

Chapter 676

2015 EDITION

Health Professions Generally

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676.050 [Amended by 1953 c.203 §2; 1957 c.212 §4; repealed by 1973 c.31 §5]

676.060 [Repealed by 1973 c.31 §5]

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676.090 [Repealed by 1973 c.31 §5]

676.100 [Repealed by 2009 c.142 §6]

USE OF TITLES IMPORTING HEALTH CARE PROFESSION

676.110 Use of title “doctor.” (1) An individual practicing a health care profession may not use the title “doctor” in connection with the profession, unless the individual:

(a) Has earned a doctoral degree in the individual’s field of practice; and

(b)(A) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s doctoral degree was earned; or

(B) Is working under a board-approved residency contract and is practicing under the license of a supervisor who is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s doctoral degree was earned.

(2) If an individual uses the title “doctor” in connection with a health care profession at any time, the individual must designate the health care profession in which the individual’s doctoral degree was earned on all written or printed matter, advertising, billboards, signs or professional notices used in connection with the health care profession, regardless of whether the individual’s name or the title “doctor” appears on the written or printed matter, advertising, billboard, sign or professional notice. The designation must be in letters or print at least one-fourth the size of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice.

(3) Subsection (1) of this section does not prohibit:

(a) A chiropractic physician licensed under ORS chapter 684 from using the title “chiropractic physician”;

(b) A naturopathic physician licensed under ORS chapter 685 from using the title “naturopathic physician”;

(c) A person licensed to practice optometry under ORS chapter 683 from using the title “doctor of optometry” or “optometric physician”; or

(d) A physician licensed under ORS 677.805 to 677.840 from using the title “podiatric physician.” [Amended by 1967 c.470 §66; 1983 c.169 §29; 1983 c.486 §1a; 1983 c.769 §1; 1991 c.314 §4; 1995 c.765 §1; 2007 c.418 §1; 2009 c.142 §1; 2011 c.108 §1; 2013 c.129 §35]

676.115 Use of title “nurse.” An individual may not use the title “nurse” unless the individual:

(1) Has earned a nursing degree or a nursing certificate from an accredited nursing program; and

(2) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s nursing degree or nursing certificate was earned. [2015 c.345 §2]

676.120 Use of deceased licensee’s name. Notwithstanding ORS 676.110 or 676.115, upon the death of any person duly licensed by a health professional regulatory board as defined in ORS 676.160, the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent’s name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner. [Amended by 1953 c.137 §2; 1983 c.769 §2; 1991 c.314 §5; 2009 c.142 §2; 2015 c.345 §3]

676.130 Enforcement of ORS 676.110, 676.115 and 676.120. Each health professional regulatory board as defined in ORS 676.160 shall notify the appropriate district attorney of any violation of ORS 676.110, 676.115 and 676.120 which may be brought to the attention of such board. The district attorney of the county in which any violation of those sections takes place shall prosecute the violation upon being informed of the violation by any person or by one of such boards. [Amended by 1983 c.769 §3; 2009 c.142 §3; 2015 c.345 §4]

676.140 [Repealed by 1967 c.470 §68]

REPORTING OBLIGATIONS

676.150 Duty to report prohibited or unprofessional conduct, arrests and convictions; investigation; confidentiality; immunity from liability. (1) As used in this section:

(a) "Board" means the:

- (A) State Board of Examiners for Speech-Language Pathology and Audiology;
- (B) State Board of Chiropractic Examiners;
- (C) State Board of Licensed Social Workers;
- (D) Oregon Board of Licensed Professional Counselors and Therapists;
- (E) Oregon Board of Dentistry;
- (F) Board of Licensed Dietitians;
- (G) State Board of Massage Therapists;
- (H) Oregon Board of Naturopathic Medicine;
- (I) Oregon State Board of Nursing;
- (J) Nursing Home Administrators Board;
- (K) Oregon Board of Optometry;
- (L) State Board of Pharmacy;
- (M) Oregon Medical Board;
- (N) Occupational Therapy Licensing Board;
- (O) Physical Therapist Licensing Board;
- (P) State Board of Psychologist Examiners;
- (Q) Board of Medical Imaging;
- (R) State Board of Direct Entry Midwifery;
- (S) State Board of Denture Technology;
- (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
- (U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;
- (V) Oregon State Veterinary Medical Examining Board; or
- (W) State Mortuary and Cemetery Board.

(b) "Licensee" means a health professional licensed or certified by or registered with a board.

(c) "Prohibited conduct" means conduct by a licensee that:

- (A) Constitutes a criminal act against a patient or client; or
- (B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health

information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board's rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section. [2009 c.536 §1; 2011 c.630 §21; 2011 c.703 §44; 2011 c.715 §19; 2011 c.720 §213]

**PROCESSING OF COMPLAINTS
AGAINST HEALTH PROFESSIONALS**

676.160 Definitions for ORS 676.165 to 676.180. As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

- (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- (2) State Board of Chiropractic Examiners;
- (3) State Board of Licensed Social Workers;
- (4) Oregon Board of Licensed Professional Counselors and Therapists;
- (5) Oregon Board of Dentistry;
- (6) Board of Licensed Dietitians;
- (7) State Board of Massage Therapists;
- (8) State Mortuary and Cemetery Board;
- (9) Oregon Board of Naturopathic Medicine;
- (10) Oregon State Board of Nursing;
- (11) Nursing Home Administrators Board;
- (12) Oregon Board of Optometry;
- (13) State Board of Pharmacy;
- (14) Oregon Medical Board;
- (15) Occupational Therapy Licensing Board;
- (16) Physical Therapist Licensing Board;
- (17) State Board of Psychologist Examiners;
- (18) Board of Medical Imaging;
- (19) Oregon State Veterinary Medical Examining Board;
- (20) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers; and
- (21) Behavior Analysis Regulatory Board. [1997 c.791 §1; 1999 c.537 §4; 2001 c.274 §4; 2009 c.43 §9; 2009 c.442 §44; 2009 c.595 §1051; 2009 c.768 §33; 2009 c.833 §25; 2011 c.630 §22; 2011 c.703 §45; 2015 c.674 §7]

676.165 Complaint investigation. (1) When a health professional regulatory board or the Health Licensing Office receives a complaint by any person against a licensee, applicant or other person alleged to be practicing in violation of law, the board or office shall assign one or more persons to act as investigator of the complaint.

