

2001 EDITION

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PHYSICAL THERAPISTS

(Generally)

688.010 Definitions for ORS 688.010 to 688.220. As used in ORS 688.010 to 688.220, unless the context requires otherwise:

- (1) “Board” means the Physical Therapist Licensing Board.
- (2) “Licensed physical therapist” means a professional physical therapist licensed as provided in ORS 688.010 to 688.230.
- (3) “Physical therapist assistant” means a person who assists a licensed physical therapist in the administration of physical therapy.
- (4) “Physical therapy” means the evaluation, treatment and instruction of a human being to assess, prevent, correct, alleviate and limit the signs and symptoms of physical disability, bodily malfunction and pain. “Physical therapy” does not include chiropractic as defined in ORS 684.010. “Physical therapy” includes:
 - (a) The performance of tests and measurements as an aid to evaluation of function and the administration, evaluation and modification of treatment and instruction, including the use of physical measures, activities and devices, for preventive and therapeutic purposes; and
 - (b) The provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain. [1959 c.461 §1; 1965 c.314 §1; 1969 c.339 §1; 1971 c.585 §1; 1975 c.111 §1; 1987 c.726 §5]

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. [1959 c.461 §2; 1965 c.314

§2; 1969 c.339 §2; 1971 c.585 §2; 1975 c.111 §2]

688.030 Application of ORS 688.010 to 688.220. ORS 688.010 to 688.220 do not apply to:

(1) Any person engaging in the domestic application of any act included in the definition of physical therapy, or any person licensed under any other health care licensing law of this state to do any such act or to persons working under the direction of any such person if the person does not represent to anyone receiving services or to the public that the person is a physical therapist.

(2) Massage practiced at any bona fide athletic club, at any athletic department of any bona fide fraternal organization, at any public institution or at any athletic department of a school or college.

(3) The practice of physical therapy which is incidental to the planned program of study for students enrolled in a physical therapist or physical therapist assistant program approved by the Physical Therapist Licensing Board. [1959 c.461 §3; 1965 c.314 §3; 1975 c.111 §3; 1987 c.726 §6]

(Licensing)

688.040 Licensing procedure. Any person desiring to be a licensed physical therapist or physical therapist assistant shall apply in writing to the Physical Therapist Licensing Board, upon such form and in such manner as shall be provided by the board. Each application shall include or be accompanied by evidence, under oath or affirmation and satisfactory to the board, that the applicant possesses the qualifications prescribed by ORS 688.050 (1) to (3) for applicants for licensing as a physical therapist and ORS 688.055 for applicants for licensing as a physical therapist assistant. [1959 c.461 §6; 1969 c.339 §3; 1971 c.585 §3; 1975 c.111 §4; 1995 c.79 §347]

688.050 Qualifications of physical therapist; examination. Each applicant for licensing under ORS 688.010 to 688.220 as physical therapist shall:

(1) Be at least 18 years of age.

(2) Be of good moral character.

(3) Be a graduate of a school of physical therapy approved by the Physical Therapist Licensing Board.

(4) Pass to the satisfaction of the board an examination conducted by the board to determine the fitness of the applicant for licensing as a physical therapist, or be entitled to be licensed as provided in ORS 688.080. [1959 c.461 §5; 1971 c.585 §4; 1973 c.827 §73]

688.055 Qualifications of physical therapist assistant; examination. An applicant for a license under ORS 688.010 to 688.220 as a physical therapist assistant shall:

(1) Be at least 18 years of age.

(2) Be of good moral character.

(3) Have completed to the satisfaction of the board a course for physical therapist assistants approved by the Physical Therapist Licensing Board.

(4) Pass to the satisfaction of the board an examination conducted by the board to determine the fitness of the applicant for practice as a physical therapist assistant, or be entitled to be licensed as provided in ORS 688.080. [1969 c.339 §5; 1971 c.585 §5; 1973 c.827 §74; 1975 c.111 §5]

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 Application; fee; examination. (1) Unless entitled to licensing as provided in ORS 688.080, each applicant for licensing as a physical therapist or licensing as a physical therapist assistant shall include with the application a request for examination. Each applicant who requests examination shall pay to the Physical Therapist Licensing Board at the time of filing an application fee.

(2) The board shall examine applicants for licensing as physical therapists or licensing as physical therapist assistants who request examination under subsection (1) of this section at such times and places as it may determine.

(3) The examination for licensing as a physical therapist shall embrace the following subjects:

(a) The applied sciences of anatomy, neurology, kinesiology, physiology, pathology, psychology, physics, and physical therapy applied to medicine, surgery, neurology, orthopedics, pediatrics and psychiatry.

(b) Ethics.

(c) The technical procedures involved in the practice of physical therapy.

- (4) The examination for licensing as a physical therapist assistant shall embrace the following subjects:
- (a) Anatomy, physiology and behavioral science.
 - (b) Ethics.
 - (c) The technical procedures involved in the practice of physical therapy. [1959 c.461 §7; 1969 c.339 §8; 1971 c.585 §7; 1975 c.526 §7; 1983 c.224 §1]

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 such license as provided in ORS 688.040; and
 - (b) On the date of making application is a physical therapist or physical therapist assistant licensed under the laws of 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 not less than those required in ORS 688.010 to 688.220 and the applicant passed to the satisfaction of the examiner of such state or territory a written examination which is approved by the board of this state, or never having been licensed in another state or territory, the applicant has been graduated during the immediate preceding 12 months from a school which has been approved by a board of this state, and on the date of application has passed to the satisfaction of the board an examination which 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]

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 688.220. 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 688.220. [1959 c.461 §10; 1969 c.339 §10; 1971 c.585 §9; 1975 c.111 §8]

688.100 Renewals; fee; lapse. Each licensed physical therapist or physical therapist assistant shall apply to the Physical Therapist Licensing Board in January, February or March of each year for a renewal of the license. Each applicant for renewal of the license shall pay to the board at the time of filing an application fee. Any license that is not renewed before April 1 of each year shall automatically lapse. The board may revive and renew any lapsed license upon payment to it of all past unpaid renewal fees in addition to a delinquent fee. However, a late revival and renewal shall not be granted more than five years after a license has lapsed. [1959 c.461 §11; 1969 c.339 §11; 1971 c.585 §10; 1975 c.526 §9; 1983 c.224 §2]

688.110 Temporary permit; fee; determination of amount of all fees. (1) The Physical Therapist Licensing Board, in its discretion, may issue without examination a temporary permit to a person to practice physical therapy or 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 licensed physical therapist.

(3) The temporary permit shall be granted for a period not to exceed three months, and may be renewed by the board at its discretion for an additional three months, but no longer.

(4) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under ORS 688.070, 688.080, 688.100 and this section shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the board's budget, as the budget may be modified by the Emergency Board. [1959 c.461 §12; 1969 c.339 §12; 1971 c.585 §11; 1975 c.526 §10; 1983 c.224 §3; 1991 c.703 §31]

688.120 False or fraudulent statements or representations prohibited. No person shall:

(1) Obtain or attempt to obtain a license as a physical therapist or as a physical therapist assistant or a permit under ORS 688.110 by any fraudulent representation.

