Chapter 679

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Dentists

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GENERAL PROVISIONS

679.010 Definitions. As used in this chapter and ORS 680.010 to 680.205, unless the context requires otherwise:

(1) "Board" means the Oregon Board of Dentistry.

(2) "Dental assistant" means a person who, under the supervision of a dentist, renders assistance to a dentist, dental hygienist, dental technician or another dental assistant or renders assistance under the supervision of a dental hygienist providing dental hygiene.

(3) "Dental hygiene" means that portion of dentistry that includes the rendering of educational, preventive and therapeutic dental services in general, but specifically, scaling, root planing, curettage and any related intraoral or extraoral procedure required in the performance of such services.

(4) "Dental hygienist" means a person who, under the supervision of a dentist, practices dental hygiene.

(5) "Dental technician" means that person who, at the authorization of a dentist, makes, provides, repairs or alters oral prosthetic appliances and other artificial materials and devices which are returned to a dentist and inserted into the human oral cavity or which come in contact with its adjacent structures and tissues.

(6) "Dentist" means a person who may perform any intraoral or extraoral procedure required in the practice of dentistry.

(7) "Dentistry" means the healing art which is concerned with the examination, diagnosis, treatment planning, treatment, care and prevention of conditions within the human oral cavity and maxillofacial region and conditions of adjacent or related tissues and structures. The practice of dentistry includes but is not limited to the cutting, altering, repairing, removing, replacing or repositioning of hard or soft tissues and other acts or procedures as determined by the board and included in the curricula of dental schools accredited by the Commission on Dental Accreditation of the American Dental Association, post-graduate training programs or continuing education courses.

(8) "Direct supervision" means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

(9) "General supervision" means supervision requiring that a dentist authorize the procedures, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

(10) "Indirect supervision" means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed.

(11) "Limited access permit dental hygienist" means a dental hygienist who renders dental hygiene services without the supervision of a dentist in accordance with ORS 680.205 as authorized by a limited access permit issued by the board pursuant to ORS 680.200.

(12) "State" means any state or territory of the United States and the District of Columbia. [Amended by 1983 c.169 §1; 1997 c.251 §4; 1999 c.188 §1; 2003 c.83 §1]

679.020 Practice of dentistry or conducting dental office without license prohibited; exceptions. (1) No person shall practice dentistry without a license.

(2) Before engaging, conducting, operating or maintaining any dental office in any way, every individual shall obtain a license to practice dentistry in this state.

(3) The provisions of subsections (1) and (2) of this section as they relate to owning and operating a dental office or clinic do not apply to a dental office or clinic owned or operated by:

(a) A labor organization as defined in ORS 243.650 and 663.005 (6), or to any nonprofit organization formed by or on behalf of such labor organization for the purpose of providing dental services. Such labor organization must have had an active existence for at least three years, have a constitution and bylaws, and be maintained in good faith for purposes other than providing dental services;

(b) The School of Dentistry of the Oregon Health and Science University;

(c) Local governments;

(d) Institutions or programs accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training;

(e) Nonprofit corporations organized under Oregon law to provide dental services to rural areas and medically underserved populations of migrant, rural community or homeless individuals under 42 U.S.C. 254b or 254c or health centers qualified under 42 U.S.C. 1396d(l)(2)(B) operating in compliance with other applicable state and federal law; and

(f) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as providing dental services by volunteer licensed dentists to popu-

lations with limited access to dental care at no charge or a substantially reduced charge.

(4) Any entity that owns or operates a dental office or clinic pursuant to subsection (3) of this section must:

(a) Name an actively licensed dentist as its dental director who shall be subject to the provisions of ORS 679.140 in the capacity as dental director. The dental director, or an actively licensed dentist designated by the director, shall have responsibility for the clinical practice of dentistry, which includes, but is not limited to:

(A) Diagnosis of conditions within the human oral cavity and its adjacent tissues and structures.

(B) Prescribing drugs that are administered to patients in the practice of dentistry.

(C) The treatment plan of any dental patient.

(D) Overall quality of patient care that is rendered or performed in the practice of dentistry.

(E) Supervision of dental hygienists, dental assistants or other personnel involved in direct patient care and the authorization for procedures performed by them in accordance with the standards of supervision established by statute or by the rules of the board.

(F) Other specific services within the scope of clinical dental practice.

(G) Retention of patient dental records as required by statute or by rule of the board.

(H) Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.

(b) Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care utilized by the entity. The records must be available to the board upon written request.

(5) Subsections (1) and (2) of this section do not apply to a limited access permit dental hygienist who renders services authorized by a limited access permit issued by the board pursuant to ORS 680.200.

(6) Nothing in this chapter precludes a person or entity not licensed by the board from:

(a) Ownership or leasehold of any tangible or intangible assets used in a dental office or clinic. These assets include real property, furnishings, equipment and inventory but do not include dental records of patients related to clinical care.

(b) Employing or contracting for the services of personnel other than licensed dentists.

(c) Management of the business aspects of a dental office or clinic that do not include the clinical practice of dentistry.

(7) If all of the ownership interests of a dentist or dentists in a dental office or clinic are held by an administrator, executor, personal representative, guardian, conservator or receiver of the estate of a former shareholder, member or partner, the administrator, executor, personal representative, guardian, conservator or receiver may retain the ownership interest for a period of 12 months following the creation of the ownership interest. The board shall extend the ownership period for an additional 12 months upon 30 days' notice and may grant additional extensions upon reasonable request. [Amended by 1977 c.192 §1; 1985 c.323 §3; 1995 c.286 §29; 1997 c.251 §6; 2003 c.322 §1]

679.025 License required to practice dentistry; exemptions. (1) It shall be unlawful for any person not otherwise authorized by law to practice dentistry or purport to be a dentist without a valid license to practice dentistry issued by the Oregon Board of Dentistry.