(2) The investigator shall collect evidence and interview witnesses and shall make a report to the board or office. The investigator shall have all investigatory powers possessed by the board or office.

(3) The report to the board or office shall describe the evidence gathered, the results of witness interviews and any other information considered in preparing the report of the

investigator. The investigator shall consider, and include in the report, any disciplinary history with the board or office of the licensee, applicant or other person alleged to be practicing in violation of law.

(4) The investigator shall make the report to the board or office not later than 120 days after the board or office receives the complaint. However, the board or office may extend the time for making the report by up to 30 days for just cause. The board or office may grant more than one extension of time.

(5) Investigatory information obtained by an investigator and the report issued by the investigator shall be exempt from public disclosure.

(6) When a health professional regulatory board reviews the investigatory information and report, the public members of the board must be actively involved. [1997 c.791 §5; 2009 c.756 §5; 2013 c.568 §18]

676.170 Immunity of information providers. A person who reports or supplies information in good faith to a health professional regulatory board or to a committee reporting to a health professional regulatory board shall be immune from an action for civil damages as a result thereof. [1997 c.791 §4]

676.175 Complaints and investigations confidential; exceptions; fees. (1) A health professional regulatory board shall keep confidential and not disclose to the public any information obtained by the board as part of an investigation of a licensee or applicant, including complaints concerning licensee or applicant conduct and information permitting the identification of complainants, licensees or applicants. However, the board may disclose information obtained in the course of an investigation of a licensee or applicant to the extent necessary to conduct a full and proper investigation.

(2) Notwithstanding subsection (1) of this section, if a health professional regulatory board votes not to issue a notice of intent to impose a disciplinary sanction:

(a) The board shall disclose information obtained as part of an investigation of an applicant or licensee if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.

(b) The board may disclose to a complainant a written summary of information obtained as part of an investigation of an applicant or licensee resulting from the complaint to the extent the board determines necessary to explain the reasons for the board’s decision. An applicant or licensee

may review and obtain a copy of any written summary of information disclosed to a complainant by the board after the board has deleted any information that could reasonably be used to identify the complainant.

(3) If a health professional regulatory board votes to issue a notice of intent to impose a disciplinary sanction, upon written request by the licensee or applicant, the board shall disclose to the licensee or applicant all information obtained by the board in the investigation of the allegations in the notice except:

(a) Information that is privileged or confidential under a law other than this section.

(b) Information that would permit the identification of any person who provided information that led to the filing of the notice and who will not provide testimony at a hearing arising out of the investigation.

(c) Information that would permit the identification of any person as a person who made a complaint to the board about a licensee or applicant.

(d) Reports of expert witnesses.

(4) Information disclosed to a licensee or applicant under subsection (3) of this section may be further disclosed by the licensee or applicant only to the extent necessary to prepare for a hearing on the notice of intent to impose a disciplinary sanction.

(5)(a) A health professional regulatory board shall disclose:

(A) A notice of intent to impose a disciplinary sanction against a licensee or applicant that has been issued by vote of the board;

(B) A final order that results from the board's notice of intent to impose a disciplinary sanction;

(C) An emergency suspension order;

(D) A consent order or stipulated agreement that involves licensee or applicant conduct; and

(E) Information to further an investigation into board conduct under ORS 192.685.

(b) A health professional regulatory board may make the information required to be disclosed under paragraph (a)(A) to (D) of this subsection available in electronic form, accessible by use of a personal computer or similar technology that provides direct electronic access to the information.

(6) If a notice of intent to impose a disciplinary sanction has been issued by vote of a health professional regulatory board, a final order that results from the board's notice of intent to impose a disciplinary sanction, an emergency suspension order or a

consent order or stipulated agreement that involves licensee or applicant conduct shall summarize the factual basis for the board's disposition of the matter.

(7) A health professional regulatory board record or order, or any part thereof, obtained as part of or resulting from an investigation, contested case proceeding, consent order or stipulated agreement, is not admissible as evidence and may not preclude an issue or claim in any civil proceeding except in a proceeding between the board and the licensee or applicant as otherwise allowed by law.

(8)(a) Notwithstanding subsection (1) of this section, it is not disclosure to the public for a board to permit other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions shall not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, "public official" means a member or member-elect, or any member of the staff or an employee, of a public entity as defined by ORS 676.177.

(9) A health professional regulatory board may establish fees reasonably calculated to reimburse the actual cost of disclosing information to licensees or applicants as required by subsection (3) of this section. [1997 c.791 §2; 1999 c.751 §3; 2005 c.801 §1]

676.177 Disclosure of confidential information to another public entity; criteria.

(1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, "public entity" means:

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

- (c) The Department of Justice;
- (d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or
- (e) A law enforcement agency of this state, another state or the federal government. [1999 c.751 §2]

676.180 Notice prior to disclosure. If a health professional regulatory board intends to disclose a record pursuant to ORS 676.175 (2), the board shall provide the licensee or applicant seven days' prior written notice by first class mail. The notice shall describe the record that the board intends to disclose in sufficient detail to permit the licensee or applicant to know the contents of the record. In any subsequent action for injunctive or declaratory relief, the burden shall be on the person seeking disclosure to demonstrate by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. [1997 c.791 §3]

IMPAIRED HEALTH PROFESSIONAL PROGRAM

676.185 Definitions for ORS 676.185 to 676.200. As used in ORS 676.185 to 676.200:

(1) "Direct supervisor" means the individual who is responsible for:

- (a) Supervising a licensee enrolled in the impaired health professional program;
- (b) Monitoring the licensee's compliance with the requirements of the program; and
- (c) Periodically reporting to the program on the licensee's compliance with the requirements of the program.

