 2013 c.129 §37]

688.235 [1989 c.843 §14; repealed by 2005 c.627 §18]

(Physical Therapy Licensure Compact)

688.240 Physical Therapy Licensure Compact. The provisions of the Physical Therapy Licensure Compact are as follows:

PHYSICAL THERAPY LICENSURE COMPACT

SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;
2. Enhance the states' ability to protect the public's health and safety;
3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;
4. Support spouses of relocating military members;
5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and
6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

1. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of

the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

2. “Adverse Action” means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

3. “Alternative Program” means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

4. “Compact privilege” means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

5. “Continuing competence” means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

6. “Data system” means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.

7. “Encumbered license” means a license that a physical therapy licensing board has limited in any way.

8. “Executive Board” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

9. “Home state” means the member state that is the licensee’s primary state of residence.

10. “Investigative information” means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

11. “Jurisprudence Requirement” means the assessment of an individual’s knowledge of the laws and rules governing the practice of physical therapy in a state.

12. “Licensee” means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

13. “Member state” means a state that has enacted the Compact.

14. “Party state” means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

15. “Physical therapist” means an individual who is licensed by a state to practice physical therapy.

16. “Physical therapist assistant” means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.

17. “Physical therapy,” “physical therapy practice,” and “the practice of physical therapy” mean the care and services provided by or under the direction and supervision of a licensed physical therapist. The “practice of physical therapy” also has the meaning given that term in ORS 688.010.

18. “Physical Therapy Compact Commission” or “Commission” means the national administrative body whose membership consists of all states that have enacted the Compact.

19. “Physical therapy licensing board” or “licensing board” means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

20. “Remote State” means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

21. “Rule” means a regulation, principle, or directive promulgated by the Commission that has the force of law.

22. “State” means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a state must:

1. Participate fully in the Commission’s data system, including using the Commission’s unique identifier as defined in rules;

2. Have a mechanism in place for receiving and investigating complaints about licensees;

3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3.B.4.;

5. Comply with the rules of the Commission;

6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and

7. Have continuing competence requirements as a condition for license renewal.

B. Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. §534 and 42 U.S.C. §14616.

C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.

D. Member states may charge a fee for granting a compact privilege.

SECTION 4. COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

1. Hold a license in the home state;
2. Have no encumbrance on any state license;
3. Be eligible for a compact privilege in any member state in accordance with Section 4D, G and H;
4. Have not had any adverse action against any license or compact privilege within the previous 2 years;
5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);
6. Pay any applicable fees, including any state fee, for the compact privilege;
7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

8. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of Section 4A to maintain the compact privilege in the remote state.

C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's

laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and
2. Two years have elapsed from the date of the adverse action.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4A to obtain a compact privilege in any remote state.

G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;
2. All fines have been paid; and
3. Two years have elapsed from the date of the adverse action.

H. Once the requirements of Section 4G have been met, the license must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

- A. Home of record;
 - B. Permanent Change of Station (PCS);
- or
- C. State of current residence if it is different than the PCS state or home of record.

SECTION 6. ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.

B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

C. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if re-

quired by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

E. A remote state shall have the authority to:

1. Take adverse actions as set forth in Section 4D against a licensee's compact privilege in the state;

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

F. Joint Investigations

1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one (1) delegate selected by that member state's licensing board.

2. The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring in the Commission.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Board; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.

D. The Executive Board

The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be comprised of nine members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex-officio, nonvoting member from the recognized national physical therapy professional association; and

c. One ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

2. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Board as provided in bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following Duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 9.

2. The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the

funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

6. An assessment levied, or any other financial obligation imposed, under this Compact is effective against the State of Oregon only to the extent that moneys necessary to pay the assessment or meet the financial obligations have been deposited in an account established under ORS 182.470 by the Physical Therapist Licensing Board pursuant to ORS 688.201.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 8. DATA SYSTEM

A. 1. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

2. Notwithstanding Section 9.A.1., the Physical Therapist Licensing Board shall review the rules of the Commission. The licensing board may approve and adopt the rules of the Commission as rules of the licensing board. The State of Oregon is subject to a rule of the Commission only if the rule of the Commission is adopted by the licensing board.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or compact privilege;
4. Non-confidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason(s) for such denial; and
6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state will only be available to other party states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Member states contributing information to the data system may designate infor-

mation that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 9. RULEMAKING

A. 1. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

2. Notwithstanding Section 9.A.1., the Physical Therapist Licensing Board shall review the rules of the Commission. The licensing board may approve and adopt the rules of the Commission as rules of the licensing board. The State of Oregon is subject to a rule of the Commission only if the rule of the Commission is adopted by the licensing board.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and
2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the Commission

of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;
2. A state or federal governmental subdivision or agency; or
3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider

and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or member state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder and adopted by the Physical Therapist Licensing Board shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure

to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among

member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include injunctive relief. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to

comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 12. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

[2016 c.13 §1]

MEDICAL IMAGING PRACTITIONERS AND LIMITED X-RAY MACHINE OPERATORS

(Generally)

688.405 Definitions for ORS 688.405 to 688.605. As used in ORS 688.405 to 688.605:

(1) “Actively engaged” means:

(a) Practicing medical imaging;

(b) Supervising or providing administrative services for medical imaging licensees, or students or trainees learning a medical imaging modality, at an institution that provides medical imaging services;

(c) Teaching, providing instruction for or administering a medical imaging program at an institution recognized by the Board of Medical Imaging as an educational institution; or

(d) Having retired from the practice of medical imaging, provided that the retired

medical imaging licensee has not been retired for more than six years and was in good standing with the board at the time of retirement.

(2) “Approved school” means a school accredited in one of the medical imaging modalities or subspecialties by a national post-secondary accreditation body and whose graduates are qualified to sit for a credentialing examination recognized by the board in the graduate’s medical imaging modality or subspecialty.

(3) “Clinical instructor” means an individual assigned to supervise students in a clinical setting who is:

(a) A licensed physician who routinely supervises the medical imaging modality being studied by a student; or

(b) An individual licensed by the board and credentialed by a credentialing organization in the medical imaging modality being studied by a student.

(4) “Credential” means the recognition awarded to an individual who meets the requirements of a credentialing organization.

(5) “Credentialing organization” means a nationally recognized organization that issues credentials through testing or evaluations that determine that a person meets defined standards for training and competence in a medical imaging modality.

(6) “Diagnostic medical sonography” means the use of nonionizing high frequency sound waves with specialized equipment to direct the sound waves into areas of the human body to generate images for the assessment and diagnosis of various medical conditions.

(7) “Graduate” means an individual who has completed the didactic and clinical education at an approved school, including documented clinical proficiency, but who has not met all requirements for credentialing by a credentialing organization.

(8) “Hybrid imaging or radiation therapy equipment” means equipment that combines more than one medical imaging modality into a single device.

(9)(a) “Ionizing radiation” means alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons or other particles capable of producing ions.

(b) “Ionizing radiation” does not include nonionizing radiation.

(10) “License” means a license issued by the board to practice one or more of the medical imaging modalities.

(11) “Licensed nurse practitioner” means a nurse practitioner licensed in Oregon.

(12) “Licensed physician” means a physician or surgeon licensed in Oregon.

(13) “Licensed physician assistant” means a physician assistant licensed in Oregon.

(14) “Limited X-ray machine operator” means a person who performs diagnostic X-ray procedures under the supervision of a licensed physician, licensed nurse practitioner or licensed physician assistant using equipment that emits external ionizing radiation resulting in diagnostic radiographic images that are limited to select human anatomical sites.

(15) “Limited X-ray machine operator course of study” means a board-approved set of didactic and clinical experience elements designed to prepare a person for gaining practical experience and for passing the limited X-ray machine operator examination.

(16) “Magnetic resonance imaging” means the process by which certain nuclei, when placed in a magnetic field, absorb and release energy in the form of radio waves that are analyzed by a computer thereby producing an image of human anatomy and physiological information.

(17)(a) “Medical imaging” means the use of specialized equipment for the production of visual representations of human anatomy, tissues or organs.

(b) “Medical imaging” includes but is not limited to X-ray, single photon emission, positron emission technology, ultrasound, magnetic fields, visible light and radio waves.

(18) “Medical imaging licensee” means a person other than a limited X-ray machine operator who holds a valid license and operates medical imaging equipment for diagnostic or therapeutic purposes under the supervision of a licensed physician.

(19) “Medical imaging modality” means:

(a) Diagnostic medical sonography and all its subspecialties;

(b) Magnetic resonance imaging and all its subspecialties;

(c) Nuclear medicine technology and all its subspecialties;

(d) Radiation therapy and all its subspecialties; or

(e) Radiography and all its subspecialties.

(20) “Nonionizing radiation” includes radiation such as radiofrequency or microwaves, visible, infrared or ultraviolet light or ultrasound.

(21) “Nuclear medicine technology” means the specialized equipment that measures radiation emitted by radionuclides, including counters and cameras that form medical images for interpretation by a physi-

cian, or assists in therapeutic use of radionuclides.

(22) “Radiation therapy” means the use of ionizing radiation on a human being for therapeutic purposes.

(23) “Radiographer” means a person other than a licensed physician who performs a comprehensive set of diagnostic radiographic procedures under the supervision of a licensed physician using external ionizing radiation to produce radiographic, fluoroscopic or digital images.

(24) “Radiography” means the use of ionizing radiation to produce radiographic, fluoroscopic or digital images of human anatomy for diagnostic purposes.

(25) “Radiologist” means a person licensed to practice medicine in the State of Oregon who is certified by or board eligible for certification by the American Board of Radiology, the American Osteopathic Association, the Royal College of Radiologists or the Royal College of Physicians and Surgeons of Canada.