(2) The requirements of this section shall not apply to:

(a) Dentists licensed in another state making a clinical presentation sponsored by a bona fide dental society or association or an accredited dental educational institution approved by the board.

(b) Bona fide full-time students of dentistry who, during the period of the student's enrollment and as a part of the course of study in an Oregon accredited dental education program, engage in clinical studies on the premises of such institution or in a clinical setting located off the premises of the institution if the facility, the instructional staff, and the course of study to be pursued at the off-premises location meet minimum requirements prescribed by the rules of the board and the clinical study is performed under the direct supervision of a member of the faculty.

(c) Candidates who are preparing for a licensure examination to practice dentistry and whose application has been accepted by the board or its agent, if such clinical preparation is conducted in a clinic located on premises approved for that purpose by the board and if the procedures are limited to examination only. This exception shall exist for a period not to exceed two weeks immediately prior to a regularly scheduled licensure examination.

(d) Dentists practicing in the discharge of official duties as employees of the United States Government and any of its agencies.

(e) Instructors of dentistry, whether full- or part-time, while exclusively engaged in teaching activities and while employed in accredited dental educational institutions.

(f) Dentists employed by public health agencies who are not engaged in the direct delivery of clinical dental services to patients.

(g) Persons licensed to practice medicine in the State of Oregon in the regular discharge of their duties.

(h) Persons qualified to perform services relating to general anesthesia or sedation under the direct supervision of a licensed dentist.

(i) Persons practicing dentistry upon themselves as the patient.

(j) Dental hygienists, dental assistants or dental technicians performing services under the supervision of a licensed dentist in accordance with the rules adopted by the board.

(k) A person licensed as a denturist under ORS 680.500 to 680.570 engaged in the practice of denture technology.

(L) A limited access permit dental hygienist who renders services authorized by a limited access permit issued by the board pursuant to ORS 680.200. [1953 c.574 §2; 1955 c.560 §1; 1957 c.552 §4; 1963 c.284 §1; 1971 c.48 §1; 1973 c.390 §1; 1975 c.693 §19; 1979 c.1 §16; 1983 c.169 §2; 1993 c.142 §1; 1997 c.251 §5]

679.026 [1971 c.48 §2; 1975 c.693 §20; 1977 c.192 §2; 1981 c.185 §1; repealed by 1983 c.169 §34]

679.027 Enjoining violations. The Attorney General, or the prosecuting attorney of any county, or the Oregon Board of Dentistry, in its own name, may maintain an action for an injunction against any person violating any provision of ORS 679.020, 679.025, 679.170 or 679.176. Any person who has been so enjoined may be punished for contempt by the court issuing the injunction. An injunction may be issued without proof of actual damage sustained by any person. An injunction shall not relieve a person from criminal prosecution for violation of any provision of ORS 679.020, 679.025, 679.170 or 679.176 or from any other civil, criminal or disciplinary remedy. [1957 c.552 §2; 1963 c.284 §2; 1979 c.284 §192; 1983 c.169 §3]

679.030 [Amended by 1953 c.574 §5; repealed by 1977 c.192 §13]

679.040 [Amended by 1963 c.284 §3; repealed by 2003 c.83 §12]

679.050 Nonresident dentists giving or receiving instruction; hospital permits. (1) If a reputable and duly licensed practitioner in dentistry of another state is asked to appear and demonstrate, receive or give instruction in the practice of dentistry before any qualified dental college or dental organization or dental study group recognized by the Oregon Board of Dentistry, the secretary of the board shall issue on written request of an authorized officer of such college or dental organization or dental study group, without fee, a permit for such purpose. A permit shall be issued upon such terms as the board shall prescribe.

(2) If a reputable and duly licensed practitioner in dentistry of another state has been granted staff privileges, either limited, special or general, by any duly licensed hospital in this state, the secretary of the board shall issue on written request and verification of an authorized officer of such hospital, a permit for such nonresident practitioner to practice dentistry in said hospital. [Amended by 1963 c.284 §4; 1965 c.122 §3; 1967 c.282 §1; 1973 c.390 §2]

LICENSING

679.060 Application for license; fees; grounds for refusal of license. (1) Any person desiring to practice dentistry in this state shall file an application with the Oregon Board of Dentistry.

(2) At the time of making the application, the applicant shall:

(a) Pay to the board the required application and examination fee.

(b) Furnish the board with evidence satisfactory to the board of details of any convictions recorded in any police records. Such details are subject to the findings required by ORS 670.280.

(c) Present to the board a diploma or evidence satisfactory to the board of having graduated from an accredited dental education program approved by the board.

(3) If an applicant has been in practice in another state or states the applicant shall furnish an affidavit from the secretary of the board of dental examiners or similar body of such state or states that the applicant has been engaged in the legal practice of dentistry in such state or states for a period of time prescribed by the rules of the Oregon Board of Dentistry.

(4) The board may refuse to issue a license to or renew a license of an applicant who has been convicted of a violation of the law if the board makes the findings required by ORS 670.280. A certified copy of the record of conviction is conclusive evidence of conviction.