(2) Willfully make a false oath or affirmation under ORS 688.040. [1959 c.461 §13; 1969 c.339 §13; 1971 c.585

688.125 Notice to patient of interest in physical therapy practice. In order to assure that physical therapy treatment of a patient is based solely on the needs of a patient, any health care practitioner described in ORS 676.110 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]

688.130 Restrictions on practice. (1) Unless the education and training requirements described in ORS 688.134 have been met, no licensed physical therapist or person who holds a temporary permit issued under ORS 688.110 shall use physical therapy upon any person except where there has been:

(a) Prior evaluation of dysfunction of the person by the physical therapist by the use of recognized evaluative physical therapy tests and procedures; and either

(b) Diagnosis or referral by a physician or a podiatric physician and surgeon licensed under ORS chapter 677 by the Board of Medical Examiners for the State of Oregon, a dentist licensed by the Oregon Board of Dentistry, a physician assistant licensed under ORS chapter 677, a chiropractic physician licensed under ORS chapter 684 by the State Board of Chiropractic Examiners, a naturopathic physician licensed under ORS chapter 685 by the Board of Naturopathic Examiners or a nurse practitioner certified under ORS 678.375; or

(c) Diagnosis or referral made in another state by a medical doctor, osteopathic physician or podiatric physician and surgeon licensed by an authority of that state similar to the Board of Medical Examiners for the State of Oregon or by a dentist licensed by an authority of that state similar to the Oregon Board of Dentistry.

(2) No person shall practice as a physical therapist assistant unless the person is licensed under ORS 688.090 and such practice is solely under the supervision and direction of a physical therapist. [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]

688.132 Duty to refer person; exceptions; when personal injury protection benefits available. (1) If a licensed physical therapist administers physical therapy to a person as authorized in ORS 688.130 (1)(a), the physical therapist must immediately refer the person to a medical doctor, osteopathic physician, chiropractic physician, podiatric physician and surgeon, naturopathic physician, dentist, physician assistant or nurse practitioner if:

(a) Signs and symptoms are present that require treatment or diagnosis by such providers or for which physical therapy is contraindicated or for which treatment is outside the knowledge of the physical therapist or scope of practice of physical therapy; or

(b) The physical therapist continues therapy and 30 days have passed since the initial physical therapy treatment has been administered, unless:

(A) The individual is a child or a student eligible for special education, as defined by state or federal law, and is being seen pursuant to the child's or the student's individual education plan or individual family service plan;

(B) The individual is a student athlete at a public or private school, college or university and is seeking treatment in that role as athlete; or

(C) The individual is a resident of a long term care facility as defined in ORS 442.015, a residential facility as defined in ORS 443.400, an adult foster home as defined in ORS 443.705 or an intermediate care facility for mental retardation pursuant to federal regulations.

(2) Notwithstanding any provision of ORS 742.520 to 742.542, personal injury protection benefits are not required to be paid for physical therapy treatment of a person covered by the applicable insurance policy unless the person is referred to the physical therapist by a licensed physician, podiatric physician and surgeon, naturopathic physician, dentist, physician's assistant or nurse practitioner. [1993 c.211 §4; 1999 c.539 §2; 2001 c.104 §262]

688.134 Additional education requirements; rules. The Physical Therapist Licensing Board shall establish by rule education requirements that a physical therapist must meet before administering physical therapy to a person without prior referral as authorized by ORS 688.132 other than to individuals described in ORS 688.132 (1)(b) where no prior referral is required. [1993 c.211 §7; 1997 c.408 §1]

688.140 Grounds for discipline; sanctions. (1) The Physical Therapist Licensing Board, after notice of and hearing afforded such person as provided in ORS 688.145, may impose any or all of the following sanctions 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 or a permit issued under ORS 688.110.
 - (d) Impose a civil penalty not to exceed \$5,000.
 - (e) Impose probation with authority to limit or restrict a license.
 - (f) Issue letters of reprimand.
- (2) Grounds exist for the imposition of sanctions as specified in subsection (1) of this section when a person:
- (a) Is habitually under the influence of intoxicating liquors.
 - (b) Is habitually under the influence of controlled substances.
 - (c) Has been convicted of violating any federal narcotic law or state law relating to controlled substances.
 - (d) In the judgment of the board and pursuant to ethical and professional standards adopted by rule of the board, is guilty of unethical or unprofessional conduct.
 - (e) Subject to a finding consistent with ORS 670.280, has been convicted of a crime that is a felony or misdemeanor under the laws of any state or of the United States.
 - (f) In the judgment of the board, is guilty of gross negligence in practice as a physical therapist or physical therapist assistant.
 - (g) Has been adjudged mentally ill by a court of competent jurisdiction or has been voluntarily committed to an institution for treatment of mental illness, and thereafter has not been lawfully declared competent.
 - (h) Has treated or undertaken to treat ailments of persons otherwise than by physical therapy.
 - (i) Has violated ORS 688.130.
 - (j) Has obtained or attempted to obtain a license or a permit under ORS 688.010 to 688.220 by fraud or material misrepresentation.
 - (k) As a physical therapist assistant has undertaken to practice as a physical therapist.
 - (L) Has violated ORS 688.132.
 - (m) Has been subjected to discipline by another state based on acts similar to acts described in this subsection. A certified copy of the record of disciplinary action of the state taking the disciplinary action is considered conclusive evidence of the action.
 - (n) Has violated ORS 688.020. [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]

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 183.310 to 183.550.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.550.

(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; confirmation; duties; meetings; administrator. (1) The Physical Therapist Licensing Board shall operate 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 688.220 and 688.990 (1). The Physical Therapist Licensing Board shall consist of seven members appointed by the Governor who may be appointed from a list of not fewer than nine names, submitted by the Oregon Physical Therapy Association. Four of the members shall be licensed physical therapists, shall have had not fewer than three years' experience in physical therapy immediately preceding their appointment as members and shall be actively engaged in physical therapy in this state during their service as members. One member shall be a physician licensed under ORS chapter 677, one shall be a licensed physical therapist assistant and one shall be a public member. All members shall have voting privileges.

(2) Upon the expiration of the term of a member of the board, the Governor shall appoint a successor who may be appointed from a list of three names submitted to the Governor by the Oregon Physical Therapy Association to serve a term of four years. No member shall serve for more than two consecutive four-year terms.

(3) 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. The person may be appointed from a list of three names submitted as provided in subsection (2) of this section.

(4) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(5) The board shall:

(a) Establish matters of policy affecting administration of ORS 688.010 to 688.220;

(b) Establish matters relating to examinations;

(c) Adopt rules necessary to carry out the provisions of ORS 688.010 to 688.220;

(d) Establish standards and tests to determine the moral, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses to practice physical therapy in this state;

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

(f) Enforce the provisions of ORS 688.010 to 688.220; and

(g) Exercise general supervision over the practice of physical therapy within this state.

(6) 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.

(7) The board may appoint and fix the compensation of an administrator. [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]

688.170 Compensation and expenses. Each member of the Physical Therapist Licensing Board is entitled to compensation and expenses as determined by the board. [1959 c.461 §19; 1969 c.314 §88; 1971 c.585 §17; 1999 c.1084 §27]

688.180 Records. (1) The Physical Therapist Licensing Board shall keep a record of all its proceedings under ORS 688.010 to 688.220.