(2) "Health profession licensing board" means:

- (a) A health professional regulatory board as defined in ORS 676.160; or
- (b) The Health Licensing Office for a board or council listed in ORS 676.583.

(3) "Impaired professional" means a licensee who is unable to practice with professional skill and safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability or by reason of a mental health disorder.

(4) "Licensee" means a health professional licensed or certified by or registered with a health profession licensing board.

(5) "Substantial noncompliance" includes the following:

- (a) Criminal behavior;
- (b) Conduct that causes injury, death or harm to the public, or a patient, including sexual impropriety with a patient;

(c) Impairment in a health care setting in the course of employment;

(d) A positive toxicology test result as determined by federal regulations pertaining to drug testing;

(e) Violation of a restriction on a licensee's practice imposed by the impaired health professional program established under ORS 676.190 or the licensee's health profession licensing board;

(f) Civil commitment for mental illness;

(g) Failure to participate in the program after entering into a diversion agreement under ORS 676.190; or

(h) Failure to enroll in the program after being referred to the program. [2009 c.697 §1; 2013 c.314 §6; 2013 c.367 §1; 2013 c.568 §19]

676.190 Establishment of program; reports of noncompliance; diversion agreements; audit; rules. (1) The Oregon Health Authority shall establish or contract to establish an impaired health professional program. The program must:

(a) Enroll licensees of participating health profession licensing boards who have been diagnosed with alcohol or substance abuse or a mental health disorder;

(b) Require that a licensee sign a written consent prior to enrollment in the program allowing disclosure and exchange of information between the program, the licensee's board, the licensee's employer, evaluators and treatment entities in compliance with ORS 179.505 and 42 C.F.R. part 2;

(c) Enter into diversion agreements with enrolled licensees;

(d) If the enrolled licensee has a direct supervisor, assess the ability of the direct supervisor to supervise the licensee, including an assessment of any documentation of the direct supervisor's completion of specialized training;

(e) Report substantial noncompliance with a diversion agreement to a noncompliant licensee's board within one business day after the program learns of the substantial noncompliance; and

(f) At least weekly, submit to licensees' boards:

(A) A list of licensees who were referred to the program by a health profession licensing board and who are enrolled in the program; and

(B) A list of licensees who were referred to the program by a health profession licensing board and who successfully complete the program.

(2) The lists submitted under subsection (1)(f) of this section are exempt from disclo-

sure as a public record under ORS 192.410 to 192.505.

(3) When the program reports substantial noncompliance under subsection (1)(e) of this section to a licensee's board, the report must include:

(a) A description of the substantial non-compliance;

(b) A copy of a report from the independent third party who diagnosed the licensee under ORS 676.200 (2)(a) or subsection (6)(a) of this section stating the licensee's diagnosis;

(c) A copy of the licensee's diversion agreement; and

(d) The licensee's employment status.

(4) The program may not diagnose or treat licensees enrolled in the program.

(5) The diversion agreement required by subsection (1) of this section must:

(a) Require the licensee to consent to disclosure and exchange of information between the program, the licensee's board, the licensee's employer, evaluators and treatment programs or providers, in compliance with ORS 179.505 and 42 C.F.R. part 2;

(b) Require that the licensee comply continuously with the agreement for at least two years to successfully complete the program;

(c) Require that the licensee abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless the drug is:

(A) Prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee; and

(B) Approved by the program if the licensee's board has granted the program that authority;

(d) Require the licensee to report use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours;

(e) Require the licensee to agree to participate in a recommended treatment plan;

(f) Contain limits on the licensee's practice of the licensee's health profession;

(g) Require the licensee to submit to random drug or alcohol testing in accordance with federal regulations, unless the licensee is diagnosed with solely a mental health disorder and the licensee's board does not otherwise require the licensee to submit to random drug or alcohol testing;

(h) Require the licensee to report to the program regarding the licensee's compliance with the agreement;

(i) Require the licensee to report any arrest for or conviction of a misdemeanor or felony crime to the program within three

business days after the licensee is arrested or convicted;

(j) Require the licensee to report applications for licensure in other states, changes in employment and changes in practice setting; and

(k) Provide that the licensee is responsible for the cost of evaluations, toxicology testing and treatment.

(6)(a) If a health profession licensing board participating in the program establishes by rule an option for self-referral to the program, a licensee of the health profession licensing board may self-refer to the program.

(b) The program shall require a licensee who self-refers to the program to attest that the licensee is not, to the best of the licensee's knowledge, under investigation by the licensee's board. The program shall enroll the licensee on the date on which the licensee attests that the licensee, to the best of the licensee's knowledge, is not under investigation by the licensee's board.

(c) When a licensee self-refers to the program, the program shall:

(A) Require that an independent third party approved by the licensee's board to evaluate alcohol or substance abuse or mental health disorders evaluate the licensee for alcohol or substance abuse or mental health disorders; and

(B) Investigate to determine whether the licensee's practice while impaired has presented or presents a danger to the public.

(d) When a licensee self-refers to the program, the program may not report the licensee's enrollment in or successful completion of the program to the licensee's board.