(5) The board may refuse to issue a license to or renew a license of an applicant who has been disciplined by a state licensing or regulatory agency of this or another state

regarding any health care profession when, in the judgment of the board, the act or conduct resulting in the disciplinary action bears a demonstrable relationship to the ability of the licensee or applicant to practice dentistry in accordance with the provisions of this chapter. A certified copy of the record of the disciplinary action is conclusive evidence of the disciplinary action.

(6) The board may refuse to issue a license to or renew a license of an applicant who has falsified a license application, or any person for any cause described under ORS 679.140 or 679.170.

(7) Fees paid are not refundable. [Amended by 1963 c.284 §5; 1973 c.390 §3; 1973 c.827 §69; 1973 c.829 §62a; 1977 c.444 §1; 1981 c.232 §1; 1983 c.169 §6; 1985 c.323 §4; 1995 c.199 §1; 2003 c.83 §2]

679.065 Qualifications of applicants; rules. (1) An applicant for a dental license shall be entitled to take the examination to practice dentistry in Oregon if the applicant:

(a) Is 18 years of age or older; and

(b) Is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, which must have been approved by the Oregon Board of Dentistry.

(2) Foreign trained graduates of dental programs may apply for the dental licensure examination, providing the applicant meets the board's requirements, by rule, as will reasonably assure that an applicant's training and education are sufficient for licensure. [1983 c.169 §5]

679.070 Examination; certain other examination results in lieu of examination. (1) The Oregon Board of Dentistry may administer written, laboratory or clinical examinations to test professional knowledge and skills.

(2) The examination shall be elementary and practical in character but sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on any subjects pertaining to dental science. The written examination may be supplemented by oral examination. Demonstrations of the applicant's skill in operative and prosthetic dentistry also may be required.

(3) The board may accept the results of national standardized examinations in satisfaction of the written examination as authorized by this section, and may accept the results of regional testing agencies or of clinical board examinations administered by other states in satisfaction of the laboratory or clinical examination authorized under this section.

(4) The board shall accept the results of regional testing agencies or of clinical board examinations administered by other states in satisfaction of the examinations authorized under this section for applicants who have engaged in the active practice of dentistry in other states, in Oregon or in the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for at least 3,500 hours in the five years immediately preceding application and who meet all other requirements for licensure. [Amended by 1965 c.122 §4; 1983 c.169 §7; 1999 c.489 §1; 2001 c.193 §1; 2003 c.83 §3]

679.080 Reexamination of applicants; rules. The Oregon Board of Dentistry may adopt rules requiring additional education and examination of applicants who have failed the licensing examination three times. [Amended by 1973 c.829 §63; 1977 c.444 §2; 1983 c.169 §8; 2003 c.83 §4]

679.090 Issuance of license. The Oregon Board of Dentistry shall, upon the applicant's satisfactory completion of the educational requirements and written, laboratory and clinical examinations authorized under this chapter and upon receipt of the requisite fees, issue or renew the appropriate dental license. [Amended by 1963 c.284 §6; 1971 c.34 §1; 1983 c.169 §9]

679.100 [Repealed by 1963 c.284 §17]

679.105 [1997 c.662 §1; repealed by 2003 c.83 §12]

679.110 [Repealed by 1983 c.169 §34]

679.115 Licensing of dental instructor; requirements. (1) Notwithstanding any other provision of this chapter, the Oregon Board of Dentistry shall issue a dental instructor's license to practice dentistry to any person who furnishes the board with evidence satisfactory to the board that the applicant meets the requirements of subsection (2) of this section.

(2) An applicant for a dental instructor's license must be a full-time instructor of dentistry engaged in dental activities, including but not limited to participation in a faculty practice plan, within the scope of the applicant's employment at the Oregon Health and Science University and:

(a) Be a graduate of an accredited dental school; or

(b) If the applicant is not a graduate of an accredited dental school, have a certificate or degree in an accredited, advanced dental education program of at least two years' duration from an accredited dental school and:

(A) Be licensed to practice dentistry in another state or a Canadian province;

(B) Have held an instructor's or faculty license to practice dentistry in another state

or a Canadian province immediately prior to becoming an instructor of dentistry at the Oregon Health and Science University;

(C) Have successfully passed any clinical examination recognized by the board for initial licensure; or

(D) Be certified by the appropriate national certifying examination body in a dental specialty recognized by the American Dental Association.

(3) The board may refuse to issue or renew a dental instructor's license to an applicant or licensee:

(a) Who has been convicted of an offense or disciplined by a dental licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant or licensee to practice dentistry in accordance with the provisions of this chapter;

(b) Who has falsified an application for licensure; or

(c) For cause as described under ORS 679.140 or 679.170.

(4) A license issued to an applicant qualifying for a dental instructor's license is restricted to the practice of dentistry in a facility devoted to dental care on the campus of the Oregon Health and Science University.

(5) A license issued to an applicant qualifying for a dental instructor's license who is a specialist by virtue of successful completion of an accredited dental education program is restricted to the specialty in which the dentist was trained.

(6) As used in this section, "accredited" means accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any. [1999 c.578 §8; 2001 c.188 §1]

679.120 License fees; waiver of fee; rules; renewal of license. (1) The Oregon Board of Dentistry may impose application fees for the following:

(a) Examinations, which may differ for general dentistry, foreign school graduate and specialty examinations.

(b) Biennial dentist license, active.

(c) Biennial dentist license, inactive.

(d) Permits and certificates.