(26) “Student” means an individual enrolled in:

(a) An approved school; or

(b) A limited X-ray machine operator course of study.

(27) “Supervision” means the act of monitoring and reviewing the performance of medical imaging licensees or limited X-ray machine operators through regular inspections of work produced, regardless of whether the supervising individual is continuously physically present during the use of medical imaging equipment or X-ray equipment. [1977 c.534 §2; 1981 c.603 §6; 1999 c.517 §1; 2009 c.833 §1; 2011 c.9 §86; 2013 c.87 §1; 2015 c.385 §2]

688.415 License or permit requirement; prohibited acts. (1) A person may not:

(a) Practice a medical imaging modality or purport to be a medical imaging licensee unless the person is licensed in accordance with the provisions of ORS 688.405 to 688.605;

(b) Operate an X-ray machine as described in ORS 688.515 (1) and (2) or purport to be a limited X-ray machine operator unless the person holds a valid limited X-ray machine operator permit in accordance with the provisions of ORS 688.405 to 688.605;

(c) Practice any medical imaging modality or as a limited X-ray machine operator under a false or assumed name;

(d) Knowingly employ a person for the purpose of practicing a medical imaging modality or as a limited X-ray machine operator if the person is not licensed or does not

hold a valid permit in accordance with the provisions of ORS 688.405 to 688.605;

(e) Obtain or attempt to obtain a license or permit or a renewal of a license or permit by bribery or fraudulent representation;

(f) Knowingly make a false statement on an application for a license or permit or a renewal for a license or permit; or

(g) Perform a medical imaging procedure on a person unless the procedure:

(A) Serves a medical purpose;

(B) Is ordered by a health care practitioner who is licensed to practice a profession in this state and who is acting within the scope of the licensee's authority, as determined by the agency that licensed the licensee, to order the medical imaging procedure; and

(C) Is interpreted by a health care practitioner who is licensed to practice a profession in this state and who is acting within the scope of the licensee's authority, as determined by the agency that licensed the licensee, to interpret the medical imaging procedure.

(2) Subsection (1)(g) of this section does not apply to screening mammography. As used in this subsection, "screening mammography" means a radiologic procedure performed on a woman for the early detection of breast cancer. [1977 c.534 §§4(3),20; 2009 c.833 §2; 2012 c.1 §4; 2013 c.87 §2; 2014 c.63 §3]

688.425 Licensed persons may use title. (1) A person licensed in one of the medical imaging modalities in accordance with the provisions of ORS 688.405 to 688.605 may use the identifying titles and initials of the person's credentialing organization.

(2) A person who holds a permit as a limited X-ray machine operator issued under ORS 688.515 may use the title of "Limited X-ray Machine Operator" or the letters "LXMO."

(3) A person may not use credential titles, abbreviations of credential titles or initials resembling credential titles unless the person is authorized as provided in this section. [1977 c.534 §18; 2009 c.833 §3]

688.435 Application of ORS 688.405 to 688.605. The provisions of ORS 688.405 to 688.605 do not apply to the following persons:

(1) Persons who operate dental X-ray equipment for the sole purpose of oral radiography.

(2) Students in approved schools, while practicing one of the medical imaging modalities or subspecialties under the supervision of the school's assigned clinical instructor.

(3) Specific licensed health care providers, other than physicians, who use sonographic equipment within their lawful scope of practice.

(4) Licensed physicians.

(5) Persons who use radiation for the purpose of research or education. As used in this subsection:

(a) "Education" means a program of study or training:

(A) In which a student, trainee or health care practitioner learns to practice or improve skills for a profession regulated by a health professional regulatory board, as defined in ORS 676.160; and

(B)(i) That is accredited by a national or regional post-secondary accrediting body or organization; or

(ii) That is approved or recognized by a health professional regulatory board, as defined in ORS 676.160, for purposes related to being authorized to practice a profession.

(b) "Research" means systematic investigation, including research development, testing and evaluation, designed to develop or contribute to general knowledge and that has been approved by an institutional review board that provides for the protection of human research subjects in accordance with federal regulations.

(6) Persons who use sonographic equipment for the sole purpose of ophthalmic sonography. [1977 c.534 §15; 1979 c.449 §3; 1981 c.603 §5; 1993 c.247 §2; 1999 c.517 §2; 2009 c.833 §4; 2013 c.87 §3; 2017 c.13 §1]

(Licensing)

688.445 Licensing and renewal procedure; modalities; fees. (1) The Board of Medical Imaging shall issue:

(a) A license to practice a specified medical imaging modality in the State of Oregon to each person who meets the qualifications for a license as provided in ORS 688.455. The license shall identify the modality or subspecialty for which the qualifications have been met.

(b)(A) A permit to practice as a limited X-ray machine operator in the State of Oregon to each person who meets the qualifications to hold that permit as provided in ORS 688.515. The permit shall identify the category for which the qualifications have been met.

(B) The categories are skull and sinuses, spine, chest, extremities, podiatric and bone densitometry.

(2) In order to remain active, a license or permit must be renewed every two years prior to the first day of the licensee's birth

month or as otherwise provided by the board by rule.

(3) A license or permit that is not renewed as provided in subsection (2) of this section expires. The board may renew an expired license or permit upon payment of a delinquent fee in an amount set by the board plus the biennial renewal fee.

(a) A late renewal may not be granted more than two years after a license or permit has expired.

(b) A late renewal may not be granted to any medical imaging licensee not credentialed by a credentialing organization.

(4) The board shall renew the license or permit of a person who meets the requirements under ORS 688.455 or 688.515 upon receipt of:

(a) An application accompanied by a fee in an amount established by the board; and

(b) Supporting evidence of appropriate continuing education as defined by the board by rule.

(5) A license or permit that has been expired for more than two years may be reissued only in the manner prescribed for an original license or permit. [1977 c.534 §5; 1979 c.443 §1; 1989 c.214 §1; 1997 c.106 §1; 1997 c.367 §1; 1999 c.517 §3; 2005 c.151 §1; 2009 c.833 §5]

688.455 License fee; general qualifications. (1) The Board of Medical Imaging shall issue a license to a person to practice a medical imaging modality if the person makes an application in writing and pays a fee in an amount established by the board and if the person, at the time of application:

(a) Is at least 18 years of age;

(b) Satisfies one of the following requirements:

(A) Holds a credential issued by a credentialing organization in a medical imaging modality recognized by the board or provides the board with documentation of military training or experience that the board determines is substantially equivalent to the credentialing requirements;

(B) No later than December 31, 2010, passed the examination of the American Registry of Radiologic Technologists after being sponsored for the examination by the State of Oregon;

(C) Was initially licensed by the Board of Radiologic Technology before 1980 and held an active license from the Board of Medical Imaging on July 1, 2010; or

(D) Meets the requirements for licensing under ORS 688.495;

(c) Has undergone a background check to the satisfaction of the board as established in rules adopted by the board;

(d) Has not had a license of any type revoked by this state or any state, territory of the United States or nation;

(e) Has not had a credential revoked by any credentialing organization; and

(f) Meets the standards of ethical conduct established in the professional standards of the corresponding credentialing organization or a medical imaging modality's professional society.

(2) All applicants for a license are subject to the examination policies of their respective credentialing organizations.

(3)(a) The board may consider issuing a new license to a person whose revoked credential has been reinstated by a credentialing organization or whose license of any type has been reinstated by another state.

(b) The board shall consider issuing a new license under this subsection on a case-by-case basis and shall adopt rules governing issuance of a new license. [1977 c.534 §6; 1979 c.443 §2; 1991 c.535 §1; 1997 c.367 §2; 2009 c.833 §§6,7; 2012 c.1 §2; 2012 c.43 §§17b,17c]

688.460 Exemption from certain licensure requirements. (1) The Board of Medical Imaging may waive the requirements listed in ORS 688.455 (1)(b) for an individual who:

(a) Has substantial experience, as determined by the board, practicing the medical imaging modality for which the waiver is sought; and

(b) Performs that medical imaging modality as an employee of, or under a contract with, a rural hospital, as defined in ORS 442.470.

(2) An individual who seeks a waiver under subsection (1) of this section must demonstrate to the board that enforcement of ORS 688.455 (1)(b) would result in the substantial shortage of the availability of the medical imaging modality for which the waiver is sought.

(3) The board may condition the issuance of a waiver under subsection (1) of this section by prescribing the terms of the waiver, including the duration of the waiver and any supervisory requirements that the board deems necessary for the individual to practice the medical imaging modality for which the waiver is sought. Additionally, the board may condition the issuance of a waiver upon passage of an examination, administered by a credentialing organization, in a medical imaging modality recognized by the board, with enrollment for the examination authorized through state sponsorship. [2014 c.63 §2]

Note: 688.460 was added to and made a part of 688.405 to 688.605 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

688.465 [1977 c.534 §7; 1981 c.603 §1; 1999 c.517 §4; 2005 c.151 §2; repealed by 2009 c.833 §32]

688.475 [1977 c.534 §8; 1981 c.603 §2; 1999 c.517 §5; 2005 c.151 §3; repealed by 2009 c.833 §32]

688.480 Qualifications of operators of certain equipment. Persons who operate hybrid imaging or radiation therapy equipment incorporating more than one medical imaging modality shall:

(1) Hold a primary credential in at least one of the modalities in use.

(2) Be a medical imaging licensee in at least one of the modalities in use and have a restricted license in all other modalities incorporated into the hybrid imaging or radiation therapy equipment in accordance with rules adopted by the Board of Medical Imaging. [1979 c.449 §6; 2005 c.151 §4; 2009 c.833 §8]

688.485 Examinations; fees. (1) The Board of Medical Imaging shall oversee examinations given each year for a limited X-ray machine operator permit.