(2) The board shall keep a register of all licensed physical therapists, physical therapist assistants and persons who hold permits issued under ORS 688.110. The register shall show the name of every living licensed physical therapist, physical therapist assistant and person who holds a permit, the last-known place of business, the last-known place of residence and the date and number of the license certificate or permit. [1959 c.461 §20; 1969 c.339 §18; 1971 c.585 §18; 1975 c.111 §13]

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. All moneys received under ORS 688.010 to 688.220 shall be paid into the account established by the Physical Therapist Licensing Board under ORS 182.470. Those moneys hereby are appropriated continuously to the board and shall be used only for the administration and enforcement of ORS 688.010 to 688.220. [1973 c.427 §34 (enacted in lieu of 688.200); 1999 c.1084 §28]

688.210 Rules. Subject to the provisions of ORS 183.310 to 183.550, the Physical Therapist Licensing Board, pursuant to ORS 688.160, may promulgate, and from time to time modify or rescind, such reasonable rules as it deems necessary to facilitate the carrying out of its functions as provided in ORS 688.010 to 688.220 and to carry out the provisions and purposes of ORS 688.010 to 688.220. [1959 c.461 §23; 1969 c.339 §20; 1971 c.585 §20; 1975 c.111 §14]

(Enforcement)

688.220 Investigation of complaints and alleged violations; prosecution of violations. (1) The Physical Therapist Licensing Board shall investigate every alleged violation of ORS 688.010 to 688.220 coming to its notice and shall, subject to the conditions of ORS 676.175, report to the proper district attorney all cases that in the judgment of the board warrant prosecution. The district attorney will investigate as necessary. A police officer, sheriff or other peace officer in this state shall investigate alleged violations of ORS 688.010 to 688.220 and arrest violators. The Attorney General or proper district attorney shall prosecute violations of ORS 688.010 to 688.220 and, in any proceeding brought against the board, shall represent the board if the board so requests.

(2) Upon receipt of a complaint under ORS 688.010 to 688.220, the board shall conduct an investigation as described under ORS 676.165. [1959 c.461 §22; 1971 c.585 §21; 1997 c.791 §44; 1999 c.59 §203]

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 or physician licensed under ORS chapter 677, podiatric physician and surgeon or dentist shall, and any other person may, report suspected violations of ORS 688.010 to 688.220 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]

688.235 Investigation of alleged violations; power of board; subpoenas. (1) Upon the complaint of any citizen of this state, or upon its own motion, the Physical Therapist Licensing Board may investigate any alleged violation of ORS 688.010 to 688.230.

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

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

(3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas over the signature of the board chairperson and the seal of the board in the name of the State of Oregon. [1989 c.843 §14]

RADIOLOGIC TECHNOLOGISTS AND RADIATION THERAPISTS

(Generally)

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

(1) “Approved school of radiologic technology” means a school of radiologic technology accredited by the Joint Review Committee on Education in Radiologic Technology or by a regional post-secondary accreditation body, whose graduates are qualified to sit for the American Registry of Radiologic Technologists examination.

(2) “Board” means the Board of Radiologic Technology established by ORS 688.405 to 688.605.

(3) “Diagnostic radiologic technologist” means a person other than a licensed practitioner who actually handles X-ray equipment in the process of applying radiation on a human being for diagnostic purposes under the supervision of a licensed practitioner.

(4) “Inactive status” means the status granted by the board to a licensee or limited permit holder who has notified the board of the intent not to practice radiologic technology and of the desire to retain the right to reinstate the license or limited permit subject to board rule.

(5) “Licensed practitioner” means a person licensed or otherwise authorized by Oregon law to practice one of the healing arts.

(6) “License” means a license granted and issued by the board to practice radiologic technology.

(7) “Limited permit course of study” means a board approved set of didactical and clinical experience elements designed to prepare a student for obtaining practical experience and for passing the limited permit examination described in ORS 688.515.

(8) “Limited permit holder” means a person other than a radiation therapist or a diagnostic radiologic technologist who handles X-ray equipment in the process of applying radiation on a human being for diagnostic purposes under the supervision of a licensed practitioner and who has met the requirements of ORS 688.515.

(9) “Radiation oncologist” means a physician who is either certified or eligible for certification in therapeutic radiology by the American Board of Radiology or its equivalent or who is certified in general radiology by the American Board of Radiology and who devotes all professional time to the investigation and management of neoplastic disorders inclusive of teaching such investigation and management.

(10) “Radiation therapist” means a person, other than a licensed practitioner, who handles ionizing radiation in the process of applying radiation on a human being for therapeutic purposes under the supervision of a licensed practitioner.

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

(12) “Radiologic technologist” means a person other than a licensed practitioner who practices radiologic technology as a:

(a) Diagnostic radiologic technologist; or

(b) Radiation therapist.

(13) “Radiologic technology” means the use of ionizing radiation upon a human being for diagnostic or therapeutic purposes.

(14) “Radiologist” means a person duly licensed to practice medicine in the State of Oregon and who is certified by the American Board of Radiology or by the American Osteopathic Board of Radiology.

(15) “Supervision” means the act of monitoring the performance of diagnostic X-ray technology through periodic inspection, regardless of whether or not the supervising licensed practitioner is continuously physically present during the performance of such diagnostic X-ray technology. [1977 c.534 §2; 1981 c.603 §6; 1999 c.517 §1]

688.415 License required to practice radiologic technology; prohibited acts. (1) No person shall:

(a) Practice radiologic technology if the person is not licensed in accordance with the provisions of ORS 688.405 to 688.605 or is not the holder of a permit issued under ORS 688.515;

(b) Practice radiologic technology under a false or assumed name;

(c) Knowingly employ any person for the purpose of practicing radiologic technology if that person is not licensed or does not hold a valid permit in accordance with the provisions of ORS 688.405 to 688.605;

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

(e) Knowingly make a false statement on an application for a license or permit or a renewal for a license.

(2) After January 1, 1979, no person shall practice radiologic technology or purport to be a radiologic technologist unless the person is licensed in accordance with the provisions of ORS 688.405 to 688.605 or holds a permit issued by the Board of Radiologic Technology. [1977 c.534 §§4(3),20]

688.425 Licensed persons may use title. (1) A person licensed in accordance with the provisions of ORS 688.405 to 688.605 may use the title of “Licensed Radiologic Technologist” or the letters “LRT.” A person licensed as a radiologic technologist in the therapeutic field may use the title of “Licensed Radiation Therapy Technologist” or the letters “LRTT.”

(2) No person shall use these titles or any abbreviation of these titles or any title which is substantially the same as these titles unless the person is authorized under subsection (1) of this section. [1977 c.534 §18]

688.435 Application of ORS 688.405 to 688.605. The provisions of ORS 688.405 to 688.605 shall 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 of radiologic technology as defined in ORS 688.405 while practicing radiologic technology under the supervision of an instructor who is either a radiologist or a licensed radiologic technologist.

(3) A licensed practitioner or students in approved schools leading to licensure as a practitioner of one of the healing arts while practicing radiologic technology under the supervision of an instructor who is either a licensed practitioner or a licensed radiologic technologist. [1977 c.534 §15; 1979 c.449 §3; 1981 c.603 §5; 1993 c.247 §2; 1999 c.517 §2]

(Licensing)

688.445 Licensing and renewal procedure; fees. (1) The Board of Radiologic Technology shall issue a license to practice as a radiologic technologist in the State of Oregon to each person who meets the qualifications for licensure as provided in ORS 688.405 to 688.605. Such license shall state the category or categories for which the qualifications have been met, which include diagnostic radiologic technologist and radiation therapist.

(2) Every license issued by the board shall be under its seal and shall be signed by the chairperson.

(3) A license must be renewed every two years on the first day of the month of the anniversary date of the licensee's birthday.

(4) Any license that is not renewed as provided in subsection (3) of this section expires. The board may renew an expired license upon payment of a delinquent fee in an amount set by the board plus the biennial renewal fee. However, no such late renewal may be granted more than five years after a license has expired.

(5) A license shall be renewed upon application to the board which is accompanied by a fee in an amount set by the board.