(e) Delinquency.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section and ORS 680.075 shall not exceed the costs of administering the regulatory program of the board, as authorized by the Legislative Assembly within the board budget, as the budget may be modified by the Emergency Board.

(3)(a) The board may waive the payment of the license fee in the case of any licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because of retirement.

(b) Application to reinstate a license retired under paragraph (a) of this subsection or to convert an inactive status license to an active status license shall be made in accordance with the rules of the board and with the submission of the license fee prescribed for such license; provided, however, that if more than one year has expired since the license was retired or inactivated, satisfactory evidence of operative competence must be submitted to the board.

(4) Every dentist shall advise the board within 30 days of any change of address.

(5) Each dentist must renew the dentist's license every two years through submitting a renewal application and paying the license fee.

(6) Dentists licensed in even-numbered years must renew by March 31 of each even-numbered year. Dentists licensed in odd-numbered years must renew by March 31 of each odd-numbered year.

(7) A reasonable charge may be made in the event that the license fee or renewal application is more than 10 days delinquent.

(8) Fees paid are not refundable. [Amended by 1963 c.284 §7; 1967 c.19 §2; 1971 c.34 §2; 1973 c.390 §4; 1977 c.192 §3; 1977 c.444 §3a; 1981 c.232 §2; 1985 c.323 §5; 1989 c.338 §7; 1991 c.703 §25]

679.130 [Amended by 1973 c.390 §5; 1983 c.169 §10; 1991 c.67 §182; repealed by 1999 c.578 §6]

679.140 Discipline of licensee; grounds; procedure; sanctions. (1) The Oregon Board of Dentistry may discipline as provided in this section any person licensed to practice dentistry in this state for any of the following causes:

(a) Conviction of any violation of the law for which the court could impose a punishment if the board makes the finding required by ORS 670.280. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is entered, is conclusive evidence of the conviction.

(b) Renting or lending a license or diploma of the dentist to be used as the license or diploma of another person.

(c) Unprofessional conduct.

(d) Any violation of this chapter or ORS 680.010 to 680.205, of rules adopted pursuant to this chapter or ORS 680.010 to 680.205 or of an order issued by the board.

(e) Engaging in or permitting the performance of unacceptable patient care by the dentist or by any person working under the supervision of the dentist due to a deliberate or negligent act or failure to act by the dentist, regardless of whether actual injury to the patient is established.

(f) Incapacity to practice safely.

(2) "Unprofessional conduct" as used in this chapter includes but is not limited to the following:

(a) Obtaining any fee by fraud or misrepresentation.

(b) Willfully betraying confidences involved in the patient-dentist relationship.

(c) Employing, aiding, abetting or permitting any unlicensed personnel to practice dentistry or dental hygiene.

(d) Making use of any advertising statements of a character tending to deceive or mislead the public or that are untruthful.

(e) Addiction, dependency upon or self-abuse of alcohol or other drugs.

(f) Obtaining or attempting to obtain a controlled substance in any manner proscribed by the rules of the board.

(g) Prescribing or dispensing drugs outside the scope of the practice of dentistry or in a manner that impairs the health and safety of an individual.

(h) Disciplinary action by a state licensing or regulatory agency of this or another state regarding a license to practice dentistry, dental hygiene or any other health care profession when, in the judgment of the board, the act or conduct resulting in the disciplinary action bears a demonstrable relationship to the ability of the licensee or applicant to practice dentistry or dental hygiene in accordance with the provisions of this chapter. A certified copy of the record of the disciplinary action is conclusive evidence of the disciplinary action.

(3) The proceedings under this section may be taken by the board from the matters within its knowledge or may be taken upon the information of another, but if the informant is a member of the board, the other members of the board shall constitute the board for the purpose of finding judgment of the accused.

(4) In determining what constitutes unacceptable patient care, the board may take into account all relevant factors and practices, including but not limited to the practices generally and currently followed and accepted by persons licensed to practice dentistry in this state, the current teachings at accredited dental schools, relevant technical reports published in recognized dental journals and the desirability of reasonable experimentation in the furtherance of the dental arts.

(5) In disciplining a person as authorized by subsection (1) of this section, the board may use any or all of the following methods:

(a) Suspend judgment.

(b) Place a licensee on probation.

(c) Suspend a license to practice dentistry in this state.

(d) Revoke a license to practice dentistry in this state.

(e) Place limitations on a license to practice dentistry in this state.

(f) Refuse to renew a license to practice dentistry in this state.

(g) Accept the resignation of a licensee to practice dentistry in this state.

(h) Assess a civil penalty.

(i) Reprimand a licensee.

(j) Impose any other disciplinary action the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty.

(6) If the board places any person upon probation as set forth in subsection (5)(b) of this section, the board 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 probationer or both. Upon expiration of the term of probation, further proceedings shall be abated by the board if the person holding the license furnishes the board with evidence that the person is competent to practice dentistry and has complied with the terms of probation. If the evidence fails to establish competence to the satisfaction of the board or if the evidence shows failure to comply with the terms of the probation, the board may revoke or suspend the license.

(7) If a license to practice dentistry in this state is suspended, the person holding the license may not practice during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated by the board if the board finds, based upon evidence furnished by the person, that the person is competent to practice dentistry and has not practiced dentistry in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the person is competent or if any evidence shows the person has practiced dentistry in this state during the term of suspension, the board may revoke the license after notice and hearing.

(8) Upon receipt of a complaint under this chapter or ORS 680.010 to 680.205, the

board shall conduct an investigation as described under ORS 676.165.