(2) A limited X-ray machine operator permit applicant who fails to pass an examination may take additional examinations as required by the board by rule.

(3) The board shall charge a fee for oversight of limited X-ray machine operator permit examinations in an amount determined by the board by rule.

(4) All limited X-ray machine operator permit applicants are subject to the rules of a board-approved testing agency including, but not limited to, testing schedules and frequency, fees, application procedures and conduct. [1977 c.534 §11; 2009 c.833 §9]

688.495 Licensing of radiographer without examination. The Board of Medical Imaging may license as a radiographer, without examination, any person who:

(1) Applies for a license as provided in ORS 688.455; and

(2) On the date of making application is a radiographer under the laws of any other state, territory of the United States or nation, if the requirements for licensure in that state, territory or nation are not less stringent than those required under ORS 688.405 to 688.605 and the applicant passed a written examination in that state, territory or nation that is comparable to the examination required in this state for the category or categories for which licensure is sought. [1977 c.534 §10; 1981 c.603 §3; 2009 c.833 §10]

688.505 Evidence of continuing education on renewal. (1) At the time a biennial renewal fee is submitted, the Board of Medical Imaging shall require each licensee and permittee to submit evidence of continuing education pertinent to the license or permit.

(2) A holder of a limited X-ray machine operator permit shall submit evidence of satisfying the number of hours of continuing education as established by the board by rule.

(3) A holder of a license may submit evidence of a current credential issued by the credentialing organization if that organization requires continuing education for renewal of those credentials.

(4) A holder of a license with a credential from a credentialing organization that does not require continuing education for renewal shall submit evidence of continuing education equal to other medical imaging licensees as required by rule of the board. [1977 c.534 §12; 1985 c.325 §1; 1989 c.214 §2; 1999 c.517 §6; 2009 c.833 §11]

688.510 Certificate to practice fluoroscopy; fees; rules; discipline. (1) As used in this section:

(a) “Fluoroscopy” means a technique for generating X-ray images and for presenting the X-ray images simultaneously and continuously as a visible image.

(b) “Physician assistant” means a physician assistant licensed under ORS 677.505 to 677.525.

(c) “Supervising physician” means a physician licensed under ORS chapter 677 who has entered into a practice agreement with a physician assistant as described in ORS 677.510.

(d) “To practice fluoroscopy” means to initiate the generation of X-rays and to acquire visible images for the purpose of medical diagnosis.

(2) Except as provided in subsection (7) of this section, a physician assistant may not practice fluoroscopy on a person unless the physician assistant:

(a) Holds an active certificate issued by the Board of Medical Imaging under this section;

(b) Operates fluoroscopic X-ray equipment in compliance with this section and rules adopted by the board under this section; and

(c) Fluoroscopy is among the medical duties delegated to the physician assistant pursuant to a practice agreement described in ORS 677.510.

(3) The board shall issue a certificate to practice fluoroscopy to a physician assistant who:

(a) Completes a fluoroscopy education program approved by the board;

(b) Submits an examination application to the board in a form and manner prescribed by the board;

(c) Pays an examination fee established by the board by rule;

(d) Passes an examination on fluoroscopy approved by the board;

(e) Submits a certificate application to the board in a form and manner prescribed by the board;

(f) Pays a certificate application fee established by the board by rule; and

(g) Meets the standards of ethical and professional conduct established by a credentialing organization or professional society related to the practice of medical imaging.

(4) The board shall renew the certificate to practice fluoroscopy of a physician assistant who:

(a) Submits a renewal application to the board in a form and manner prescribed by the board;

(b) Pays a renewal fee established by the board by rule; and

(c) Completes continuing education requirements approved by the board.

(5) A supervising physician may delegate fluoroscopy procedures only to a physician assistant who holds a certificate issued pursuant to this section.

(6)(a) A physician assistant who holds a certificate issued pursuant to this section may practice fluoroscopy only as authorized by this section.

(b) A physician assistant may practice fluoroscopy only if:

(A) The supervising physician with whom the physician assistant has entered into a practice agreement is in the room where the fluoroscopic procedure is taking place at the time that the procedure is taking place; or

(B) The supervising physician with whom the physician assistant has entered into a practice agreement is in the building where the fluoroscopic procedure is taking place and a medical imaging licensee who specializes in the medical imaging modality of radiography is in the room where the procedure is taking place at the time that the procedure is taking place.

(c) The board may adopt by rule an exception to the requirements of paragraph (b) of this subsection if the board determines that the exception does not create a risk of harm to the public health and safety.

(7) A physician assistant may practice fluoroscopy before being issued a certificate under this section for the purpose of completing a fluoroscopy training program. A physician assistant must be supervised, as determined by the board by rule, when practicing fluoroscopy under this subsection.

(8) Subject to the provisions of ORS chapter 183, the board may refuse to issue or renew a certificate under this section or may suspend or revoke a certificate under this section if the applicant or certificate holder violates a provision of this section or any rule adopted by the board under this section. [2015 c.62 §2]

Note: 688.510 was added to and made a part of 688.405 to 688.605 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

688.515 Limited X-ray machine operator permit; fees; qualifications; rules. (1) The Board of Medical Imaging shall issue a limited X-ray machine operator permit to an applicant to practice under the supervision of a licensed physician, a licensed nurse practitioner or a licensed physician assistant if the applicant meets the requirements as provided in this section. A limited X-ray machine operator permit shall state the category or categories for which the applicant has demonstrated competence and shall be limited to one of the categories listed below or as established by the board by rule:

(a) Skull and sinuses;

(b) Spine;

(c) Chest;

(d) Extremities;

(e) Podiatric; or

(f) Bone densitometry.

(2) Limited X-ray machine operator permits may not be issued for fluoroscopy, bony thorax studies, abdominal studies, contrast studies or special head studies such as tomography, radiation therapy or any of the other medical imaging modalities or subspecialties other than the categories listed in subsection (1) of this section or as established by the board by rule.

(3) Each applicant for a limited X-ray machine operator permit shall:

(a) Make an application in writing;

(b) Pay an application fee in an amount set by the board;

(c) Be at least 18 years of age;

(d) Have successfully passed a board-approved course of instruction in radiation use and safety consisting of the number of hours of instruction required by the board by rule;

(e) Have successfully completed a course of instruction approved by the board and taught by a board-approved, licensed radiographer in laboratory practice specific to each category for which the applicant seeks a limited X-ray machine operator permit, with the instructor's certifying to the

board that the applicant has completed the course in those categories applied for;

(f) Have successfully completed a practical experience program approved by the board, specific to each category for which the applicant seeks a limited X-ray machine operator permit. Such program shall include operation of an energized X-ray machine under the supervision of a radiographer;

(g) Have paid the examination fee set by board rule to reflect the actual cost of the examination;

(h) Have successfully passed an examination approved by the board in the core module as defined in rules adopted by the board, and in those categories in which the applicant seeks a limited X-ray machine operator permit;

(i) Have undergone a background check to the satisfaction of the board as established in rules adopted by the board;

(j) Not have had any type of license or permit revoked by this state or any state, territory of the United States or nation; and

(k) Meet the standards of ethical conduct established in the professional standards of a credentialing organization or a medical imaging modality's professional society.

(4) Upon meeting the requirements of this section, the board shall issue a limited X-ray machine operator permit to the applicant. The limited X-ray machine operator permit is subject to the renewal procedures described in ORS 688.445.

(5) Every person issued a limited X-ray machine operator permit shall notify the board in writing of the name of each licensed physician, licensed nurse practitioner or licensed physician assistant supervising the person's performance of diagnostic radiography and may only perform diagnostic radiography while being supervised by a licensed physician, licensed nurse practitioner or licensed physician assistant. In the event the person subsequently is supervised by a licensed physician, licensed nurse practitioner or licensed physician assistant other than the physician, nurse practitioner or physician assistant whose name was initially furnished to the board, the person shall immediately notify the board in writing.

(6) Limited X-ray machine operators must meet the standards of ethical conduct equal to those of a licensed radiographer. [1977 c.534 §14; 1979 c.443 §4; 1979 c.449 §1; 1981 c.603 §4; 1985 c.325 §2; 1989 c.214 §3; 1989 c.337 §1; 1991 c.535 §2; 1993 c.247 §3; 1995 c.124 §1; 1997 c.106 §2; 1997 c.367 §3; 1999 c.517 §7; 1999 c.522 §1; 2009 c.833 §12; 2011 c.9 §87]

688.517 Bone densitometry certificate; fees; rules. (1) The Board of Medical Imaging may issue a limited permit in bone densitometry to an individual who is certified

in bone densitometry by the International Society for Clinical Densitometry, its successor agency or another agency approved by the board, and who meets the requirements established by the board by rule.

(2) The board may issue a temporary permit in bone densitometry to an individual to allow the individual to complete the clinical requirements necessary for certification in bone densitometry by the International Society for Clinical Densitometry, its successor agency or other agency approved by the board. The individual must meet the requirements established by the board by rule.

(3) The board shall adopt rules regarding the permits described in this section. The rules shall establish:

- (a) An application process;
- (b) Procedures for issuance of the permits;
- (c) Fees;
- (d) Continuing education requirements;
- (e) Renewal procedures; and
- (f) Other criteria that the board determines necessary. [2017 c.13 §5]

Note: 688.517 was added to and made a part of 688.405 to 688.605 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

688.520 Inactive licenses and permits; licenses and permits for periods other than 24 months. (1) The Board of Medical Imaging may grant inactive status to a person who holds a license or a limited X-ray machine operator permit who notifies the board of the person's:

- (a) Intent not to practice a medical imaging modality or subspecialty or as a limited X-ray machine operator; and
- (b) Desire to retain the right to reinstate the license or permit subject to board rules.