(6) A license which has been expired for more than five years may be reissued only in the manner prescribed for an original license. [1977 c.534 §5; 1979 c.443 §1; 1989 c.214 §1; 1997 c.106 §1; 1997 c.367 §1; 1999 c.517 §3]

Note: Section 4, chapter 106, Oregon Laws 1997, provides:

Sec. 4. (1) Notwithstanding ORS 688.445, a person who holds a current license as a radiologic technologist on the effective date of this Act [October 4, 1997] shall renew the license on April 1, 1999. For the next subsequent renewal, a licensee whose birth occurred in an odd-numbered year shall renew the license between April 1, 2001, and March 31, 2002, on the first day of the month of the anniversary date of the licensee's birthday. A licensee whose birth occurred in an even-numbered year shall next renew the license between April 1, 2002, and March 31, 2003, on the first day of the month of the anniversary date of the licensee's birthday. All future renewals shall occur every two years on the first day of the month of the anniversary date of the licensee's birthday.

(2) Notwithstanding ORS 688.515, a person who holds a limited permit on the effective date of this Act shall renew the limited permit on April 1, 1998. For the next subsequent renewal, a permittee whose birth occurred in an odd-numbered year shall renew the permit between April 1, 2000, and March 31, 2001, on the first day of the month of the anniversary date of the permittee's birthday. A permittee whose birth occurred in an even-numbered year shall next renew the permit between April 1, 2001, and March 31, 2002, on the first day of the month of the anniversary date of the permittee's birthday. All future renewals shall occur every two years on the first day of the month of the anniversary date of the permittee's birthday. [1997 c.106 §4]

688.455 License fee; general qualifications. The Board of Radiologic Technology shall license any person who makes an application in writing and pays a fee in an amount set by the board and who at that time:

(1) Is at least 18 years of age;

(2) Has successfully completed a four-year course of study in a secondary school approved by the board of education of the state in which the school is located or has passed an approved equivalency test; and

(3) Meets the requirements for licensing as described in ORS 688.465, 688.475 and 688.495. [1977 c.534 §6; 1979 c.443 §2; 1991 c.535 §1; 1997 c.367 §2]

688.465 Qualifications of radiologic technologist in diagnostic field. For licensure as a radiologic technologist in the diagnostic field, an applicant must:

(1) Be currently certified by the American Registry of Radiologic Technologists (ARRT) in X-ray technology; or

(2) Have successfully completed a course of study in an approved school of radiologic technology and, according to Board of Radiologic Technology standards, pass the American Registry of Radiologic Technologists examination or an equivalent examination, as determined and directed by the board, with the fee for the latter examination being set by the board. [1977 c.534 §7; 1981 c.603 §1; 1999 c.517 §4]

688.475 Qualifications of radiologic technologist in therapeutic field. For licensure as a radiologic technologist in the therapeutic field, an applicant must:

(1) Be currently certified by the American Registry of Radiologic Technologists (ARRT) in radiation therapy; or

(2) Have successfully completed a course in radiation therapy in an approved school of radiologic technology and, according to Board of Radiologic Technology standards, pass the American Registry of Radiologic Technologists examination or an equivalent examination, as determined and directed by the board, with the fee for the latter

examination being set by the board. [1977 c.534 §8; 1981 c.603 §2; 1999 c.517 §5]

688.480 Operator of certain tomography equipment to be certified. Persons who operate computerized tomography equipment for diagnostic purposes must be certified by the American Registry of Radiologic Technologists. [1979 c.449 §6]

688.485 Examinations. (1) The Board of Radiologic Technology may conduct one or more examinations each year at such times and places as the board may determine.

(2) An applicant who fails to pass an examination may take additional examinations scheduled by the board. A fee shall be charged for examinations as determined by the board. [1977 c.534 §11]

688.495 Licensing without examination. The Board of Radiologic Technology may license as a radiologic technologist, 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 radiologic technologist 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 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]

688.505 Evidence of continuing education on renewal. The Board of Radiologic Technology shall require each person holding a license or permit under ORS 688.405 to 688.605 to submit, at the time the person submits the biennial renewal fee, evidence of continuing education in radiologic technology pursuant to rules of the board. Continuing education must be pertinent to the subject area of radiologic technology for which the license or permit was issued. Evidence of current American Registry of Radiologic Technologists certification may be used as valid documentation of continuing education required by this section. [1977 c.534 §12; 1985 c.325 §1; 1989 c.214 §2; 1999 c.517 §6]

688.515 Limited permit; temporary license; X-ray bone densitometry operator permit; fees; qualifications.

(1) The Board of Radiologic Technology shall issue a limited permit to an applicant to practice in a limited area of radiologic technology if such applicant meets the requirements for a limited permit as provided in this section. Such limited 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) Upper extremities;

(b) Pelvis or lower extremities, or both;

(c) Chest and ribs;

(d) Spine;

(e) Head;

(f) Abdomen; or

(g) Foot and ankle for podiatric use.

(2) Limited permits shall not be issued for contrast studies or special head studies such as tomography.

(3) Each applicant for a limited 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, registered radiologic technologist in laboratory practice specific to each category for which the applicant seeks a limited 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 permit. Such program shall include operation of an energized X-ray machine under the supervision of a registered radiologic technologist;

- (g) Have paid the examination fee set by board rule to reflect the actual cost of the examination; and
 - (h) Have successfully passed an oral or written examination, or both, conducted by or approved by the board in radiation use and safety and in those categories in which the applicant seeks a limited permit.
- (4) Upon meeting the requirements of this section, the board shall issue a limited permit to the applicant. A limited permit shall be renewed every two years on the first day of the month of the anniversary date of the permittee's birthday subject to ORS 688.505 and payment of a fee in an amount set by the board. Any limited permit that is not renewed as provided in this subsection expires. The board may renew any expired limited permit upon payment of a delinquent fee in an amount set by the board plus the biennial renewal fee.
- (5) Every person issued a limited permit shall notify the board in writing of the name of each licensed practitioner supervising permittee's performance of diagnostic X-ray technology and shall only perform diagnostic X-ray technology while being supervised by a licensed practitioner. In the event permittee subsequently is supervised by a licensed practitioner other than the person whose name was initially furnished to the board, the board shall be immediately notified in writing.
- (6) A temporary license or limited permit may be issued by the board without examination to a graduate of or a student enrolled in an approved school of radiologic technology or limited permit course of instruction upon application and payment of a registration fee in an amount set by the board if the person practices as a diagnostic radiologic technologist or radiation therapist under the supervision of a licensed practitioner. A temporary license or limited permit is valid for a period of six months and may be renewed by the board for one six-month period only.
- (7) At the discretion of the board a temporary limited permit may be issued by the board without examination to a person upon application and payment of a registration fee in an amount set by the board if the person practices diagnostic radiologic technology under the supervision of a licensed practitioner and if the person is enrolled in an approved course of instruction in radiation use and safety. Such a temporary limited permit shall be valid for a period of three months and shall not be renewed by the board except as provided under subsection (6) of this section.
- (8) In addition to the temporary license or limited permit authorized by this section, the board may authorize a permit authorizing its holder to be an X-ray bone densitometry operator. The operator must meet standards of training established by the board by rule. The applicant shall pay a nonrefundable fee fixed by the board and the permit may be issued for a period of two years and may be renewed upon payment of a fixed renewal fee. [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]

Note: See note under 688.445.