(9) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175. Notwithstanding ORS 676.165 to 676.180, the board may disclose confidential information regarding a licensee or an applicant to persons who may evaluate or treat the licensee or applicant for drug abuse, alcohol abuse or any other health related conditions.

(10) The board may impose against any person who violates the provisions of this chapter or ORS 680.010 to 680.205 or rules of the board a civil penalty of up to $5,000 for each violation. Any civil penalty imposed under this section shall be imposed in the manner provided in ORS 183.745.

(11) Notwithstanding the expiration, suspension, revocation or surrender of the license, or the resignation or retirement of the licensee, the board may:

(a) Proceed with any investigation of, or any action or disciplinary proceedings against, the dentist or dental hygienist; or

(b) Revise or render void an order suspending or revoking the license.

(12)(a) The board may continue with any proceeding or investigation for a period not to exceed four years from the date of the expiration, suspension, revocation or surrender of the license, or the resignation or retirement of the licensee; or

(b) If the board receives a complaint or initiates an investigation within that four-year period, the board's jurisdiction continues until the matter is concluded by a final order of the board following any appeal.

(13) Withdrawing the application for license does not close any investigation, action or proceeding against an applicant. [Amended by 1955 c.560 §2; 1961 c.311 §1; 1963 c.284 §8; 1965 c.122 §5; 1971 c.157 §1; 1973 c.554 §1; 1977 c.192 §3a; 1977 c.745 §51; 1979 c.142 §1; 1979 c.744 §53a; 1981 c.185 §2; 1983 c.169 §11; 1985 c.323 §6; 1991 c.734 §73; 1995 c.199 §2; 1997 c.791 §25; 1999 c.253 §1; 1999 c.578 §1; 2003 c.83 §5]

679.150 [Amended by 1961 c.311 §2; 1963 c.284 §9; 1965 c.122 §6; 1967 c.282 §2; 1983 c.169 §12; repealed by 1999 c.578 §6]

679.160 Appeal from board decision. (1) Any licensee who has been disciplined by the Oregon Board of Dentistry may obtain judicial review of the decision in the manner prescribed by ORS chapter 183.

(2) Notwithstanding ORS 676.210, enforcement of the board's disciplinary order pending appeal shall be determined pursuant to ORS 183.482 (3). [Amended by 1961 c.311 §3; 1967 c.282 §3; 1973 c.390 §6; 1977 c.192 §4; 1979 c.744 §54; 1983 c.169 §13; 1995 c.199 §3; 2003 c.83 §6]

679.165 Automatic suspension of license in case of mental disorder. The entry of a judgment by any court establishing the mental disorder of any person holding a license under this chapter operates as a suspension of such license. Such person may resume practice only upon a finding by the Oregon Board of Dentistry that the licensee has been declared restored to mental competence by an order of a court of competent jurisdiction. [1957 c.552 §3; 1999 c.59 §202; 2003 c.576 §542]

679.170 Prohibited practices. No person shall:

(1) Sell or barter, or offer to sell or barter, any diploma or document conferring or purporting to confer any dental degree, or any certificate or transcript made or purporting to be made, pursuant to the laws regulating the license and registration of dentists.

(2) Purchase or procure by barter, any such diploma, certificate or transcript, with intent that it be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice.

(3) With fraudulent intent, alter in a material regard any such diploma, certificate or transcript.

(4) Use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist.

(5) Willfully make a false written or recorded oral statement to the Oregon Board of Dentistry in a material regard.

(6) Within 10 days after demand made by the board, fail to respond to the board's written request for information or fail to furnish to the board the name and address of all persons practicing or assisting in the practice of dentistry in the office of such person at any time within 60 days prior to the notice, together with a sworn statement showing under and by what license or authority such person and employee are and have been practicing dentistry.

(7) Employ or use the services of any unlicensed person, to practice dentistry or dental hygiene, except as permitted by ORS 679.025, 679.176 and 680.010 to 680.205. [Amended by 1963 c.284 §10; 1977 c.192 §5; 1981 c.185 §3; 1983 c.169 §14; 1995 c.199 §4; 1999 c.578 §2]

679.175 [1953 c.574 §3; repealed by 1957 c.552 §9]

679.176 Written work orders required for certain services. (1) No dentist may use the services of any person, not licensed to practice dentistry in this state, to construct, alter, repair, reline, reproduce or duplicate any prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, unless the dentist first furnishes to such person a written work order, in substantially the following form:

(Date) _____, 2____

TO: (Name of dental technician or laboratory with address)

RE: (Name or number of patient)

(Description of the work to be done, including diagrams if necessary, together with specifications of the type of materials to be used.)

(Name of ordering dentist)

(Address) _____

(Current license number) ____

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(2) A duplicate copy of each such work order issued by the dentist shall be retained by each dentist for not less than two years. The Oregon Board of Dentistry or its agents shall be permitted to inspect, upon demand, the duplicate copies of all such work orders retained by each dentist.

(3) No work order shall permit or require the taking of impressions of any part of the human oral cavity by any person not a dentist licensed by the board. [1963 c.284 §15]

679.180 Enforcement; jurisdiction. (1) The district attorney of each county shall attend to the prosecution of all criminal complaints made under this chapter and may represent the Oregon Board of Dentistry in any proceeding brought pursuant to ORS 679.027 upon a complaint, information or indictment filed against any person under this chapter, or upon request of the board. However, nothing in this chapter shall be construed to prevent the prosecution of any person for violation of this chapter upon the information of the district attorney directly or, subject to the requirements of ORS 676.175, to prevent assistance being rendered to the district attorney by an employee of the board.