(2) Only medical imaging licensees who hold a credential issued by a credentialing organization or limited X-ray machine operators in good standing may retain the right to reinstate an inactive license.

(3) The board may, in certain disciplinary circumstances, issue a provisional license or provisional permit that identifies:

- (a) The specific provisions of the license and terms of converting the license from provisional status to active status;
- (b) The length of issuance; and
- (c) The specific issues that resulted in provisional status.

(4) The board may issue a restricted license for the purpose of performing hybrid imaging using a modality for which the medical imaging licensee does not hold either a primary or secondary credential if:

(a) The person holds a credential in one or more of the medical imaging modalities or subspecialties; and

(b) Receives appropriate training in the limited aspects of the other modality as required by the board by rule.

(5) The board may issue an additional license to a person who:

(a) Holds a license issued by the board in one of the primary medical imaging modalities;

(b) Holds and continues to maintain a primary credential issued by a credentialing organization recognized by the board in one of the primary medical imaging modalities; and

(c) Holds and continues to maintain an additional credential issued by a credentialing organization recognized by the board in the secondary medical imaging modality for which a license is sought.

(6)(a) The board may issue a student license to a person enrolled in an approved school for the purpose of allowing the person to complete clinical training requirements.

(b) An applicant for a student license must meet the requirements of ORS 688.455 (1)(a) and (c) to (f).

(c) The board shall process student applications and shall issue student licenses at reduced fees as provided in rules adopted by the board.

(d) A student license is valid only while the student is enrolled in an approved school.

(7)(a) The board may issue a temporary license or permit upon satisfactory application and payment of a registration fee established by the board by rule.

(b) Medical imaging license applicants, students and graduates may be issued temporary licenses pertaining to a specific modality or subspecialty without examination for a limited time period as determined by the board by rule.

(c) Limited X-ray machine operator permit applicants may be issued temporary permits for the purpose of completing clinical education requirements under the supervision of a licensed physician:

(A) Upon successful completion of the core module examination;

(B) For an initial period of six months; and

(C) For a single six-month renewal period, at the discretion of the board.

(8) The board may issue licenses and permits for periods other than 24 months. The fee for a license or permit issued for any

period other than 24 months shall be prorated on a monthly basis. [1991 c.535 §4; 1997 c.106 §3; 2009 c.833 §13; 2012 c.1 §5]

688.525 Grounds for discipline; investigation of complaints; confidential information. (1) The Board of Medical Imaging, after notice of and hearing as required under the contested case procedures of ORS chapter 183, may refuse to issue a license or permit to any applicant, may refuse to renew the license of any medical imaging licensee or the permit of a limited X-ray machine operator or may suspend or revoke the license or permit of a person who:

(a) Has been disciplined by a credentialing organization or a licensing board in this state or in another state, territory of the United States or nation for acts by the holder of a license or a permit that are similar to acts described in this subsection. A certified copy of the order of discipline constitutes conclusive evidence of the discipline.

(b) Has an impairment as defined in ORS 676.303.

(c) In the judgment of the board is guilty of unethical or unprofessional conduct in the practice of a medical imaging modality or as a limited X-ray machine operator.

(d) Has been convicted of any crime that bears a demonstrable relationship to the practice of a medical imaging modality or as a limited X-ray machine operator, or otherwise reflects adversely on fitness to practice.

(e) In the judgment of the board, has acted with gross negligence in the practice of a medical imaging modality or as a limited X-ray machine operator.

(f) Has undertaken to act as a medical imaging licensee independently of the supervision of a licensed physician, or has undertaken to act as a limited X-ray machine operator independently of the supervision of a licensed physician, licensed nurse practitioner or licensed physician assistant.

(g) Has obtained or attempted to obtain a license or permit under ORS 688.405 to 688.605 by fraud or material misrepresentation.

(2) Upon receipt of a complaint under ORS 688.405 to 688.605, the board shall conduct an investigation as described under ORS 676.165.

(3) Information that the board obtains as part of an investigation into licensee, permittee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee, permittee or applicant conduct is confidential as provided under ORS 676.175. [1977 c.534 §28; 1979 c.744 §60; 1993 c.247 §4; 1997 c.791 §46; 1999 c.517 §8; 2009 c.756 §68; 2009 c.833 §14; 2011 c.9 §88]

(State Board)

688.545 Board of Medical Imaging; qualifications; advisory member; term; compensation and expenses; officers; meetings; quorum; rules. (1)(a) There is created the Board of Medical Imaging. The board consists of 12 members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Each member of the board must be a resident of this state. Of the members of the board:

(A) One must be a licensed physician who is in good standing and who is a radiologist;

(B) Three must be licensed physicians who are in good standing and who apply to serve on the board in a form and manner prescribed by the board;

(C) Five must be actively engaged medical imaging licensees, including one from each of the medical imaging modalities listed in ORS 688.405; and

(D) Three must be members of the public.

(b) If the Board of Medical Imaging does not receive a sufficient number of applications to fill the positions described in paragraph (a)(B) of this subsection, the Governor may appoint the remaining board members from applicants who have been retired for not more than six years and:

(A) Who are registered with the Oregon Medical Board as retired emeritus physicians; or

(B) Who provided the Oregon Medical Board with notice of retirement in accordance with ORS 677.175 and were in good standing with the Oregon Medical Board at the time of retirement.

(c) If the Board of Medical Imaging does not receive a sufficient number of applications to fill the positions described in paragraphs (a)(B) and (b) of this subsection, the Governor may appoint the remaining board members from among any combination of the following:

(A) A chiropractic physician licensed under ORS chapter 684 who is certified by the American Chiropractic Board of Radiology as a Diplomate of the American Chiropractic Board of Radiology;

(B) An actively engaged medical imaging licensee;

(C) A limited X-ray machine operator who holds a permit issued under ORS 688.515; or

(D) A member of the public.

(d) A public member appointed under this subsection may not be:

(A) Otherwise eligible for appointment to the Board of Medical Imaging; or

(B) The spouse, domestic partner, child, parent or sibling of a person issued a license or permit by the board.

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

(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) The section manager of the Radiation Protection Services Section of the Oregon Health Authority, or a person appointed by the section manager, is an advisory member of the board for the purpose of providing counsel and is not entitled to vote.

(4)(a) The term of office of the members of the board is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than four terms end each year. A member is eligible for reappointment.

(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;

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

(D) Is not a licensed chiropractic physician or a retired licensed chiropractic physician who was a licensed chiropractic physician in good standing at the time of retirement, if the board member was appointed to serve on the board as a licensed chiropractic physician;

(E) Is not a medical imaging licensee or a retired medical imaging licensee who was a medical imaging licensee in good standing at the time of retirement, if the board member was appointed to serve on the board as a medical imaging licensee; or

(F) Does not hold a valid permit issued under ORS 688.515, if the board member was appointed to serve on the board as a limited X-ray machine operator.

(5) 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.

(6) The board shall annually elect a board chairperson and a vice chairperson from the voting members of the board.

(7) For the purpose of transacting its business, the board must meet at least once every three months at times and places designated by resolution. Special meetings may also be held at such times as the board may elect or at the call of the chairperson. Notification of the time, place and purpose of any special meeting must be sent to all members of the board at least 15 days before the date of the meeting. All meetings are subject to ORS 192.610 to 192.690.

(8) Seven members of the board constitute a quorum for the transaction of business at any meeting. Seven affirmative votes are required to take action. [1977 c.534 §3; 1979 c.449 §4; 1999 c.517 §9; 2005 c.307 §1; 2009 c.535 §27; 2009 c.828 §42; 2009 c.833 §38; 2015 c.385 §1]

688.555 Rulemaking; executive director. (1) The Board of Medical Imaging shall adopt rules that are necessary to carry out the provisions of ORS 688.405 to 688.605 and 688.915.

(2) In adopting rules, the board shall act with benefit of the advice of the Attorney General of the State of Oregon.

(3) The board may appoint and fix the compensation of an executive director subject to ORS 240.245 and include reimbursement for actual and necessary travel expenses incurred in the performance of the duties of the director. [1977 c.534 §4(1),(2),(4); 1999 c.517 §10; 2009 c.833 §16]

688.557 Authority of board to require fingerprints. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Board of Medical Imaging may require the fingerprints of a person who:

(1) Is applying for a license, or renewal of a license, under ORS 688.445 and 688.455;

(2)(a) Is employed or applying for employment by the board or provides services or seeks to provide services to the board as a contractor, vendor or volunteer; and

(b) Is, or will be, working or providing services in a position in which the person has or will have access to information that is confidential under state or federal laws, rules or regulations; or

(3) Is under investigation by the board pursuant to ORS 688.525. [2007 c.619 §5; 2009 c.833 §17; 2013 c.87 §4]

Note: 688.557 was enacted into law by the Legislative Assembly but was not added to or made a part of

ORS chapter 688 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

688.560 Fees; rules. The Board of Medical Imaging by rule shall establish and collect reasonable fees for:

(1) Oversight of limited X-ray machine operator permit examinations.

(2) Special interpretation of examination results.

(3) Duplication of permits, licenses and wall certificates.

(4) Reproduction of records.

(5) Application processing, licensing and permitting.

(6) Inspections of limited X-ray machine operator schools. [1993 c.247 §6; 1997 c.367 §4; 1999 c.517 §11; 2009 c.833 §18]

Note: 688.560 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 688 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

688.565 Continuing education. (1) The Board of Medical Imaging shall approve programs of continuing education in medical imaging modalities and for limited X-ray machine operators to meet the requirements of ORS 688.505.