(7) The authority shall adopt rules establishing a fee to be paid by the health profession licensing boards participating in the program for administration of the program.

(8) The authority shall arrange for an independent third party to audit the program every four years to ensure compliance with program guidelines. The authority shall report the results of the audit to the Legislative Assembly, the Governor and the health profession licensing boards. The report may not contain individually identifiable information about licensees.

(9) The authority may adopt rules to carry out this section. [2009 c.697 §1b; 2009 c.828 §73; 2012 c.2 §1; 2013 c.367 §2]

676.195 [2009 c.697 §1c; 2009 c.828 §74; repealed by 2012 c.2 §3]

676.200 Board participation in program; rules. (1)(a) A health profession licensing board that is authorized by law to

take disciplinary action against licensees may adopt rules opting to participate in the impaired health professional program established under ORS 676.190 and may contract with or designate one or more programs to deliver therapeutic services to its licensees.

(b) A board may not establish the board's own impaired health professional program for the purpose of monitoring licensees of the board that have been referred to the program.

(c) A board may adopt rules establishing additional requirements for licensees referred to the impaired health professional program established under ORS 676.190 or a program with which the board has entered into a contract or designated to deliver therapeutic services under subsection (1) of this section.

(2) If a board participates in the impaired health professional program, the board shall establish by rule a procedure for referring licensees to the program. The procedure must provide that, before the board refers a licensee to the program, the board shall ensure that:

(a) An independent third party approved by the board to evaluate alcohol or substance abuse or mental health disorders has diagnosed the licensee with alcohol or substance abuse or a mental health disorder and provided the diagnosis and treatment options to the licensee and the board;

(b) The board has investigated to determine whether the licensee's professional practice while impaired has presented or presents a danger to the public; and

(c) The licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the board within three business days after the licensee is arrested or convicted.

(3) A board that participates in the impaired health professional program shall review reports received from the program. If the board finds that a licensee is substantially noncompliant with a diversion agreement entered into under ORS 676.190, the board may suspend, restrict, modify or revoke the licensee's license or end the licensee's participation in the impaired health professional program.

(4) A board may not discipline a licensee solely because the licensee:

(a) Self-refers to or participates in the impaired health professional program;

(b) Has been diagnosed with alcohol or substance abuse or a mental health disorder; or

(c) Used controlled substances before entry into the impaired health professional program, if the licensee did not practice

while impaired. [2009 c.697 §1a; 2012 c.2 §2; 2013 c.367 §3]

EFFECT OF EXPIRATION, LAPSE, SURRENDER, SUSPENSION OR REVOCATION OF LICENSE

676.205 Continuing jurisdiction of boards; effect of expiration, lapse, surrender, suspension or revocation of license. (1) As used in this section:

(a) "Health professional regulatory board" means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.575.

(b) "License" means a license, registration, certification or other authorization to engage in a profession.

(2) A health professional regulatory board continues to have jurisdiction for licensing, regulatory and disciplinary purposes related to acts and omissions that occur while a person is licensed or required to be licensed, regardless of any changes in the licensing status of the person.

(3) A person who obtains, but is not required to obtain, a license to engage in a profession regulated by a health professional regulatory board, and whose license expires, lapses or is voluntarily surrendered while the person is under investigation by the board, or whose license is suspended or revoked, may not engage in that profession unless the person again obtains a license from the relevant health professional regulatory board to engage in the profession.

(4) Nothing in this section limits the jurisdictional, investigatory or other authority otherwise provided by law to a health professional regulatory board. [2009 c.756 §2; 2013 c.568 §20]

676.210 Practice of health care profession after suspension or revocation of license prohibited. No person whose license has been revoked or suspended by any board authorized by the statutes of the State of Oregon to issue licenses to practice a health care profession shall continue the practice of this profession after the order or decision of the board suspending or revoking the license of the person has been made. The license shall remain suspended or revoked until a final determination of an appeal from the decision or order of the board has been made by the court. [1953 c.592 §1; 1983 c.769 §4]

676.220 Enjoining health care profession from practicing after suspension or revocation of license. (1) If at any time the board suspending or revoking the license of any licentiate of a health care profession determines that such licentiate is continuing to practice the health care profession notwithstanding, the board shall in its own

name bring an action to enjoin such licentiate.

(2) If the court shall find that the licentiate has been or is continuing the practice of the health care profession for which the license has been revoked or suspended it shall issue an injunction restraining the licentiate. The commission of a single act constituting the practice of the respective health care profession shall be prima facie evidence warranting the issuance of such injunction. [1953 c.592 §2; 1979 c.284 §191; 1983 c.769 §5]

676.230 Injunction as cumulative remedy. The remedy herein provided is cumulative and shall be without prejudice to any other civil or criminal remedy. [1953 c.592 §3]

HEALTH CARE FACILITY REPORTING OF BLOOD ALCOHOL LEVEL OR PRESENCE OF CONTROLLED SUBSTANCE

676.260 Health care facility notification of blood alcohol level or presence of controlled substance in blood; content of notice. (1) A health care facility that provides medical care immediately after a motor vehicle accident to a person reasonably believed to be the operator of a motor vehicle involved in the accident shall notify any law enforcement officer who is at the health care facility and is acting in an official capacity in relation to the motor vehicle accident if the health care facility becomes aware, as a result of any blood test performed in the course of that treatment, that:

(a) The person's blood alcohol level meets or exceeds the percent specified in ORS 813.010; or

(b) The person's blood contains a controlled substance, as defined in ORS 475.005.