(2) Nothing contained in this chapter shall be construed to require the district attorney to prosecute any person who is licensed by the board and who is subject to disciplinary action directly by the board under any provision of this chapter or ORS 680.010 to 680.205. [Amended by 1963 c.284 §11; 1967 c.282 §4; 1977 c.192 §6; 1983 c.169 §15; 1997 c.791 §26]

OREGON BOARD OF DENTISTRY

679.230 Oregon Board of Dentistry; appointment; qualifications; confirmation; compensation and expenses. The Oregon Board of Dentistry shall consist of nine members. A member shall be appointed to the board by the Governor upon the expiration of the term of office of each of the preceding board members. Appointments to the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Each member shall hold the office for four years and until the member's successor is appointed and qualified. Terms of office begin on the first Monday of April after the time of appointment. No person is eligible to membership on the board who is not a citizen of the United States or a resident of the State of Oregon. Six members shall be Oregon active licensed dentists, of which at least one shall be a dentist practicing in a dental specialty recognized by the American Dental Association, one member shall be a public member and two members shall be Oregon active licensed dental hygienists. Appointments of dentists made by the Governor to the Oregon Board of Dentistry may be selected by the Governor from a list of five names for each appointment suggested by the Oregon Dental Association. Appointments of dental hygienists made by the Governor to the Oregon Board of Dentistry may be selected by the Governor from a list of five names suggested by the Oregon Dental Hygienists' Association. Appointments of dental specialists by the Governor to the Oregon Board of Dentistry may be selected by the Governor from one name suggested by each of the organizations representing a dental specialty. Members are entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1963 c.284 §12; 1969 c.314 §82; 1971 c.650 §30; 1973 c.792 §36; 1977 c.747 §1; 1983 c.169 §16; 1991 c.955 §1; 2003 c.83 §7]

679.240 [Repealed by 1983 c.169 §34]

679.250 Powers and duties of board; rules. The powers and duties of the Oregon Board of Dentistry are as follows:

(1) To, during the month of April of each year, organize and elect from its membership a president who shall hold office for one year, or until the election and qualification of a successor. The board shall appoint an administrative officer who shall discharge such duties as the board shall, from time to time, prescribe.

(2) To authorize all necessary disbursements to carry out the provisions of this chapter, including but not limited to, payment for necessary supplies, office equipment, books and expenses for the conduct of examinations, payment for legal and investi-

gative services rendered to the board, and such other expenditures as are provided for in this chapter.

(3) To employ such inspectors, examiners, special agents, investigators, clerical assistants, assistants and accountants as are necessary for the investigation and prosecution of alleged violations and the enforcement of this chapter and for such other purposes as the board may require. Nothing in this chapter shall be construed to prevent assistance being rendered by an employee of the board in any hearing called by it. However, all obligations for salaries and expenses incurred under this chapter shall be paid from the fees accruing to the board under this chapter and not otherwise.

(4)(a) To conduct examinations of applicants for license to practice dentistry and dental hygiene at least twice in each year.

(b) In conducting examinations for licensure, the board may enter into a compact with other states for conducting regional examinations with other board of dental examiners concerned, or by a testing service recognized by such boards.

(5) To meet for the transaction of other business at the call of the president. A majority of board members shall constitute a quorum. A majority vote of those present shall be a decision of the entire board. The board's proceedings shall be open to public inspection in all matters affecting public interest.

(6) To keep an accurate record of all proceedings of the board and of all its meetings, of all receipts and disbursements, of all prosecutions for violation of this chapter, of all examinations for license to practice dentistry, with the names and qualifications for examination of any person examined, together with the addresses of those licensed and the results of such examinations, a record of the names of all persons licensed to practice dentistry in Oregon together with the addresses of all such persons having paid the license fee prescribed in ORS 679.120 and the names of all persons whose license to practice has been revoked or suspended.

(7) To make and enforce rules necessary for the procedure of the board, for the conduct of examinations, for regulating the practice of dentistry, and for regulating the services of dental hygienists and dental auxiliary personnel not inconsistent with the provisions of this chapter. As part of such rules, the board may require the procurement of a permit or other certificate. Any permit issued may be subject to periodic renewal. In adopting rules, the board shall take into account all relevant factors germane to an orderly and fair administration of this chapter and of ORS 680.010 to 680.205, the practices and materials generally and currently used and accepted by persons licensed to practice dentistry in this state, dental techniques commonly in use, relevant technical reports published in recognized dental journals, the curriculum at accredited dental schools, the desirability of reasonable experimentation in the furtherance of the dental arts, and the desirability of providing the highest standard of dental care to the public consistent with the lowest economic cost.

(8) Upon its own motion or upon any complaint, to initiate and conduct investigations of and hearings on all matters relating to the practice of dentistry, the discipline of licensees, or pertaining to the enforcement of any provision of this chapter. In the conduct of investigations or upon the hearing of any matter of which the board may have jurisdiction, the board may take evidence, administer oaths, take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases, and compel their appearance before it in person the same as in civil cases, by subpoena issued over the signature of an employee of the board and in the name of the people of the State of Oregon, require answers to interrogatories, and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation or to the hearing. In all investigations and hearings, the board and any person affected thereby may have the benefit of counsel, and all hearings shall be held in compliance with ORS chapter 183. Notwithstanding ORS 676.165, 676.175 and 679.320, if a licensee who is the subject of an investigation or complaint is to appear before members of the board investigating the complaint, the board shall provide the licensee with a current summary of the complaint or the matter being investigated not less than five days prior to the date that the licensee is to appear. At the time the summary of the complaint or the matter being investigated is provided, the board shall provide to the licensee a current summary of documents or alleged facts that the board has acquired as a result of the investigation. The name of the complainant or other information that reasonably may be used to identify the complainant may be withheld from the licensee.