(2) The board may seek volunteers from the various medical imaging modalities to review and assist in the approval of continuing education credits for their respective medical imaging modalities.

(3) Continuing education programs for limited X-ray machine operators shall be reviewed by a radiographer. [1977 c.534 §13; 2005 c.151 §5; 2009 c.833 §19]

688.575 [1977 c.534 §§16, 17; 1979 c.449 §2; repealed by 1981 c.603 §8]

688.585 Board of Medical Imaging Account. (1) The Board of Medical Imaging Account is established in the State Treasury, separate and distinct from the General Fund. Except for moneys otherwise designated by statute, all fees, contributions and other moneys received by the Board of Medical Imaging must be paid into the State Treasury and credited to the account. All moneys in the account are continuously appropriated to the board to be used by the board for purposes of ORS 676.850 and 688.405 to 688.605. Any interest or other income from moneys in the account shall be credited to the account.

(2) The board shall keep a record of all moneys deposited in the account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program for which each withdrawal is charged. [1977 c.534 §23; 2005 c.726 §15; 2009 c.833 §20; 2013 c.240 §17]

(Enforcement)**688.595 Enforcement and inspections.**

The section manager of the Radiation Protection Services Section of the Oregon Health Authority shall enforce the provisions of ORS 688.405 to 688.605 and shall conduct, under the direction of the Board of Medical Imaging, inspections in furtherance of the purposes of ORS 688.405 to 688.605. [1977 c.534 §19; 2005 c.307 §3; 2009 c.595 §1093; 2009 c.833 §21]

688.600 Investigation of alleged violations; power of board; subpoenas; peer review committees. (1) Upon receipt of a complaint, or upon its own motion, the Board of Medical Imaging may investigate any alleged violation of ORS 688.405 to 688.605.

(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;

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation;

(f) Require a person to undergo a mental, physical, chemical dependency or competency evaluation at the person's expense when the board has reasonable grounds to believe that the person is or may be unable to practice a medical imaging modality with reasonable skill and safety or may constitute a risk to the public, with the results being reported to the board. The report may not be disclosed to the public but may be received into evidence in a proceeding between the board and the person when the mental, physical, chemical dependency or competency of the person is at issue, notwithstanding any claim of privilege by the person; and

(g) Issue subpoenas over the signature of the board chairperson and the seal of the board in the name of the State of Oregon.

(3) For the purpose of disciplinary issues concerning scope of practice and standards of practice, the board may form temporary peer review committees in the relevant modality or subspecialty to advise the board of appropriate action. The composition, authority and responsibilities of a temporary committee must be defined in rules adopted by the board. [1989 c.843 §10; 2009 c.833 §22]

688.603 Fines; rules. (1) Subject to the provisions of ORS chapter 183 and subsection (2) of this section, the Board of Medical Imaging may impose a fine on an individual li-

censed or holding a permit under ORS 688.405 to 688.605 for an administrative or clerical violation of ORS 688.405 to 688.605 or a rule adopted pursuant to ORS 688.405 to 688.605 if the violation does not create a risk of harm to the public, as established by the board by rule.

(2) A fine imposed under this section:

(a) May not exceed \$100;

(b) Is confidential; and

(c) Is not a disciplinary action by the board. [2017 c.13 §3]

688.605 Duty to report violation; confidentiality; procedure on claims of violation.

(1)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any person issued a license or permit by the Board of Medical Imaging or any employer of a licensee or permittee shall report to the board any suspected violation of ORS 688.405 to 688.605 or any rule adopted by the board.

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

(c) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any organization representing persons issued a license or permit by the board shall report to the board any suspected violation of ORS 688.405 to 688.605 or any rule adopted by the board pursuant to ORS 688.405 to 688.605.

(d) Any person may report to the board any suspected violation of ORS 688.405 to 688.605 or any rules adopted by the board pursuant to ORS 688.555.

(2) Any information that the board obtains as the basis of a complaint or in the investigation of a complaint is confidential as provided under ORS 676.175.

(3) Any person who reports or provides information to the board and who does so in good faith is not subject to an action for civil damages as a result of reporting or providing information.

(4) A claim of a violation of ORS 688.405 to 688.605 shall be reported to the board and shall be substantiated by satisfactory evidence. If the board finds that a violation has occurred, the board shall, subject to the conditions of ORS 676.175, report the violation to the Attorney General for prosecution. [1977 c.534 §22; 1993 c.247 §5; 1997 c.791 §47; 2009 c.536 §21; 2009 c.833 §43]

HEMODIALYSIS TECHNICIANS

688.625 Definitions for ORS 688.625 to 688.665. As used in ORS 688.625 to 688.665:

(1) "Dialysis facility or center" means a place awarded conditional or unconditional status by the federal Centers for Medicare and Medicaid Services.

(2) "End stage renal disease" means a condition that requires either the replacement of kidney functions through renal transplantation or the permanent assistance of those functions through dialysis.

(3) "Hemodialysis technician" means a person certified by the Oregon Health Authority under ORS 688.650. [1997 c.580 §1; 2003 c.14 §436; 2009 c.595 §1094]

688.630 Certification requirement. (1) It is unlawful for any person to act as a hemodialysis technician without being certified by the Oregon Health Authority.

(2) It is unlawful for any dialysis facility or center to authorize a person to act for it as a hemodialysis technician without being certified by the authority. [1997 c.580 §2; 2009 c.595 §1095]

688.635 Scope of practice of hemodialysis technician; rules. (1) A person certified as a hemodialysis technician may, under the direct supervision of a physician licensed under ORS chapter 677 or a registered nurse licensed under ORS 678.010 to 678.410, perform functions as determined by rules adopted by the Oregon Health Authority, in consultation with the Oregon Medical Board and the Oregon State Board of Nursing.

(2) A hemodialysis technician shall not:

(a) Administer medications by oral, intramuscular, intravenous or subcutaneous means except as specified under rules adopted by the authority pursuant to subsection (1) of this section.

(b) Determine the frequency, duration or nature of dialysis treatments or alter any treatment prescribed by a licensed health professional.

(c) Engage in any health care activity requiring a license except as authorized under rules adopted by the authority pursuant to subsection (1) of this section. [1997 c.580 §3; 2009 c.595 §1096]

688.640 Application for certificate; rules. (1) For any person to be certified as a hemodialysis technician, an application for certification shall be made to the Oregon Health Authority. The application shall be upon forms prescribed by the authority and shall contain:

(a) The name and address of the applicant.

(b) The name and location of the training course successfully completed by the applicant and the date of completion and, if an extended period of time has elapsed since the completion of the training, of the required amount of continuing education.

(c) Such other information as the authority may reasonably require to determine compliance with applicable provisions of ORS 688.625 to 688.665 and the rules adopted thereunder.

(2) The authority, in consultation with the Oregon Medical Board and the Oregon State Board of Nursing, shall adopt rules establishing initial training and continuing education requirements. [1997 c.580 §4; 2009 c.595 §1097]

688.645 Fees. (1) An initial application fee shall be submitted with the application for hemodialysis technician certification. If the applicant is taking an examination administered by the Oregon Health Authority, an additional fee shall be charged for the examination.

(2) The authority may charge a fee for late renewal of a certificate and for issuance of any duplicate certificate.

(3) Subject to the review of the Oregon Department of Administrative Services, the fees and charges established under this section shall not exceed the cost of administering the certification program of the authority pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the authority's budget, as the budget may be modified by the Emergency Board.

(4) All moneys received by the authority under ORS 688.625 to 688.665 shall be paid into the General Fund in the State Treasury and placed to the credit of the authority account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 688.625 to 688.665. [1997 c.580 §5; 1999 c.59 §204; 2009 c.595 §1098]

688.650 Qualifications for certification; temporary or provisional certificates; continuing education; certificate expiration; rules. (1)(a) When application has been made as required under ORS 688.640, the Oregon Health Authority shall certify an applicant as a hemodialysis technician if the authority finds that the applicant:

(A) Has successfully completed the training requirement adopted by the authority.

(B) Has paid a fee to the authority pursuant to ORS 688.645.

(C) Has successfully completed an examination administered by the authority or ad-

ministered by another public or private entity and approved by the authority.

(D) Meets any other requirements prescribed by rule of the authority.

(b) An applicant meets the requirements of paragraph (a)(A) of this subsection if the applicant provides the authority with documentation of military training or experience that the authority determines is substantially equivalent to the training requirement adopted by the authority.

(2) The authority may provide for the issuance of a temporary or provisional certification for a person to practice as a hemodialysis technician until the person has taken and passed the next held certification examination available to the person and has received a certificate. The authority may impose any conditions or limitations on a temporary or provisional certificate that the authority considers reasonable and necessary to protect the public. A temporary or provisional certificate may be held only by a person who:

(a) Has not received a failing grade on a certification examination approved or administered by the authority; and

(b)(A) Has successfully completed the initial training required by authority rule; or

(B) Is currently working in this or another state as a hemodialysis technician and is enrolled in a program offering the initial training required by authority rule.

(3) Each person holding a certificate under this section shall submit, at the time of application for renewal of the certificate to the authority, evidence of the applicant's satisfactory completion of any continuing education requirements prescribed by rule by the authority.

(4) The authority shall prescribe criteria and approve programs of continuing education.