(2) If a health care facility is required to notify a law enforcement officer of test results under subsection (1) of this section and no law enforcement officer is present in an official capacity at the health care facility, the health care facility shall notify a law enforcement agency in the county in which the accident occurred, or an Oregon State Police dispatch center, as soon as possible but no more than 72 hours after becoming aware of the results of the blood test.

(3) A notice required under this section must consist of:

(a) The name of the person being treated;

(b) The blood alcohol level and name and level of any controlled substance disclosed by the test; and

(c) The date and time of the administration of the test.

(4) ORS 40.225 to 40.295 do not affect the requirement to provide notice imposed by this section, and the health care facility shall not be considered to have breached any duty under ORS 40.225 to 40.295 owed to the person about whom the notice is made. [1995 c.546 §1; 2003 c.89 §2; 2007 c.662 §1; 2011 c.672 §1]

676.280 Immunity of person participating in report pursuant to ORS 676.260. No action or administrative proceeding shall be brought against anyone participating in good faith in providing notice pursuant to ORS 676.260 and any person participating in providing notice shall have immunity from any liability, civil or criminal, and from any professional disciplinary action, that might otherwise be incurred or imposed with respect to the notification or the content of the notice. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from the notice. [1995 c.546 §2; 2003 c.89 §3]

676.300 Authority of health care provider to notify law enforcement agency that patient who is under influence of intoxicants is about to drive vehicle; immunity. (1) If a health care provider who is providing emergency medical care in a health care facility to a person has reason to believe that the person is under the influence of intoxicants and is about to drive a motor vehicle on a highway as defined in ORS 801.305 or a premises open to the public as defined in ORS 801.400 and is a clear and present danger to society, the health care provider may notify as soon as reasonably possible the law enforcement agency which has jurisdiction over the health care facility site.

(2) The notice shall consist of the name and physical description of the person being treated and the fact that the health care provider believes the person is intoxicated and is about to drive a motor vehicle as described in subsection (1) of this section.

(3) The health care provider may inform the person if the health care provider intends to notify the law enforcement agency described in subsection (1) of this section. The person's consent is not required.

(4) Anyone participating in good faith in the making of a report or not making a report pursuant to subsections (1) to (3) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or the content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [Formerly 441.827]

MISCELLANEOUS

676.303 Purposes of health professional regulatory boards; authority of boards to require fingerprints. (1) As used in this section:

(a) “Health professional regulatory board” means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.575.

(b) “Impairment” means an inability to practice with reasonable competence and safety due to the habitual or excessive use of drugs or alcohol, other chemical dependency or a mental health condition.

(c) “License” means a license, registration, certification or other authorization to engage in a profession.

(d) “Licensee” means a person licensed, registered, certified or otherwise authorized by a health professional regulatory board to engage in a profession.

(2) All health professional regulatory boards shall operate with the primary purposes of promoting the quality of health services provided, protecting the public health, safety and welfare by ensuring that licensees practice with professional skill and safety and addressing impairment among licensees.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, a health professional regulatory board may require the fingerprints of a licensee seeking renewal of a license, an applicant for a license, a board employee or volunteer or an applicant for employment with the board. [2009 c.756 §1; 2013 c.568 §21]

676.306 Executive directors; reports; rules. (1) As used in this section, “health professional regulatory board” means a health professional regulatory board described in ORS 676.160 other than the Oregon Health Authority with regard to the licensure of emergency medical services providers.

(2) Subject to applicable provisions of the State Personnel Relations Law and the approval of the Governor, notwithstanding ORS 182.468, each health professional regulatory board shall appoint an executive director and prescribe the duties and fix the compensation of the executive director. The executive director shall serve at the pleasure of the Governor under the direct supervision of the appointing board. The board may request that the Governor remove the executive director.

(3) In addition to any other duties imposed by law or otherwise required of state agencies, the executive director shall keep all records of the board and discharge all duties prescribed by the board.

(4) The executive director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the board. The executive director shall submit the reports to the board and the Governor. The Oregon Department of Administrative Services, in consultation with the board, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the department. The rules shall require each board to undergo a peer review of board activities by a team of executive directors of other health professional regulatory boards and at least one public member. The department may assess the board for the cost of the peer review. [2009 c.756 §4; 2011 c.703 §46; 2011 c.720 §214]

676.308 Authorization to practice health profession by military spouse or domestic partner; rules. (1) As used in this section:

(a) “Authorization” means a license, registration, certificate or other authorization to engage in a profession.

(b) “Board” means a health professional regulatory board, as defined in ORS 676.160, or a board or council listed in ORS 676.583.

(c) “Military spouse or domestic partner” means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) A board shall issue an authorization to a military spouse or domestic partner if the military spouse or domestic partner provides the board with:

(a) Evidence that the applicant is married to, or in a domestic partnership with, an active member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(b) Evidence that the military spouse or domestic partner is authorized by another state or territory of the United States to provide services regulated by the board; and

(c) Evidence that the military spouse or domestic partner:

(A) Has provided services or taught the subject matter regulated by the board for at least one year during the three years immediately preceding the date on which the military spouse or domestic partner submits an application for an authorization; and

(B) Has demonstrated competency, as determined by the board by rule, over services regulated by the board.

(3) A board may issue a temporary authorization to an applicant who applies for an authorization under subsection (2) of this section before the board receives the evidence required by subsection (2) of this section if the military spouse or domestic partner affirms on the application that the military spouse or domestic partner:

(a) Has requested evidence of authorization from the state or territory in which the military spouse or domestic partner is authorized; and

(b) Is not subject to disciplinary action in that state or territory for a matter related to services regulated by the board. [2013 c.351 §1]

676.310 Fees for laboratory testing; itemized billing; failure to comply considered unprofessional conduct. (1) Any person authorized by law to order laboratory testing may charge a reasonable fee for all laboratory and other specialized testing performed by the practitioner or by a person in the practitioner's employ. In addition, the practitioner is entitled to charge a reasonable fee for collecting and preparing specimens to be sent to independent persons or laboratories for testing, and for the preparation of the billing to the patient for the test. However, a practitioner shall not mark up, or charge a commission or make a profit on services rendered by an independent person or laboratory.