688.520 Licenses and permits for periods other than 24 months. The Board of Radiologic Technology 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]

688.525 Grounds for discipline; investigation of complaints; confidential information. (1) The Board of Radiologic Technology, after notice of and hearing as required under the contested case procedures of ORS 183.310 to 183.550, may refuse to license any applicant, may refuse to renew the license or permit of any radiologic technologist or may suspend or revoke the license or permit of a person who:

- (a) Is chemically dependent.
 - (b) In the judgment of the board is guilty of unethical or unprofessional conduct in the practice of radiologic technology.
 - (c) Has been convicted of any crime where the crime bears a demonstrable relationship to the practice of radiologic technology.
 - (d) In the judgment of the board, is guilty of gross negligence in the practice of radiologic technology.
 - (e) Has been adjudged incompetent by a court of law and thereafter has not been lawfully declared competent.
 - (f) Has undertaken to act as a radiologic technologist independently of the supervision of a practitioner licensed by the State of Oregon to practice one of the healing arts.
 - (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 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. [1977 c.534 §28; 1979 c.744 §60; 1993 c.247 §4; 1997 c.791 §46; 1999 c.517 §8]

(State Board)

688.545 Board of Radiologic Technology; qualifications; advisory member; term; compensation and expenses; officers; meetings; quorum. (1) There is created in the Department of Human Services a Board of Radiologic Technology consisting of seven members who shall be appointed by the Governor. Each member of the board shall be a citizen of the United States and a resident of the State of Oregon. One member shall be a radiologist. One member shall be a lay person. Five members shall be licensed practicing radiologic technologists, one of whom shall be a radiation therapist. Each appointed member shall be entitled to vote.

(2) The Director of the Radiation Control Section of the Department of Human Services, or a person appointed by the director, shall be an advisory member of the board for the purpose of providing counsel and shall not be entitled to vote.

(3) The term of office of the members of the board shall be three years and a member may be reappointed to serve not more than two full terms.

(4) Members of the board shall be entitled to compensation and expenses as provided in ORS 292.495.

(5) The board shall annually elect the board chairperson from the members of the board.

(6) For the purpose of transacting its business, the board shall 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. A written notice of the time, place and purpose of any special meeting shall be mailed 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.

(7) Four members of the board shall constitute a quorum for the transaction of business at any meeting. Four affirmative votes shall be required to take action. [1977 c.534 §3; 1979 c.449 §4; 1999 c.517 §9]

688.555 Rulemaking; executive officer. (1) The Board of Radiologic Technology shall have the power to adopt such rules as may be necessary to carry out the provisions of ORS 688.405 to 688.605.

(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 officer subject to ORS 240.245 and include reimbursement for actual and necessary travel expenses incurred in the performance of the duties of the officer. [1977 c.534 §4(1), (2), (4); 1999 c.517 §10]

688.560 Fees for services. The Board of Radiologic Technology by rule shall establish and collect reasonable fees for the following services:

(1) Administration of limited permit examinations.

(2) Special interpretation of examination results.

(3) Duplication of permits and wall certificates.

(4) Reproduction of records.

(5) Licensing and permitting. [1993 c.247 §6; 1997 c.367 §4; 1999 c.517 §11]

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 Program of continuing education. The Board of Radiologic Technology shall offer a program of continuing education in radiologic technology to meet the requirements of ORS 688.505. The board may also approve a program to be presented by persons qualified to do so. [1977 c.534 §13]

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

688.585 Board of Radiologic Technology Fund. (1) The Board of Radiologic Technology Fund is established in the Public Health Account of the State Treasury. Except for moneys otherwise designated by statute, all fees, contributions and other moneys received by the Board of Radiologic Technology shall be paid into the State Treasury

and credited to the account. All moneys in the account are appropriated continuously and shall be used by the board for purposes of ORS 688.405 to 688.605.

(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]

(Enforcement)

688.595 Enforcement and inspections. The Director of the Radiation Control Section of the Department of Human Services shall enforce the provisions of ORS 688.405 to 688.605 and shall conduct, under the direction of the Board of Radiologic Technology, inspections in furtherance of the purposes of ORS 688.405 to 688.605. [1977 c.534 §19]

688.600 Investigation of alleged violations; power of board; subpoenas. (1) Upon the complaint of any citizen of this state, or upon its own motion, the Board of Radiologic Technology 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; and

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

(3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas over the signature of the board chairperson and the seal of the board in the name of the State of Oregon. [1989 c.843 §10]

688.605 Duty to report violation; confidentiality; procedure on claims of violation. (1) Any radiologic technologist, any person licensed by the Board of Radiologic Technology or any other organization representing radiologic technologists shall, and any other person may, report to the board any suspected violation of ORS 688.405 to 688.605 or any rule adopted pursuant to ORS 688.555.

(2) Any information that the board obtains as the basis of a complaint or in the investigation thereof 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 shall not be subject to an action for civil damages as a result thereof.

(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]

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 Health Care Financing Administration.

(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 Department of Human Services under ORS 688.650. [1997 c.580 §1]

688.630 Practice of hemodialysis by uncertified practitioner prohibited. After January 1, 2000, it is unlawful:

(1) For any person to act as a hemodialysis technician without being certified by the Department of Human Services.

(2) For any dialysis facility or center to authorize a person to act for it as a hemodialysis technician without being certified by the department. [1997 c.580 §2]

688.635 Scope of practice of hemodialysis technician. (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 Department of Human Services, in consultation with the Board of Medical Examiners 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 department 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 department pursuant to subsection (1) of this section. [1997 c.580 §3]

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 Department of Human Services. The application shall be upon forms prescribed by the department 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 department may reasonably require to determine compliance with applicable provisions of ORS 688.625 to 688.665 and the rules adopted thereunder.

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

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 Department of Human Services, an additional fee shall be charged for the examination.

(2) The department 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 Department of Human Services pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the Department of Human Services' budget, as the budget may be modified by the Emergency Board.

(4) All moneys received by the department 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 department 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]

688.650 Qualifications for certification; temporary or provisional certificates; continuing education; certificate expiration; rules. (1) When application has been made as required under ORS 688.640, the Department of Human Services shall certify the applicant as a hemodialysis technician if it finds:

(a) The applicant has successfully completed the training requirement adopted by the department.

(b) A fee has been paid to the department pursuant to ORS 688.645.

(c) The applicant has successfully completed an examination administered by the department or administered by another public or private entity and approved by the department.

(d) The applicant meets any other requirements prescribed by rule of the department.

(2) The department 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 department may impose any conditions or limitations on a temporary or provisional certificate that the department 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 department; and

(b)(A) Has successfully completed the initial training required by department 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 department rule.

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

(4) The department 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. The department 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]

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 183.310 to 183.550 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 Department of Human Services.

(e) Conviction of a criminal offense that the department 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 department rule as rendering the applicant unfit to perform the duties of a hemodialysis technician.

(2) The department may investigate any evidence that appears to show that a hemodialysis technician certified by the department 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 department 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 department 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 department 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]

688.660 Grounds for discipline of certificate holder; civil penalty; assessment of disciplinary proceeding cost.

(1) The Department of Human Services 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 183.310 to 183.550 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 department 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 department 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 department may temporarily suspend a certificate or license without a hearing, simultaneously with the commencement of proceedings under ORS 183.310 to

183.550, if the department 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 department places a technician on probation, the department 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 183.090. [1997 c.580 §8]

688.665 Department to adopt rules. The Department of Human Services shall adopt rules that the department considers necessary and proper to enforce ORS 688.625 to 688.665. [1997 c.580 §9]

ATHLETIC TRAINERS

Note: Sections 1 to 15 and 17, chapter 736, Oregon Laws 1999, provide:

Sec. 1. Definitions. As used in sections 1 to 13 of this 1999 Act:

(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 section 8 of this 1999 Act. [1999 c.736 §1]

Sec. 2. Board of Athletic Trainers; establishment; appointment; membership; terms. (1) There is created in the Health Licensing Office the Board of Athletic Trainers, consisting of five members appointed by the Director of the Health Licensing Office. In making appointments to the board, the director must take into consideration any 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 citizens 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 for each member of the board is four years. A member is eligible for reappointment, but no member may serve more than two consecutive terms. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the board may be removed by the director for neglect of duty, incompetence or unethical conduct.