(5) Each certification issued under this section, unless sooner suspended or revoked, shall expire and be renewable after a period of two years. Each certificate must be renewed on or before June 30 of every second year or on or before such date as may be specified by authority rule. The authority by rule shall establish a schedule of certificate renewals under this subsection and shall prorate the fees to reflect any shorter certificate period. [1997 c.580 §6; 2007 c.768 §50; 2009 c.595 §1099; 2012 c.43 §18]

688.655 Grounds for denying, suspending or revoking certificate; investigation; duty to report; confidential information; liability of person who reports. (1) The certification of a hemodialysis technician

may be denied, suspended or revoked in accordance with the provisions of ORS chapter 183 for any of the following:

(a) Failure to complete continuing education requirements.

(b) The use of fraud or deception in receiving a certificate.

(c) Habitual or excessive use of intoxicants or drugs.

(d) The presence of a mental disorder that demonstrably affects a technician's performance, as certified by two psychiatrists retained by the Oregon Health Authority.

(e) Conviction of a criminal offense that the authority considers reasonably related to the fitness of the person to practice hemodialysis.

(f) Suspension or revocation of a hemodialysis technician certificate issued by another state.

(g) Gross negligence or repeated negligence in rendering hemodialysis care.

(h) Any reason identified by authority rule as rendering the applicant unfit to perform the duties of a hemodialysis technician.

(2) The authority may investigate any evidence that appears to show that a hemodialysis technician certified by the authority is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be mentally or physically unable to safely function as a hemodialysis technician.

(3) Any dialysis facility or center, any hemodialysis technician certified under ORS 688.650, any physician licensed under ORS chapter 677 or any registered nurse licensed under ORS 678.010 to 678.410 shall report to the authority any information the person may have that appears to show that a hemodialysis technician is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be mentally or physically unable to safely function as a hemodialysis technician.

(4) Information provided to the authority pursuant to this section is confidential and shall not be subject to public disclosure, nor shall it be admissible as evidence in any judicial proceeding.

(5) Any person who reports or provides information to the authority under this section and who provides information in good faith shall not be subject to an action for civil damage as a result thereof. [1997 c.580 §7; 2009 c.595 §1100]

688.660 Grounds for discipline of certificate holder; civil penalty; assessment of disciplinary proceeding cost. (1) The Oregon Health Authority may discipline a

person certified as a hemodialysis technician who has:

(a) Admitted the facts of a complaint alleging the person is guilty of violation of one or more of the grounds for suspension or revocation of a certificate as set forth in ORS 688.655.

(b) Been found guilty in accordance with ORS chapter 183 of violation of one or more of the grounds for suspension or revocation of certification as set forth in ORS 688.655.

(2) In disciplining a technician, the authority may use any or all of the following methods:

(a) Suspend judgment.

(b) Place the technician on probation.

(c) Suspend the technician's certificate.

(d) Revoke the technician's certificate.

(e) Place limitations on the ability of the technician to practice hemodialysis in this state.

(f) Take such other disciplinary action as the authority in its discretion finds proper, including assessment of the costs of the disciplinary proceedings, not to exceed \$1,000, as a civil penalty or assessment of a civil penalty not to exceed \$1,000.

(3) In addition to the action authorized by subsection (2) of this section, the authority may temporarily suspend a certificate or license without a hearing, simultaneously with the commencement of proceedings under ORS chapter 183, if the authority finds that evidence in its possession indicates that a continuation in practice of the technician constitutes an immediate danger to the public.

(4) If the authority places a technician on probation, the authority may determine, and may at any time modify, the conditions of the probation and may include among them any reasonable condition for the purpose of protection of the public and for the purpose of the rehabilitation of the technician. Upon expiration of the term of probation, further proceedings shall be abated if the technician has complied with the terms of the probation.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1997 c.580 §8; 2009 c.595 §1101]

688.665 Rules. The Oregon Health Authority shall adopt rules that the authority considers necessary and proper to enforce ORS 688.625 to 688.665. [1997 c.580 §9; 2009 c.595 §1102]

688.700 [1993 c.744 §253; 1995 c.449 §8; repealed by 1999 c.736 §16]

ATHLETIC TRAINERS

688.701 Definitions for ORS 688.701 to 688.734. As used in ORS 688.701 to 688.734:

(1) "Athlete" means any individual participating in fitness training and conditioning, sports or other competitions, practices or activities requiring physical strength, agility, flexibility, range of motion, speed or stamina, generally conducted in association with an educational institution, or professional or amateur sports activity.

(2) "Athletic injury" means an injury occurring as the result of participating as an athlete.

(3) "Board" means the Board of Athletic Trainers.

(4) "Practice athletic training" means the application by a registered athletic trainer of principles and methods of:

(a) Prevention of athletic injuries;

(b) Recognition, evaluation and immediate care of athletic injuries;

(c) Rehabilitation and reconditioning of athletic injuries;

(d) Health care administration; and

(e) Education and counseling.

(5) "Registered athletic trainer" means a person who is registered in accordance with ORS 688.720. [1999 c.736 §1]

688.705 Board of Athletic Trainers; appointment; membership; terms. (1)

There is established within the Health Licensing Office the Board of Athletic Trainers, consisting of five members appointed by the Governor. In making appointments to the board, the Governor shall take into consideration nominations received from professional organizations of athletic trainers that are based in Oregon.

(2) Of the membership of the Board of Athletic Trainers:

(a) All members must be residents of this state.

(b) Three members must be athletic trainers who have practiced continuously in this state for the three years prior to the date of appointment.

(c) One member must be a member of the general public who is not an athletic trainer.

(d) One member must be a physician licensed under ORS chapter 677.

(3) The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. 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 four years must elapse before the person is again eligible for appointment to serve on the board.

(4) A member of the board is entitled to compensation and expenses as provided in ORS 292.495. [1999 c.736 §2; 2005 c.648 §15; 2009 c.701 §24; 2013 c.568 §62]

688.707 Officers; quorum; meetings. (1) The Board of Athletic Trainers shall elect one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of those offices as the board determines.

(2) A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The Board of Athletic Trainers shall meet at least once each year at a time and place determined by the Health Licensing Office. [1999 c.736 §3; 2005 c.648 §16; 2013 c.568 §63]

688.709 Board duties; rules. The Board of Athletic Trainers shall:

(1) Advise the Health Licensing Office about the adoption of rules necessary for the administration of ORS 688.701 to 688.734.

(2) Determine training and education requirements for registration as described in ORS 688.720.

(3) Determine qualifications and documentation required for registrations, permits, temporary registrations and waivers.

(4) Determine requirements for reciprocity and equivalency for the practice of athletic training.

(5) Establish a code of professional responsibility and standards of practice for registered athletic trainers.

(6) Develop, approve or recognize a written examination to test an applicant's knowledge of the basic and clinical sciences relating to athletic training techniques and methods and any other subjects the board may determine to be necessary to assess an applicant's fitness to practice athletic training.

(7) Establish standards for acceptable performance, including but not limited to a passing score on the approved or recognized competency examination.

(8) Establish policies and criteria for the assessment of the quality of the practice of athletic trainers.

(9) Adopt rules that include provisions describing procedures, when appropriate, for collaboration between athletic trainers and physicians licensed pursuant to ORS chapter 677. [1999 c.736 §4; 2005 c.648 §17; 2013 c.314 §28; 2013 c.568 §64]

688.715 Authority of Health Licensing Office; rules; investigations. The Health Licensing Office is granted authority to carry out the following duties:

(1) Adopt rules that are necessary to conduct business, carry out duties and administer the provisions of ORS 688.701 to 688.734.

(2) Issue registrations, including temporary registrations, permits, waivers and other authorizations to practice athletic training as determined by the Board of Athletic Trainers.

(3) Authorize all necessary disbursements to carry out the provisions of ORS 688.701 to 688.734, including but not limited to payment for necessary supplies, office equipment, books and expenses for the conduct of examinations, payment for legal and investigative services rendered to the office and such other expenditures as are provided for in ORS 688.701 to 688.734.

(4) Employ inspectors, examiners, special agents, investigators, clerical assistants and accountants as are necessary for the investigation and prosecution of alleged violations and the enforcement of ORS 688.701 to 688.734, and for such other purposes as the office may require. Nothing in ORS 688.701 to 688.734 shall be construed to prevent assistance being rendered by an employee of the office in any hearing called by it. However, all obligations for salaries and expenses incurred under ORS 688.701 to 688.734 shall be paid only from the fees accruing to the office under ORS 688.701 to 688.734.

(5) Provide the board with such administrative services and employees as the board requires to carry out its duties.

(6) Maintain an accurate record of all proceedings of the board and of all its meetings, receipts and disbursements, civil penalties and orders for violation of ORS 688.701 to 688.734, records for registration to practice athletic training together with the addresses of those registered, and the names of all persons whose registration has been subject to disciplinary action.

(7) Investigate complaints, take disciplinary action, including assessment of civil penalties, and provide opportunity for hearing according to ORS 183.745.

(8) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out duties of the board granted under ORS 688.701 to 688.734. [1999 c.736 §5; 2001 c.104 §263; 2005 c.648 §18; 2011 c.597 §281; 2013 c.314 §29; 2013 c.568 §65]

688.718 Registration required; exceptions. (1) A person may not practice athletic training or claim to be a registered athletic trainer unless the person is registered under ORS 688.720.