(2) A practitioner shall prepare an itemized billing, indicating the charges for each service rendered to the patient. Any services rendered to the patient that were performed by persons other than those in the direct employ of the practitioner and the charges therefor shall be indicated separately on the patient's bill.

(3) Failure to comply with the requirements of this section shall be considered to be unprofessional conduct and may be subject to disciplinary action by the appropriate licensing board.

(4) As used in this section, "practitioner" means a person licensed to practice medicine, dentistry, naturopathic medicine or chiropractic or to be a nurse practitioner. [1979 c.428 §1]

676.330 Approved osteopathic residency training and certification included as medical specialty certification. Any health care entity, hospital, hospital medical staff, health care service contractor, independent practice association, health insurance company or any other entity that requires physicians to be certified or eligible for certification in a medical specialty shall include residency training and certification approved by the American Osteopathic Association and the American Board of Medical

Specialties. [1995 c.627 §1]

676.340 Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient's informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

(a) A physician licensed under ORS 677.100 to 677.228;

(b) A nurse licensed under ORS 678.040 to 678.101;

(c) A nurse practitioner licensed under ORS 678.375 to 678.390;

(d) A clinical nurse specialist certified under ORS 678.370 and 678.372;

(e) A physician assistant licensed under ORS 677.505 to 677.525;

(f) A dental hygienist licensed under ORS 680.010 to 680.205;

(g) A dentist licensed under ORS 679.060 to 679.180;

(h) A pharmacist licensed under ORS chapter 689; and

(i) An optometrist licensed under ORS chapter 683. [1999 c.771 §1; 1999 c.771 §3; 2005 c.462 §2; 2012 c.41 §3]

676.345 Registration program for health care professionals claiming liability limitation; program requirements. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

(a) By a physician or physician assistant, with the Oregon Medical Board;

(b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of Nursing;

(c) By a dentist or dental hygienist, with the Oregon Board of Dentistry;

(d) By a pharmacist, with the State Board of Pharmacy; and

(e) By an optometrist, with the Oregon Board of Optometry.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

(a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;

(b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and

(c) A statement that the health practitioner will only provide health care services

without compensation that are within the scope of the health practitioner's license.

(3) Registration under this section must be made annually. The health professional regulatory boards listed in subsection (1) of this section shall charge no fee for registration under this section. [1999 c.771 §2; 1999 c.771 §4; 2005 c.462 §3; 2012 c.41 §4]

676.350 Authority of health professional regulatory boards to adopt rules permitting expedited partner therapy. (1) As used in this section:

(a) "Expedited partner therapy" means the practice of prescribing or dispensing antibiotic drugs for the treatment of a sexually transmitted disease to the partner of a patient without first examining the partner of the patient.

(b) "Partner of a patient" means a person whom a patient diagnosed with a sexually transmitted disease identifies as a sexual partner of the patient.

(c) "Practitioner" has the meaning given that term in ORS 475.005.

(2) A health professional regulatory board, as defined in ORS 676.160, may adopt rules permitting practitioners to practice expedited partner therapy. If a board adopts rules permitting practitioners to practice expedited partner therapy, the board shall consult with the Oregon Health Authority to determine which sexually transmitted diseases are appropriately addressed with expedited partner therapy.

(3) A prescription issued in the practice of expedited partner therapy authorized by the rules of a board is valid even if the name of the patient for whom the prescription is intended is not on the prescription.

(4) The authority shall make available informational material about expedited partner therapy that a practitioner may distribute to patients. [2009 c.522 §1; 2011 c.720 §215]

676.360 Pelvic examinations. (1) A person may not knowingly perform a pelvic examination on a woman who is anesthetized or unconscious in a hospital or medical clinic unless:

(a) The woman or a person authorized to make health care decisions for the woman has given specific informed consent to the examination;

(b) The examination is necessary for diagnostic or treatment purposes; or

(c) A court orders the performance of the examination for the collection of evidence.

(2) A person who violates subsection (1) of this section is subject to discipline by any licensing board that licenses the person. [2011 c.200 §1]

676.400 Racial and ethnic composition of regulated health professions; findings; duties of health professional regulatory boards. (1) It is the intention of the Legislative Assembly to achieve the goal of universal access to adequate levels of high quality health care at an affordable cost for all Oregonians, regardless of ethnic or cultural background.

(2) The Legislative Assembly finds that:

(a) Access to health care is of value when it leads to treatment that substantially improves health outcomes;

(b) Health care is most effective when it accounts for the contribution of culture to health status and health outcomes;

(c) Ethnic and racial minorities experience more than their statistically fair share of undesirable health outcomes;

(d) The lack of licensed health care professionals from ethnic and racial minorities or who are bilingual contributes to the inadequacy of health outcomes in communities of color in this state; and

(e) The development of a partnership between health professional regulatory boards and communities of color to increase the representation of people of color and bilingual people in health care professions has significant potential to improve the health outcomes of people of color and bilingual citizens of this state.

(3) Health professional regulatory boards shall establish programs to increase the representation of people of color and bilingual people on the boards and in the professions that they regulate. Such programs must include activities to promote the education, recruitment and professional practice of members of these targeted populations in Oregon.

(4) Each health professional regulatory board shall maintain records of the racial and ethnic makeup of applicants and professionals regulated by the board. Such information shall be requested from applicants and the professionals regulated who shall be informed in writing that the provision of such information is voluntary and not required.