(5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495. [1999 c.736 §2]

Sec. 3. 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]

Sec. 4. Board duties. The Board of Athletic Trainers shall:

(1) Advise the Health Licensing Office about the adoption of rules necessary for the administration of sections 1 to 13 of this 1999 Act.

(2) Determine training and education requirements for registration as described in section 8 of this 1999 Act.

(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 continuing education requirements for renewal of registration.

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

(10) 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]

Sec. 5. Authority of Health Licensing Office; rulemaking; fees; 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 sections 1 to 13, chapter 736, Oregon Laws 1999.

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

(3) Establish and collect fees and charges to carry out its legal responsibilities.

(4) Authorize all necessary disbursements to carry out the provisions of sections 1 to 13, chapter 736, Oregon Laws 1999, 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 Health Licensing Office and such other expenditures as are provided for in sections 1 to 13, chapter 736, Oregon Laws 1999.

(5) 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 sections 1 to 13, chapter 736, Oregon Laws 1999, and for such other purposes as the Health Licensing Office may require. Nothing in sections 1 to 13, chapter 736, Oregon Laws 1999, shall be construed to prevent assistance being rendered by an employee of the Health Licensing Office in any hearing called by it. However, all obligations for salaries and expenses incurred under sections 1 to 13, chapter 736, Oregon Laws 1999, shall be paid only from the fees accruing to the Health Licensing Office under sections 1 to 13, chapter 736, Oregon Laws 1999.

(6) The Health Licensing Office shall provide the board with such administrative services and employees as the board requires to carry out its duties.

(7) Maintain an accurate record of all proceedings of the board and of all its meetings, receipts and disbursements, fines and orders for violation of sections 1 to 13, chapter 736, Oregon Laws 1999, 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.

(8) Investigate complaints, take disciplinary action, including assessment of civil fines, and provide opportunity for hearing according to ORS 183.090.

(9) 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 sections 1 to 13, chapter 736, Oregon Laws 1999. [1999 c.736 §5; 2001 c.104 §263]

Sec. 6. 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 section 8 of this 1999 Act.

(2) Nothing in sections 1 to 13 of this 1999 Act 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 practicing athletic training if the person is employed as an athletic trainer by the federal government or any of its agencies;

(c) 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;

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

(e) 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 by and in good standing as an athletic trainer with the National Athletic Trainers Association Board of Certification.

(3) Nothing in sections 1 to 13 of this 1999 Act shall be construed to require registration of elementary or secondary school teachers, coaches or volunteers who do not hold themselves out to the public to be athletic trainers. [1999 c.736 §6]

Sec. 7. Use of authorized title. (1) A person who is a registered athletic trainer under sections 1 to 13 of this 1999 Act may use the title "Athletic Trainer, Registered" and the abbreviation "ATR."

(2) A person who is a registered athletic trainer under sections 1 to 13 of this 1999 Act and who is certified by the National Athletic Trainers Association Board of Certification may use the title "Athletic Trainer, Certified/Registered" and the abbreviation "ATC/R." [1999 c.736 §7]

Sec. 8. Requirements for registration; grounds for refusal to issue or renew registration. (1) An applicant for registration as an athletic trainer under sections 1 to 13 of this 1999 Act shall be issued a registration if the applicant has:

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

(b) Demonstrated to the board proof of receipt of a bachelor's degree;

(c) Successfully completed the certification examination administered by the National Athletic Trainers Association Board of Certification or equivalent examination approved or recognized by the Board of Athletic Trainers;

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

(e) Documented that the applicant is at least 18 years of age; and

(f) Paid all fees required for registration.

(2) The Health Licensing Office may refuse to issue or renew a registration of an applicant who has been convicted of an offense or disciplined by an athletic licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant to practice athletic training in accordance with the provisions of sections 1 to 13 of this 1999 Act, or who has falsified an application for registration, or any person for any cause described under section 11 of this 1999 Act. [1999 c.736 §8]

Sec. 9. Registration renewal; late renewal; reinstatement. (1) An athletic trainer registration is issued for a one-year period. All registrations shall expire on the last day of the month, one year from the date of issuance.

(2) The filing of a registration renewal form is the responsibility of the registrant. The registrant must submit to the Board of Athletic Trainers a completed renewal application, required renewal fee and presentation of evidence, satisfactory to the board, of having completed any required continuing education credits prior to the renewal or expiration date of the registration as specified by rule.

(3) Requirements for late renewal and reinstatement of an expired or lapsed registration shall be determined by the board as specified by rule.

(4) The Health Licensing Office may refuse to grant or renew the registration of an athletic trainer whose registration has been denied, suspended, revoked or lapsed for up to one year from the date of the denial of registration or renewal, or the date of the order of suspension or revocation.

(5) The Health Licensing Office may vary the date of registration renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee. [1999 c.736 §9]

Sec. 10. Fees. (1) The Health Licensing Office by rule shall impose fees for the following:

(a) Application for athletic trainer registrations, permits and waivers;

(b) Athletic trainer registration;

(c) Renewal of athletic trainer registration;

(d) Temporary practice registration;

(e) Examinations and reexaminations;

(f) Reinstatement;

(g) Delinquency in renewal of a registration;

(h) Duplication; and

(i) Reciprocity.

(2) All moneys received by the Health Licensing Office under subsection (1) of this section shall be paid into the General Fund in the State Treasury and credited to the Health Licensing Office Account, and are appropriated continuously and shall be used only by the Health Licensing Office for the administration and enforcement of sections 1 to 13, chapter 736, Oregon Laws 1999.

(3) The fees and charges established by the Health Licensing Office under this section are subject to the prior approval of the Oregon Department of Administrative Services and, if their adoption occurs between regular sessions of the Legislative Assembly, a report to the Emergency Board. The fees and charges shall not exceed the cost of administering sections 1 to 13, chapter 736, Oregon Laws 1999, of the Health Licensing Office pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the Health Licensing Office's budget, as that budget may be modified by the Emergency Board.

(4) The Health Licensing Office may assess fees for providing copies of official documents or records in specific formats and for recouping administrative costs associated with compiling, photocopying or preparing and delivering such records. [1999 c.736 §10; 1999 c.885 §50b]

Sec. 11. Grounds for discipline. The Health Licensing Office, in consultation with the Board of Athletic Trainers, may discipline any person registered to practice athletic training in the state for any of the following causes:

- (1) Unprofessional conduct, negligence or incompetence in the practice of athletic training.
- (2) Fraud, misrepresentation or concealment of material facts in applying for or obtaining a registration to practice in this state, or in connection with applying for or obtaining registration.
- (3) Use of any advertising statements that deceive or mislead the public or that are untruthful.
- (4) Making statements that the registrant knows, or should have known, are false or misleading, regarding skill or the efficacy or value of treatment or remedy administered by the registrant in the treatment of any condition pertaining to athletic training.
- (5) Impersonating another registrant or permitting another person to use a valid registration.
- (6) Subject to ORS 670.280, conviction of any criminal offense. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of the conviction.
- (7) Having been disciplined by another state in regard to the practice of athletic training. A certified copy of the record of the disciplinary action of the state is conclusive evidence thereof.
- (8) Performance of services while under the influence of alcohol, controlled substances or other skill-impairing substances so as to create a risk or harm to clients.
- (9) Any violation of the provisions of sections 1 to 13 of this 1999 Act or of the rules adopted in accordance with sections 1 to 13 of this 1999 Act. [1999 c.736 §11]

Sec. 12. Investigations and hearings. (1) Upon its own motion or upon any complaint, the Health Licensing Office may initiate and conduct investigations of and hearings on all matters relating to the practice of athletic training.