(2) Nothing in ORS 688.701 to 688.734 is intended to:

(a) Limit, preclude or otherwise interfere with the practices of health care providers or other persons licensed or registered in this state under any other statutes, or prevent health care providers or other persons from engaging in the profession or occupation for which the health care provider or person is licensed or registered;

(b) Prevent any person from performing athletic training services if the person is employed as an athletic trainer by the federal government or any of its agencies;

(c) Prohibit a person from performing athletic training services if:

(A) The person accompanies a sports team from another state, a territory of the United States or a foreign country;

(B) The team is in this state for purposes related to competition or training; and

(C) The person performs athletic training services only on members of the team and the services are performed for no more than 60 days in a calendar year;

(d) Preclude any person from pursuing a supervised course of study leading to a degree or registration as an athletic trainer in an accredited or approved educational program if the person is identified by a title that clearly indicates student or trainee status;

(e) Prevent any person from completing any supervised practical experience requirements established by the Board of Athletic Trainers by rule; or

(f) Prohibit any person from performing athletic training services in this state for purposes of continuing education, consulting or training if the services are performed for no more than 60 days in any calendar year and are performed in association with a registered athletic trainer if the person is:

(A) Registered or licensed and in good standing as an athletic trainer in another state; or

(B) Certified as an athletic trainer by, and in good standing with, the national Board of Certification.

(3) Nothing in ORS 688.701 to 688.734 shall be construed to require registration of an elementary or secondary school teacher, coach or volunteer who:

(a) Does not purport to be an athletic trainer; and

(b) Is acting within the scope of the person's duties as a teacher, coach or volunteer. [1999 c.736 §6; 2013 c.62 §1]

688.720 Requirements for registration.

(1) The Health Licensing Office shall issue a registration as an athletic trainer under ORS 688.701 to 688.734 to an applicant who has:

(a) Provided to the office adequate proof of:

(A) Receipt of a bachelor's degree from an accredited four-year college or university and having met the minimum athletic training curriculum requirements established by the Board of Athletic Trainers by rule; or

(B) Military experience or training that the board determines is substantially equivalent to the education required by subparagraph (A) of this paragraph;

(b) Successfully completed the certification examination administered by the national Board of Certification, or an equivalent examination approved by the Board of Athletic Trainers;

(c) Completed any other requirements for registration as determined by the Board of Athletic Trainers by rule;

(d) Submitted to the office adequate documentation that the applicant is at least 18 years of age; and

(e) Paid the applicable fees for registration established under ORS 676.576.

(2) The office shall issue a registration under this section to an applicant who has not successfully completed an examination under subsection (1) of this section if the applicant:

(a) Furnishes documentation that demonstrates that the applicant meets the education, experience or training requirements described in subsection (1)(a) of this section; and

(b) Is registered as an athletic trainer in another state or by a national association and the board determines that the registration requirements of the other state or the association are substantially equivalent to the registration requirements described in subsection (1)(c) of this section. [1999 c.736 §8; 2003 c.547 §9; 2012 c.43 §19; 2013 c.62 §2; 2013 c.314 §30a]

688.724 [1999 c.736 §9; 2005 c.648 §19; 2009 c.701 §25; repealed by 2013 c.314 §65]

688.728 [1999 c.736 §10; 1999 c.885 §50b; 2003 c.547 §10; 2005 c.648 §20; 2009 c.701 §26; repealed by 2013 c.314 §65]

688.730 Use of title. (1) A person who is a registered athletic trainer under ORS 688.701 to 688.734 may use the title "Athletic Trainer, Registered" and the abbreviation "ATR."

(2) A person who is a registered athletic trainer under ORS 688.701 to 688.734 and

who is certified as an athletic trainer by, and in good standing with, the national Board of Certification may use the title “Athletic Trainer, Certified/Registered” and the abbreviation “ATC.” [1999 c.736 §7; 2013 c.62 §3]

688.734 Disciplinary authority of Health Licensing Office. In the manner prescribed in ORS chapter 183 for contested cases and in consultation with the Board of Athletic Trainers, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against any person practicing athletic training for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 688.701 to 688.734 or the rules adopted thereunder. [2003 c.547 §11; 2005 c.648 §22; 2013 c.568 §68]

RESPIRATORY THERAPISTS AND POLYSOMNOGRAPHIC TECHNOLOGISTS

688.800 Definitions for ORS 688.800 to 688.840. As used in ORS 688.800 to 688.840:

(1) “Polysomnographic technologist” means a person licensed under ORS 688.819.

(2) “Polysomnography” means the treatment, management, diagnostic testing, education and care of patients with disorders related to sleep. “Polysomnography” includes, but is not limited to:

(a) The use of the following during treatment, management, diagnostic testing, education and care of patients with disorders related to sleep:

(A) Supplemental low-flow oxygen therapy, using up to six liters per minute of oxygen;

(B) Continuous or bilevel positive airway pressure titration on spontaneously breathing patients using a mask or oral appliance, if the mask or oral appliance does not extend into the trachea or attach to an artificial airway;

(C) Capnography;

(D) Cardiopulmonary resuscitation;

(E) Pulse oximetry;

(F) Sleep staging, including surface electroencephalography, surface electrooculography and submental surface electromyography;

(G) Electrocardiography;

(H) Respiratory effort monitoring, including thoracic and abdominal movement monitoring;

(I) Plethysmography blood flow monitoring;

(J) Snore monitoring;

(K) Audio or video monitoring of movement or behavior;

(L) Body movement monitoring;

(M) Nocturnal penile tumescence monitoring, when performed in a facility approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(N) Nasal and oral airflow monitoring;

(O) Body temperature monitoring; or

(P) Portable monitoring devices and other medical equipment used to treat sleep disorders;

(b) Analyzing data for the purpose of assisting a physician who diagnoses and treats disorders related to sleep;

(c) Implementation and monitoring of durable medical equipment used in the treatment of sleep disorders; and

(d) Educating patients and immediate family members of patients regarding testing and treatment of sleep disorders.

(3) “Qualified medical director for polysomnography” means the medical director of an inpatient or outpatient polysomnography facility who is a physician licensed under ORS chapter 677, has special interest and knowledge in the diagnosis and treatment of sleep disorders and is actively practicing in the field of sleep disorders.

(4) “Qualified medical director for respiratory care” means the medical director of any inpatient or outpatient respiratory care service, department or home care agency who is a physician licensed under ORS chapter 677 and who has special interest and knowledge in the diagnosis and treatment of respiratory problems.

(5) “Respiratory care” means the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. “Respiratory care” includes, but is not limited to:

(a) Direct and indirect respiratory care services, including but not limited to the administration of pharmacological, diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative or diagnostic regimen prescribed by a physician;

(b) Transcription and implementation of the written or verbal orders of a physician pertaining to the practice of respiratory care;

(c) Observing and monitoring signs and symptoms, reactions, general behaviors, general physical responses to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, general behaviors or general physical responses exhibit abnormal characteristics;

(d) Implementation based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment, pursuant to a prescription by a person authorized to practice medicine under the laws of this state; and

(e) The initiation of emergency procedures under the rules of the board or as otherwise permitted under ORS 688.800 to 688.840.

(6) "Respiratory care practitioner" means a person licensed under ORS 688.815.

(7) "Respiratory care services" means cardiopulmonary care services including, but not limited to, the diagnostic and therapeutic use of the following:

(a) Except for the purpose of anesthesia, administration of medical gases, aerosols and humidification;

(b) Environmental control mechanisms and hyperbaric therapy;

(c) Pharmacologic agents related to respiratory care procedures;

(d) Mechanical or physiological ventilatory support;

(e) Bronchopulmonary hygiene;

(f) Cardiopulmonary resuscitation;

(g) Maintenance of the natural airway;

(h) Maintenance of artificial airways;

(i) Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions and pulmonary function testing; and

(j) Hemodynamic and other related physiologic measurements of the cardiopulmonary system. [1997 c.792 §1; 1999 c.885 §32; 2005 c.648 §42; 2011 c.715 §1]

688.802 License required to practice respiratory care. A person may not practice respiratory care or claim to be a respiratory care practitioner unless the person is licensed under ORS 688.815. [2011 c.715 §6]

688.803 License required to practice polysomnography. A person may not practice polysomnography or claim to be a polysomnographic technologist unless the person is licensed under ORS 688.819. [2011 c.715 §7]

688.805 Exceptions to license requirements; practice requirements. (1) Nothing in ORS 688.800 to 688.840 is intended to limit, preclude or otherwise interfere with the practices of other persons and health

providers licensed by appropriate agencies of this state.

(2) Nothing in ORS 688.800 to 688.840 prohibits:

(a) The practice of respiratory care by a student enrolled in a respiratory care education program approved by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education or their successors or equivalent organizations, as approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board.

(b) The practice of polysomnography by a student who is:

(A) Enrolled in an educational program for polysomnography approved by the board; and

(B) In the physical presence of a supervisor approved by the board.

(c) Self-care by a patient, or gratuitous care by a friend or family member who does not claim to be a respiratory care practitioner.

(d) Respiratory care services rendered in the course of an emergency.

(3) Persons in the military services or working in federal facilities are exempt from the provisions of ORS 688.800 to 688.840 when functioning in the course of assigned duties.

(4) Nothing in ORS 688.800 to 688.840 is intended to permit the practice of medicine by a person licensed to practice respiratory care or polysomnography unless the person is also licensed to practice medicine.

(5) The practice of respiratory care:

(a) May be performed in any clinic, hospital, skilled nursing facility, private dwelling or other setting approved by the board.

(b) Must be performed in accordance with the prescription or verbal order of a physician or naturopathic physician and shall be performed under a qualified medical director for respiratory care.

(6) The practice of polysomnography:

(a) May be performed in a clinic, hospital, skilled nursing facility, sleep center, sleep laboratory, physician's office, naturopathic physician's office, private dwelling or other setting approved by the board.