(5) Each health professional regulatory board shall report biennially to the Legislative Assembly in the manner required by ORS 192.245. The report shall contain:

(a) Data detailing the efforts of the board to comply with the requirements of subsection (3) of this section; and

(b) Data collected under subsection (4) of this section documenting the ethnic and racial makeup of the applicants and of the professionals regulated by the board.

(6) For purposes of this section, "health professional regulatory board" has the meaning given that term in ORS 676.160. [2001 c.973 §1]

676.405 Release of personal information. (1) As used in this section, "health professional regulatory board" means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.575.

(2) Notwithstanding ORS 192.410 to 192.505, a health professional regulatory board may, at its discretion, release or withhold the personal electronic mail address, home address and personal telephone number for a person licensed, registered or certified by the board. If the personal electronic mail address, home address or personal telephone number is requested for a public health or state health planning purpose, the board shall release the information. [2009 c.756 §3; 2013 c.568 §22]

676.410 Information required for renewal of certain licenses; confidentiality; data collection; fees; rules. (1) As used in this section, "health care workforce regulatory board" means the:

(a) State Board of Examiners for Speech-Language Pathology and Audiology;

(b) State Board of Chiropractic Examiners;

(c) State Board of Licensed Social Workers;

(d) Oregon Board of Licensed Professional Counselors and Therapists;

(e) Oregon Board of Dentistry;

(f) Board of Licensed Dietitians;

(g) State Board of Massage Therapists;

(h) Oregon Board of Naturopathic Medicine;

(i) Oregon State Board of Nursing;

(j) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(k) Oregon Board of Optometry;

(L) State Board of Pharmacy;

(m) Oregon Medical Board;

(n) Occupational Therapy Licensing Board;

(o) Physical Therapist Licensing Board;

(p) State Board of Psychologist Examiners; and

(q) Board of Medical Imaging.

(2) An individual applying to renew a license with a health care workforce regulatory board must provide the information prescribed by the Oregon Health Authority pursuant to subsection (3) of this section to the health care workforce regulatory board.

Except as provided in subsection (4) of this section, a health care workforce regulatory board may not approve an application to renew a license until the applicant provides the information.

(3) The authority shall collaborate with each health care workforce regulatory board to adopt rules establishing:

(a) The information that must be provided to a health care workforce regulatory board under subsection (2) of this section, which may include:

(A) Demographics, including race and ethnicity.

(B) Education and training information.

(C) License information.

(D) Employment information.

(E) Primary and secondary practice information.

(F) Anticipated changes in the practice.

(G) Languages spoken.

(b) The manner and form of providing information under subsection (2) of this section.

(4)(a) Subject to paragraph (b) of this subsection, a health care workforce regulatory board shall report health care workforce information collected under subsection (2) of this section to the authority.

(b) Except as provided in paragraph (c) of this subsection, personally identifiable information collected under subsection (2) of this section is confidential and a health care workforce regulatory board and the authority may not release such information.

(c) A health care workforce regulatory board may release personally identifiable information collected under subsection (2) of this section to a law enforcement agency for investigative purposes or to the authority for state health planning purposes.

(5) A health care workforce regulatory board may adopt rules to perform the board's duties under this section.

(6) In addition to renewal fees that may be imposed by a health care workforce regulatory board, the authority shall establish fees to be paid by individuals applying to renew a license with a health care workforce regulatory board. The amount of fees established under this subsection must be reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section.

(7) Using information collected under subsection (2) of this section, the authority shall create and maintain a health care workforce database that will provide data, including data related to the diversity of this

state's health care workforce, upon request to state agencies and to the Legislative Assembly. The authority may contract with a private or public entity to establish and maintain the database and to perform data analysis. [2009 c.595 §1175; 2011 c.630 §23; 2013 c.14 §9; 2015 c.318 §40; 2015 c.380 §1]

Note: Section 3, chapter 380, Oregon Laws 2015, provides:

Sec. 3. (1) For individuals applying to renew a license to practice a regulated profession with the Oregon Board of Dentistry, Board of Licensed Dietitians, Oregon State Board of Nursing, State Board of Pharmacy, Oregon Medical Board, Occupational Therapy Licensing Board and Physical Therapist Licensing Board, the amendments to ORS 676.410 by section 1 of this 2015 Act apply to applications to renew a license to practice a regulated profession that are submitted on or after the operative date specified in section 4 of this 2015 Act [January 1, 2016].

(2) For individuals applying to renew a license to practice a regulated profession with the State Board of Examiners for Speech-Language Pathology and Audiology, State Board of Chiropractic Examiners, State Board of Licensed Social Workers, Oregon Board of Licensed Professional Counselors and Therapists, State Board of Massage Therapists, Oregon Board of Naturopathic Medicine, Respiratory Therapist and Polysomnographic Technologist Licensing Board, Oregon Board of Optometry, State Board of Psychologist Examiners and Board of Medical Imaging, the amendments to ORS 676.410 by section 1 of this 2015 Act apply to applications to renew a license to practice a regulated profession that are submitted on or after the date on which rules are adopted for health care workers regulated by a health care workforce regulatory board pursuant to ORS 676.410 (3). [2015 c.380 §3]

676.440 Duty of health professional regulatory boards to encourage multidisciplinary pain management services. (1) Health professional regulatory boards shall encourage the development of state-of-the-art multidisciplinary pain management services and the availability of these services to the public.