- (2) In the conduct of investigations or hearings, the Health Licensing Office may:
- (a) Take evidence;
 - (b) Administer oaths;
 - (c) Take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases;
 - (d) Compel the appearance of witnesses, including the person charged, in the manner provided by law in civil cases;
 - (e) Require answers to interrogatories; and
 - (f) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

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

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

(5) In all investigations and hearings, the Health Licensing Office and any person affected thereby may have the benefit of counsel and all hearings shall be held in compliance with ORS 183.310 to 183.550. [1999 c.736 §12]

Sec. 13. Disciplinary procedure; civil penalty. (1) In disciplining a registrant for any cause authorized by sections 1 to 13, chapter 736, Oregon Laws 1999, the Health Licensing Office may:

- (a) Refuse to issue or renew the registration;
- (b) Suspend judgment;

- (c) Place the registrant on probation;
 - (d) Suspend the registration;
 - (e) Revoke the registration;
 - (f) Place limitations on the registration; or
 - (g) Take such other disciplinary action as the Health Licensing Office finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed \$1,000, or both.
- (2) In addition to the action authorized by subsection (1) of this section, the Health Licensing Office may temporarily suspend a registration without a hearing while simultaneously commencing proceedings in accordance with ORS 183.310 to 183.550 as a contested case if the Health Licensing Office finds that evidence in its possession indicates that a continuation in practice of the registrant constitutes an immediate danger to the public.
- (3) If the Health Licensing Office places any registrant on probation as set forth in subsection (1)(c) of this section, the Board of Athletic Trainers may determine, and at any time modify, the conditions of the probation and may include any reasonable condition for the purpose of the rehabilitation of the probationer.
- (4) If a registration issued under section 8, chapter 736, Oregon Laws 1999, is suspended, the holder of the registration may not practice during the term of suspension. The registration shall be reinstated by the Health Licensing Office if the conditions for which the license was suspended no longer exist.
- (5) Civil penalties under this section shall be imposed as provided in ORS 183.090.
- (6) All penalties recovered under this section shall be credited to the General Fund in the State Treasury and credited to the Health Licensing Office Account, and are appropriated continuously and shall be used only by the Health Licensing Office for the administration and enforcement of sections 1 to 13, chapter 736, Oregon Laws 1999.
- (7) In addition to all other remedies, when it appears to the Health Licensing Office that a person has engaged in, or is engaging in, any act, practice or transaction that violates the provisions of sections 1 to 13, chapter 736, Oregon Laws 1999, the Health Licensing Office may direct the Attorney General or the district attorney of the county in which the act, practice or transaction occurs to apply to the court for an injunction restraining the person from violating the provisions of sections 1 to 13, chapter 736, Oregon Laws 1999. [1999 c.736 §13; 1999 c.885 §50c]

Sec. 14. Term of office of initial board members. Notwithstanding the term of office specified by section 2 of this 1999 Act, of the members first appointed to the Board of Athletic Trainers:

- (1)(a) One athletic trainer member shall serve for a term ending on the first day of the month of appointment in the year next following appointment.
 - (b) One athletic trainer member shall serve for a term ending on the first day of the month of appointment in the second year next following appointment.
 - (c) One athletic trainer member shall serve for a term ending on the first day of the month of appointment in the third year next following appointment.
- (2) The physician member shall serve for a term ending on the first day of the month of appointment in the second year next following appointment.
- (3) The public member shall serve for a term ending on the first day of the month of appointment in the third year next following appointment. [1999 c.736 §14]

Sec. 15. When registration without examination may be issued; conditions. (1) Any person actively engaged as an athletic trainer on the effective date of this 1999 Act [October 23, 1999] will be considered registered under sections 1 to 13 of this 1999 Act if the person submits an application and payment of the application and registration fees required by section 10 of this 1999 Act, and upon evaluation of the person's qualifications by the Board of Athletic Trainers, is found to have a level of competence equal to that of one possessing the educational qualifications set forth in section 8 of this 1999 Act. In the evaluation, the board shall accept the applicant's documentation of certification by the National Athletic Trainers Association Board of Certification as proof that the applicant has met the required level of competence. For applicants not having such certification, the Health Licensing Office shall, with the advice of the Board of Athletic Trainers, establish rules for examination and evaluation that shall take into account the applicant's education, training and experience qualifications.

(2) Applications for a license under this section must be made within 180 days from the effective date of this 1999 Act. [1999 c.736 §15]

Sec. 17. Sections 1 to 13 of this 1999 Act are repealed on December 31, 2005. [1999 c.736 §17]

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

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

- (1) "Agency" means the Health Licensing Office.
- (2) "Board" means the Respiratory Therapist Licensing Board.
- (3) "Qualified medical director" means the medical director of any inpatient or outpatient respiratory care service, department or home care agency who is a physician licensed by the State of Oregon and who has special interest and knowledge in the diagnosis and treatment of respiratory problems.
- (4) "Respiratory care" means the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system in accordance with the prescription of a licensed physician and under a qualified medical director. "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.
- (5) "Respiratory care practitioner" means a person licensed under ORS 688.800 to 688.840.
- (6) "Respiratory care services" means cardiopulmonary care services rendered in accordance with the prescription of a licensed physician and includes, but is 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]

- 688.805 Practice of respiratory care by unlicensed practitioner prohibited; exceptions; practice requirements.** (1) No person shall practice respiratory care or claim to be a respiratory care practitioner unless the person is licensed under ORS 688.800 to 688.840.
- (2) 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.
 - (3) Nothing in ORS 688.800 to 688.840 prohibits:
 - (a) The practice of respiratory care by students 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 board.
 - (b) Self-care by a patient, or gratuitous care by a friend or family member who does not claim to be a respiratory care practitioner.
 - (c) Respiratory care services rendered in the course of an emergency.
 - (4) 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.

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

(6) The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place considered appropriate or necessary by the Respiratory Therapist Licensing Board in accordance with the prescription or verbal order of a physician and shall be performed under a qualified medical director. [1997 c.792 §7]

688.810 Use of title. A person holding a license to practice respiratory care in this state may use the title “Licensed Respiratory Care Practitioner” and the abbreviation “LRCP.” [1997 c.792 §8]

688.815 Application for license; examination; license by indorsement. (1) An applicant for a license to practice respiratory care shall submit to the Health Licensing Office written evidence, verified by oath, 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 thereof determined by the appropriate educational agency; and

(c) Has completed 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 Licensing Board.

(2) The applicant shall be required to pass an examination, whereupon the office may issue to the applicant a license to practice respiratory care.

(3) The office may choose to issue a license to practice respiratory care by indorsement to:

(a) An applicant who is currently licensed to practice respiratory care 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.