(9) To require evidence as determined by rule of continuing education or to require satisfactory evidence of operative competency before reissuing or renewing licenses for the practice of dentistry or dental hygiene.

(10) To adopt and enforce rules regulating administration of general anesthesia and conscious sedation by a dentist or under the supervision of a dentist in the office of the

dentist. As part of such rules, the board may require the procurement of a permit which must be periodically renewed.

(11) To order an applicant or licensee to submit to a physical examination, mental examination or a competency examination when the board has evidence indicating the incapacity of the applicant or licensee to practice safely. [Amended by 1953 c.8 §2; 1957 c.552 §8; 1963 c.284 §13; 1965 c.122 §7; 1973 c.390 §7; 1973 c.829 §64; 1977 c.192 §7; 1983 c.169 §17; 1985 c.323 §7; 1989 c.338 §10; 1999 c.578 §3; 1999 c.751 §6]

679.255 Board to adopt standards for sedation during dental procedures; rules. The Board of Medical Examiners for the State of Oregon and the Oregon State Board of Nursing, in consultation with the Oregon Board of Dentistry, shall adopt rules establishing standards governing their respective licensees for general anesthesia and conscious sedation administered in conjunction with the professional services of a dentist or dental hygienist. [1985 c.323 §13]

679.260 Oregon Board of Dentistry Account; disbursement of receipts. (1) The Oregon Board of Dentistry Account is established in the State Treasury separate and distinct from the General Fund.

(2) All moneys received by the Oregon Board of Dentistry under this chapter shall be paid to the State Treasury and credited to the Oregon Board of Dentistry Account. Any interest or other income derived from moneys paid into the account shall be credited monthly to the account.

(3) Moneys in the Oregon Board of Dentistry Account are appropriated continuously and shall be used only for the administration and enforcement of ORS 680.010 to 680.205 and this chapter.

(4) All fines imposed and collected under this chapter shall be paid into the treasury of the county in which the suits, actions or proceedings were commenced. All money thus paid into the treasury, over and above the amount necessary to reimburse the county for any expense incurred by the county, in any suit, action or proceeding brought under this chapter, shall be paid before January 1 of each year, into the State Treasury and placed to the credit of the Oregon Board of Dentistry Account and such moneys hereby are continuously appropriated and shall be used only for the administration and enforcement of ORS 680.010 to 680.205 and this chapter.

(5) Ten percent of the annual license fee to be paid by each licensee of the Oregon Board of Dentistry shall be used by the board to ensure the continued professional competence of licensees. Such activities shall include the development of performance standards and professional peer review. [Amended by 1957 c.552 §5; 1967 c.19 §3; 1967 c.282 §5; 1969 c.314 §103; 1973 c.427 §21; 1977 c.192 §8; 1977 c.747 §2; 2003 c.83 §8]

679.270 [Repealed by 1973 c.829 §71]

679.280 Dental committees or consultants for improving standards of practice; liability; confidentiality of proceedings. (1) The Oregon Board of Dentistry may appoint a consultant or a committee or committees, each consisting of one or more licensed dentists in this state, to study and report to the board the condition of and dental treatment rendered to any person or persons by any licensed dentist or dentists in this state or by any person purporting to practice dentistry in this state. Any person, hospital, sanatorium, professional grievance committee, nursing or rest home or other organization may, subject to the laws governing privileged or confidential communications, provide information, interviews, reports, statements, memoranda or other data relating to the condition and treatment of any person to the consultant or committee or to the board, to be used in the course of any study for the purpose of improving the standards of dental practice or to enable the board to assess the desirability of disciplinary action relating thereto; and no liability of any kind or character for damages or other relief shall arise or be enforced against the person or organization by reason of having provided the information or material, or arise or be enforced against any consultant or member of the committee by reason of having released or published the findings and conclusions of the consultants or committees to advance dental science and dental education, or by reason of having released or published generally a summary of those studies. When used by the board to assess the desirability of disciplinary action, the testimony given to and the proceedings, reports, statements, opinions, findings and conclusions of the consultants and committees and the board shall be confidential as provided under ORS 676.175, but this shall not preclude the use of the subpoena power with respect to the actual records of dentists, patients, hospitals, sanitaria, nursing or rest homes.

(2) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any consultant or member of a duly appointed committee for any act or proceeding undertaken or performed within the scope of the functions of that consultant or committee, if the consultant or committee member acts without malice, has made a reasonable effort to obtain the facts of the matter on which the consultant or committee member acts, and acts in a reasonable belief that the action taken is warranted by the facts known to the consultant or committee member after that rea-

sonable effort to obtain the facts. [1965 c.122 §2; 1977 c.192 §9; 1997 c.791 §27]

679.290 Failure to comply with subpoena issued by board. (1) If a person fails to comply with any subpoena issued under ORS 679.250 (8), a judge of the circuit court of any county, on application of the administrative officer of the Oregon Board of Dentistry, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

(2) In any proceeding under subsection (1) of this section and where the subpoena is addressed to a licensee of the board it shall not be a defense that:

(a) No witness or mileage fee was paid; or

(b) The material that is subject to the subpoena is protected under a patient and dentist privilege. [1983 c.169 §31]

679.300 Privileged data; admissibility of data as evidence in judicial proceedings; "data" defined. (1) All data shall be privileged and shall not be admissible in evidence in any judicial proceeding, but this section shall not affect the admissibility in evidence of a party's records dealing with a party's care and treatment.