(b) Must be performed in accordance with the prescription or verbal order of a physician, naturopathic physician or physician assistant licensed under ORS chapter 677 or a nurse practitioner licensed under ORS 678.375 to 678.390 and under the direction of a qualified medical director for polysomnography. [1997 c.792 §7; 2011 c.715 §2; 2017 c.356 §91]

688.807 Exemptions for practice of polysomnography and respiratory care by licensed individuals. Notwithstanding ORS 688.805:

(1) ORS 688.800 to 688.840 do not prohibit a respiratory care practitioner from practicing polysomnography in accordance with the prescription or verbal order of a physician or naturopathic physician and under the direction of a qualified medical director for respiratory care or for polysomnography.

(2) A polysomnographic technologist may not practice respiratory care without a license issued under ORS 688.815, unless the act is within the scope of practice of a polysomnographic technologist. [2011 c.715 §9; 2017 c.356 §92]

688.810 Use of titles. (1) A respiratory care practitioner may use the title “Licensed Respiratory Care Practitioner” and the abbreviation “LRCP.”

(2) A polysomnographic technologist may use the title “Licensed Polysomnographic Technologist” and the abbreviation “LPSGT.” [1997 c.792 §8; 2011 c.715 §3]

688.815 License to practice respiratory care. The Health Licensing Office may issue a license to practice respiratory care to an applicant who:

(1) Submits to the office written evidence that the applicant:

(a) Is at least 18 years of age;

(b) Has completed an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and

(c) Holds an active credential conferred by the National Board for Respiratory Care, or its successor organization, as a Registered Respiratory Therapist; and

(2) Passes any examinations approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board, including but not limited to an examination regarding Oregon law and administrative rules related to the practice of respiratory care. [1997 c.792 §6; 2001 c.40 §1; 2003 c.547 §32; 2005 c.21 §9; 2005 c.648 §43; 2009 c.701 §27; 2011 c.715 §4; 2012 c.43 §20; 2013 c.314 §31; 2013 c.568 §69; 2017 c.401 §1]

688.817 [2001 c.40 §5; repealed by 2003 c.547 §118]

688.818 [2001 c.40 §6; repealed by 2003 c.547 §118]

688.819 Polysomnographic technologist license; license by endorsement. (1) An applicant for a polysomnographic technologist license shall:

(a) Submit to the Health Licensing Office written evidence that the applicant:

(A) Is at least 18 years of age;

(B) Has completed an approved four-year high school course of study or the equivalent

as determined by the appropriate educational agency; and

(C) Has completed a polysomnography program that is approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board and that is:

(i) An education program;

(ii) A training program; or

(iii) A program that combines education and training, including a program that combines education and training to qualify the applicant for a credential specified in subsection (4) of this section; and

(b) Pass an examination approved by the board.

(2) An applicant meets the requirements of subsection (1)(a)(C) of this section if the applicant provides the office with documentation of military training or experience that the board determines is substantially equivalent to the education or training required by subsection (1)(a)(C) of this section.

(3)(a) For purposes of this subsection, “education” includes a self-study education program approved by the Board of Registered Polysomnographic Technologists as of March 1, 2013.

(b) An applicant meets the requirements of subsection (1)(a)(C) of this section if the applicant is actively credentialed as a registered polysomnographic technologist by the Board of Registered Polysomnographic Technologists and has:

(A) Passed the registered polysomnographic technologist examination provided by the Board of Registered Polysomnographic Technologists after completing a combined education and training program required and approved by the Board of Registered Polysomnographic Technologists as of March 1, 2013; or

(B) Passed the registered polysomnographic technologist examination provided by the Board of Registered Polysomnographic Technologists before the Board of Registered Polysomnographic Technologists required an individual to complete a combined education and training program in order to take the examination, and has since met the education and training requirements established by the Board of Registered Polysomnographic Technologists as of March 1, 2013.

(4) The office may issue a polysomnographic technologist license by endorsement or reciprocity to:

(a) An applicant who is currently licensed to practice polysomnography under the laws of another state, territory or country if the qualifications of the applicant are considered by the office to be equivalent to those required in this state; or

(b) An applicant holding an active credential approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board. [2011 c.715 §8; 2012 c.43 §21; 2013 c.82 §2; 2013 c.314 §32; 2013 c.568 §70; 2015 c.78 §1]

688.820 Respiratory Therapist and Polysomnographic Technologist Licensing Board; qualification of members; terms; compensation. (1) There is established within the Health Licensing Office the Respiratory Therapist and Polysomnographic Technologist Licensing Board. 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.

(2) Of the members of the board:

(a) Three must be respiratory care practitioners;

(b) Two must be individuals who practice polysomnography;

(c) One must be a qualified medical director for polysomnography or for respiratory care; and

(d) One must be a member of the general public.

(3) Board members required to be respiratory care practitioners or individuals who practice polysomnography must have engaged in the practice of respiratory care or polysomnography for a period of five or more years immediately preceding appointment to the board.

(4)(a) Board members may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by the Oregon Society for Respiratory Care or another professional organization representing respiratory care practitioners or polysomnographic technologists.

(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.

(5)(a) The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than two 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 four 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;

(C) Is not a respiratory care practitioner or a retired respiratory care practitioner whose license was in good standing at the time of retirement, if the member was appointed to serve as a respiratory care practitioner; or

(D) Is not an individual who practices polysomnography, if the member was appointed to serve as an individual who practices polysomnography.

(6) A member of the board is 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. [1997 c.792 §2; 1999 c.885 §33; 2005 c.648 §44; 2009 c.535 §28; 2009 c.701 §28a; 2011 c.715 §10; 2013 c.568 §71]

688.825 Selection of board chairperson; quorum; meetings. (1) The Respiratory Therapist and Polysomnographic Technologist Licensing Board shall select one of its members as chairperson and another as vice chairperson, for those terms and with duties and powers necessary for the performance of the functions of those offices as the board determines.

(2) A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at times and places specified by the call of the chairperson or of a majority of the members of the board. [1997 c.792 §3; 2011 c.715 §11]

688.830 Duties of Health Licensing Office and of board; rules. (1) The Health Licensing Office shall:

(a) Determine the qualifications and fitness of applicants for licensure, renewal of license and reciprocal licenses under ORS 688.800 to 688.840.

(b) Adopt rules that are necessary to conduct its business related to, carry out its duties under and administer ORS 688.800 to 688.840.

(c) Examine, approve, issue, deny, revoke, suspend and renew licenses to practice respiratory care and polysomnography under ORS 688.800 to 688.840.

(d) Maintain a public record of persons licensed by the office to practice respiratory care and polysomnography.

(2) The Respiratory Therapist and Polysomnographic Technologist Licensing Board shall:

(a) Establish standards of practice and professional responsibility for persons licensed by the office.

(b) Provide for waivers of examinations, grandfathering requirements and temporary licenses as considered appropriate. [1997 c.792 §5; 2001 c.40 §2; 2003 c.547 §36; 2005 c.648 §45; 2007 c.71 §224; 2011 c.715 §12; 2013 c.314 §33; 2013 c.568 §72]

688.834 [2003 c.547 §30; 2005 c.648 §46; 2009 c.701 §29; 2011 c.715 §13; repealed by 2013 c.314 §65]

688.835 [1997 c.792 §4; 2001 c.40 §3; repealed by 2003 c.547 §118]

688.836 Disciplinary authority of Health Licensing Office. In the manner prescribed in ORS chapter 183 for contested cases, the Health Licensing Office may impose a form of discipline specified in ORS 676.612 against any person practicing respiratory care or polysomnography for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 688.800 to 688.840, or the rules adopted thereunder. [2003 c.547 §34; 2005 c.648 §47; 2011 c.715 §14; 2013 c.568 §74]

688.838 Duty to report prohibited conduct. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a respiratory care practitioner or polysomnographic technologist 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 §30; 2011 c.715 §15]

688.840 Immunity from civil liability. The Respiratory Therapist and Polysomnographic Technologist Licensing Board and its members and the Health Licensing Office and its employees and contractors are immune from any civil liability arising from good faith actions taken pursuant to ORS

688.800 to 688.840. [2001 c.40 §7; 2005 c.648 §48; 2011 c.715 §16; 2013 c.568 §75]

PENALTIES

688.915 Civil penalty for violation of ORS 688.405 to 688.605 or rules. (1) In addition to any other sanction authorized by law, the Board of Medical Imaging may impose a civil penalty not to exceed \$1,000 per occurrence for any violation of ORS 688.405 to 688.605, or of any rules adopted under those provisions. The penalty may be imposed whether or not the person incurring the penalty has been licensed or been issued a permit or certificate under ORS 688.405 to 688.605, or has made application for a license, permit or certificate under those sections. A civil penalty may be imposed in lieu of a refusal to grant or renew a license, permit or certificate, or a suspension or revocation of a license, permit or certificate, under ORS 688.510 or 688.525.

(2) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

(3) All penalties recovered under this section shall be credited to the Board of Medical Imaging Account established under ORS 688.585. [1991 c.585 §§1,2; 2005 c.726 §16; 2009 c.833 §24; 2015 c.62 §3]

688.990 Criminal penalties. Violation of any provision of ORS 688.020, 688.120, 688.415 or 688.425 is a Class A misdemeanor. [1959 c.461 §25; subsection (2) enacted as 1977 c.534 §21; 1989 c.171 §80; 2005 c.627 §14; 2011 c.597 §283]

688.995 Criminal penalty for violation of ORS 688.800 to 688.840. Violation of any provision of ORS 688.800 to 688.840, or of any rule adopted thereunder, is a Class B misdemeanor. [1997 c.792 §9; 2003 c.547 §37]

688.997 Criminal penalty for violation of ORS 688.718. Violation of ORS 688.718 (1) is a Class B misdemeanor. [2003 c.547 §8]

OCCUPATIONS AND PROFESSIONS