(b) An applicant holding a credential conferred by the National Board for Respiratory Care as a Certified Respiratory Therapy Technician (CRTT) or as a Registered Respiratory Therapist (RRT), or both, providing such credential has not been suspended or revoked. [1997 c.792 §6; 2001 c.40 §1]

688.817 Grounds for discipline of licensee. The Health Licensing Office, in consultation with the Respiratory Therapist Licensing Board, may discipline a person licensed under ORS 688.800 to 688.840 for any of the following reasons:

(1) Unprofessional conduct, negligence or incompetence in the practice of respiratory care.

(2) Fraud or misrepresentation in applying for or procuring a license to practice in this state.

(3) Use of advertising statements that are untruthful or that deceive or mislead the public.

(4) Making statements that the licensee knows, or with the exercise of reasonable care should know, are false or misleading regarding the skill, efficacy or value of the treatment or remedy administered by the licensee in treating any disease or other condition of the human body.

(5) Impersonating another licensee or permitting another person to use a license issued under ORS 688.830.

(6) Subject to ORS 670.280, conviction of any criminal offense. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(7) Disciplinary action by another state of a licensee to practice respiratory therapy, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of the disciplinary action of the other state is evidence from which the office may presume that the licensee was properly disciplined for the reasons stated.

(8) Practicing respiratory care or related services while under the influence of alcohol, controlled substances or other skill-impairing substances that creates a risk of harm to clients.

(9) Any violation of the provisions of ORS 688.800 to 688.840 or of rules adopted in accordance with ORS 688.830 (1)(b). [2001 c.40 §5]

688.818 Methods of discipline; civil penalty; disposition of moneys. (1) In disciplining a licensee as authorized by ORS 688.817, the Health Licensing Office, in consultation with the Respiratory Therapist Licensing Board, may use any or all of the following methods:

(a) Refuse to issue or renew the license.

(b) Place the licensee on probation.

(c) Suspend the license.

- (d) Revoke the license.
- (e) Place limitations on the license.
- (f) Take such other disciplinary action as the office finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed \$5,000, or both.
- (2) The office may deny a license or issue a conditional, limited or probationary license to an applicant for licensure for any of the grounds for which a licensee may be disciplined.
- (3) If the office places a licensee on probation under subsection (1)(b) of this section, the office, in consultation with the board, may determine and may at any time modify the conditions of the probation. The office may include among the conditions of the probation any reasonable condition for the purpose of protecting the public or rehabilitating the probationer, or both.
- (4) If a license issued under ORS 688.800 to 688.840 is suspended, the holder of the license may not practice respiratory care during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated by the office if the conditions for which the license was suspended no longer exist.
- (5) In addition to all other remedies, when it appears to the office that a person is engaged in, or has engaged in, any act, practice or transaction that violates any provision of ORS 688.800 to 688.840, the office may direct the Attorney General or the district attorney of the county in which the act, practice or transaction occurs to apply to the court for an injunction restraining the person from violating the provisions of ORS 688.800 to 688.840.
- (6) Civil penalties under this section shall be imposed as provided in ORS 183.090.
- (7) All moneys received by the office under ORS 688.800 to 688.840 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Licensing Office Account. Such moneys are appropriated continuously and shall be used only for the administration and enforcement of ORS 688.800 to 688.840. [2001 c.40 §6]

688.820 Respiratory Therapist Licensing Board; qualification of members; terms. (1) There is established within the Health Licensing Office the Respiratory Therapist Licensing Board, consisting of five members appointed by the Governor.

(2) The term of office of each member of the board is four years. A member is eligible for reappointment, but no member shall serve more than two full terms. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) The members of the board must be citizens of this state who have engaged in the practice of respiratory care for a period of five or more years immediately preceding appointment to the board. In making appointments to the board, the Governor shall take into consideration any nominations received from the Oregon Society for Respiratory Care, or its successor.

(4) A member of the board may be removed by the Governor for neglect of duty, incompetency or unethical or dishonorable conduct.

(5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495. [1997 c.792 §2; 1999 c.885 §33]

688.825 Selection of board chairperson; quorum; meetings. (1) The Respiratory Therapist 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]

688.830 Duties of Health Licensing Office and of board. (1) The Health Licensing Office in consultation with the Respiratory Therapist Licensing Board shall:

(a) Determine the qualifications and fitness of applicants for licensure, renewal of license and reciprocal licenses.

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

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

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

(2) The Respiratory Therapist Licensing Board shall:

- (a) Establish standards of practice and professional responsibility for persons licensed by the office.
- (b) Select a licensing examination that meets the standards of the National Commission for Health Certifying Agencies or an equivalent that is nationally recognized in testing respiratory care competencies.
- (c) Establish continuing education requirements for renewal of a license.
- (d) Provide for waivers of examinations, grandfathering requirements and temporary licenses as considered appropriate.
- (e) Establish examination and licensing fees, renewal fees and fees for duplicate licenses. Subject to the review of the Oregon Department of Administrative Services, the fees established under this paragraph shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee is established, as recognized by the Legislative Assembly in the board's budget, as the budget may be modified by the Emergency Board. [1997 c.792 §5; 2001 c.40 §2]

688.835 Investigation of alleged violations; power to compel testimony; subpoenas. (1) Upon the complaint of any citizen of this state or upon its own initiative, the Health Licensing Office may investigate any alleged violation of the provisions of ORS 688.800 to 688.840.

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

- (a) Take evidence;
- (b) Take the depositions of witnesses, including the person charged;
- (c) Compel the appearance of witnesses, including the person charged;
- (d) Require answers to interrogatories; and
- (e) Compel the production of books, papers, records, accounts, documents or testimony pertaining to the matter under investigation.

(3) In exercising its authority under subsection (2) of this section, the office may issue subpoenas over the signature of the Director of the Health Licensing Office or any person the director may designate by rule.

(4) The circuit court for any county, upon application by the director, shall compel obedience to a subpoena issued and served pursuant to this section and shall punish disobedience of any such subpoena, or any refusal to testify at any authorized hearing or to answer any lawful inquiry of the director or any designated representative of the director, in the same manner as a refusal to testify in the circuit court or as disobedience of the requirements of a subpoena issued from the circuit court is punished.

(5) The office, a licensee or a witness may have benefit of counsel during any investigation. [1997 c.792 §4; 2001 c.40 §3]

688.840 Immunity from civil liability. The Respiratory Therapist 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]

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 Radiologic Technology may impose a civil penalty not to exceed \$1,000 for any violation of ORS 688.405 to 688.605, or of any rules promulgated pursuant to those provisions. The penalty may be imposed whether or not the person incurring the penalty has been licensed or been issued a permit under ORS 688.405 to 688.605, or has made application for a license or permit under those sections. A civil penalty may be imposed in lieu of a refusal to grant or renew a license or permit, or a suspension or revocation of a license or permit, under ORS 688.525.

(2) Civil penalties under this section shall be imposed in the manner provided by ORS 183.090.

(3) All penalties recovered under this section shall be credited to the Board of Radiologic Technology Fund established under ORS 688.585. [1991 c.585 §§1,2]

688.990 Criminal penalties. (1) Violation of any provision of ORS 688.020, 688.120 or 688.130 is a misdemeanor.

(2) Violation of ORS 688.415 or 688.425 is punishable by a fine of not more than \$500, or imprisonment for not more than one year, or both. [1959 c.461 §25; subsection (2) enacted as 1977 c.534 §21; 1989 c.171 §80]

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 C misdemeanor. [1997 c.792 §9]