(2) A person serving on or communicating information to a committee described in subsection (4) of this section shall not be examined as to any communication to that committee or the findings thereof.

(3) A person serving on or communicating to a committee described in subsection (4) of this section shall not be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(4) As used in subsection (1) of this section, "data" means written reports, notes or records of peer review committees or other committees and similar committees of professional societies in connection with training, supervision or discipline of dentists. The term also includes written reports, notes or records of utilization review and professional standards review organization. [1983 c.169 §33]

Note: 679.300 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.310 Duty to report violations to board; exceptions; liability. (1) Any dentist or dental hygienist, any person licensed by the Oregon Board of Dentistry, the Oregon Dental Association or any other organization representing dentists or dental hygienists shall, and any other person may, report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted pursuant to either. This section is not intended to require any person working on or with the Oregon Dental Association's Dentist Well Being Committee or Peer Review Committee or the Quality Assurance or Peer Review Committee of the Oregon Dental Hygienists' Association to report to the board any confidential information received within the scope of duties with that committee.

(2) No person who has made a complaint as to the conduct of a licensee of the board or who has given information or testimony relative to a proposed or pending proceeding for misconduct against the licensee of the board, shall be answerable for any such act in any proceeding except for perjury. [1985 c.323 §11; 1999 c.578 §4]

679.320 Confidentiality of information provided to board; limitation of liability. (1) Any information provided to the Oregon Board of Dentistry as the basis of a complaint or in the investigation thereof shall not be subject to public disclosure during the period of investigation.

(2) 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. [1985 c.323 §12]

MISCELLANEOUS

679.500 Administration of local anesthesia for certain purposes; rules. (1) A dentist licensed to practice dentistry in this state may administer local anesthesia to a person for the purposes of receiving permanent lip color from a licensed permanent color technician and tattoo artist or having permanent hair removal in the lip area from a licensed electrologist.

(2) Prior to administering local anesthesia for the purposes authorized under subsection (1) of this section, the dentist must:

(a) Receive a written order from a licensed permanent color technician and tattoo artist or a licensed electrologist;

(b) Obtain a current health history from and perform an oral examination of the person who will receive the anesthesia; and

(c) Establish and maintain a patient record in accordance with rules adopted by the Oregon Board of Dentistry.

(3) The Oregon Board of Dentistry shall adopt rules authorizing a dentist licensed to practice dentistry in Oregon to administer local anesthesia for the purposes of tattooing human lips or having permanent hair removal in the lip area by a licensed permanent color technician and tattoo artist or a

licensed electrologist licensed under ORS 690.350 to 690.430. [1999 c.578 §10; 2003 c.187 §1]

679.510 Liability insurance for retired dentist; requirements; rules. (1) For the purposes of this section, "retired dentist" means a person who is retired from active practice except for the practice of dentistry without remuneration as a volunteer.

(2) Subject to availability of funding, the Oregon Department of Administrative Services shall establish a program to purchase and maintain liability insurance for retired dentists. Insurance provided under the program shall be acquired through contracts with liability insurers that are authorized to offer liability malpractice insurance in this state. Insurance shall be provided under the program only if:

(a) Dental services by the retired dentist will be provided through nonprofit corporations offering community services;

(b) Dental services provided by the retired dentist will be offered to low-income patients based on ability to pay; and

(c) The retired dentist will receive no compensation for the dental services provided, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses.

(3) This section does not impose any liability on the state, or on the officers, employees and agents of the state, for any civil or criminal action against a retired dentist insured under the program established under subsections (1) to (5) of this section.

(4) The department shall monitor the claims experience of retired dentists insured through the program established under subsections (1) to (5) of this section. The department may impose any risk management requirements that the department deems appropriate as a condition of providing liability insurance under the program.

(5) The department shall provide insurance under subsection (2) of this section only to the extent that funds are appropriated to the department for the purposes of funding the program established under subsections (1) to (5) of this section.

(6) The Oregon Department of Administrative Services may by rule establish any conditions considered necessary by the department before providing liability insurance for a retired dentist under the program established by subsections (1) to (5) of this section. [1999 c.1016 §§1,2; 2001 c.104 §261]

Note: 679.510 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PENALTIES

679.990 [Repealed by 1957 c.552 §6 (679.991 enacted in lieu of 679.990)]

679.991 Penalties. (1) Violation of any provision of ORS 679.020 or 679.025 (1), is a Class A misdemeanor.

(2) Violation of ORS 679.170 or 679.176 is a Class B misdemeanor.

(3) In the event of a second or subsequent conviction under subsection (1) of this section, it is mandatory upon the part of the court to sentence the convicted person to imprisonment in the county jail for not less than 10 days in addition to the maximum fine or imprisonment permitted.

(4) In any prosecution for violation of subsection (1) or (2) of this section, it shall be sufficient to sustain a conviction to show a single act of conduct in violation of any of the provisions of this chapter and it shall not be necessary to show a general course of such conduct. [1957 c.552 §7 (enacted in lieu of 679.990); 1963 c.284 §16; 1971 c.743 §407; 1973 c.390 §8; 1977 c.192 §10; 1985 c.323 §15]