(2) As used in subsection (1) of this section, "health professional regulatory boards" means the:

(a) Oregon Medical Board;

(b) Oregon Board of Naturopathic Medicine;

(c) Oregon Board of Dentistry;

(d) Oregon State Board of Nursing;

(e) Physical Therapist Licensing Board;

(f) State Board of Chiropractic Examiners;

(g) State Board of Pharmacy; and

(h) State Board of Psychologist Examiners. [2003 c.325 §1; 2009 c.43 §10]

676.450 Health Care Provider Incentive Fund. The Health Care Provider Incentive Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Health Care Provider Incentive Fund shall be credited to the fund. Moneys in the fund are continuously appro-

priated to the Oregon Health Authority to carry out ORS 676.460. [2015 c.829 §1]

Note: 676.450 becomes operative January 1, 2018. See section 11, chapter 829, Oregon Laws 2015.

676.460 Health care provider incentive program; rules. (1) There is created in the Oregon Health Authority a health care provider incentive program for the purpose of assisting qualified health care providers who have committed to serving medical assistance recipients in rural or medically underserved areas of this state. The authority shall prescribe by rule:

(a) Participant eligibility criteria, including the types of qualified health care providers who may participate in the program;

(b) The terms and conditions of participation in the program, including the duration of the term of any service agreement;

(c) The types of incentives that may be provided;

(d) If the funds allocated to the program from the Health Care Provider Incentive Fund established under ORS 676.450 are insufficient to provide assistance to all of the applicants who are eligible to participate in the program, the priority for the distribution of funds, based on guidance from the Health Care Workforce Committee; and

(e) The financial penalties imposed on an individual who fails to comply with terms and conditions of participation.

(2) The authority may enter into contracts with one or more public or private entities to administer the program or parts of the program. [2015 c.829 §2]

Note: 676.460 becomes operative January 1, 2018. See section 11, chapter 829, Oregon Laws 2015.

Note: Sections 3 and 10, chapter 829, Oregon Laws 2015, provide:

Sec. 3. (1) The Oregon Health Policy Board shall study and evaluate the effectiveness of financial incentives offered by the state to recruit and retain qualified health care providers in rural and medically underserved areas.

(2) On the basis of the study, the board shall develop recommendations with respect to:

(a) The continuation, restructuring, consolidation or repeal of the incentives;

(b) The priority for distribution of incentive funds allocated to the program from the Health Care Provider Incentive Fund established under section 1 of this 2015 Act [676.450] to qualified health care providers; and

(c) New financial incentive programs.

(3) The recommendations must address, but need not be limited to:

(a) Financial assistance programs for students in both the publicly funded and private institutions in this state that provide post-graduate training in medical fields;

(b) Loans, grants or other financial incentives to hospitals and teaching health centers for the purpose of establishing or expanding residency programs, including recommendations for the eligibility criteria, re-

payment provisions, interest rates and other requirements for financial incentives;

(c) Low-interest loans, short-term emergency funding or grants for type A, B and C hospitals that are at risk of closure due to financial instability;

(d) Direct subsidies or bonus payments to qualified health care providers for services provided in rural and medically underserved areas;

(e) Creation of a retirement plan to offer to licensed or certified providers as an incentive to provide services in rural and medically underserved areas and to medically underserved populations in this state;

(f) The criteria for tax credits, including adding means testing or time limits;

(g) Opportunities that are available to secure private or public, local or federal matching funds; and

(h) The definitions of rural area, medically underserved area and qualified health care provider.

(4) In developing recommendations under this section, the Oregon Health Policy Board may consult with the Graduate Medical Education Consortium, the Oregon Healthcare Workforce Institute, the Office of Rural Health, the Oregon Center for Nursing or other appropriate entities.

(5) The Oregon Health Policy Board may contract with a public or private entity to assist in the development of recommendations.

(6) The Oregon Health Policy Board shall report on the progress in developing recommendations under this section to the interim committees of the Legislative Assembly related to health during the interim committee meetings in November 2015 and to the committees of the Legislative Assembly related to health during the 2016 regular session. The board shall report its final recommendations to the interim committees of the Legislative Assembly, in the manner prescribed by ORS 192.245, no later than September 1, 2016. [2015 c.829 §3]

Sec. 10. Section 3 of this 2015 Act is repealed on January 2, 2017. [2015 c.829 §10]

SUBSIDIES FOR MEDICAL PROFESSIONAL LIABILITY INSURANCE

676.550 Subsidies for medical professional liability insurance; rules. (1) As used in this section:

(a) “Medical assistance” has the meaning given that term in ORS 414.025.

(b) “Medicare” means medical coverage provided under Title XVIII of the Social Security Act.

(c)(A) “Practitioner” means a physician licensed under ORS chapter 677 or a nurse practitioner certified under ORS 678.375 who has a rural practice that meets criteria established by the Office of Rural Health that applied as of January 1, 2004, for the purposes of ORS 315.613.

(B) “Practitioner” does not include a physician or nurse practitioner who is located in an urbanized area of Jackson County, as defined by the United States Census Bureau according to the most recent federal decennial census taken pursuant to the authority of the United States Department of Commerce under 13 U.S.C. 141(a), unless the practitioner is:

(i) A physician who specializes in obstetrics or who specializes in family or general practice and provides obstetrical services; or

(ii) A nurse practitioner who is certified for obstetric care.

(2) The Oregon Health Authority shall establish a program to provide payments to medical professional liability insurance insurers to subsidize the cost of premiums charged by the insurers to practitioners described in subsection (3) of this section.

(3) A practitioner is eligible for a subsidy under this section if the practitioner:

(a) Holds an active, unrestricted license or certification;

(b) Is covered by a medical professional liability insurance policy issued by an authorized insurer with minimum limits of coverage of \$1 million per occurrence and \$1 million annual aggregate; and

(c) Except for a nurse practitioner participating in the program who is employed by a licensed physician, is willing to serve patients with Medicare coverage and patients receiving medical assistance in at least the same proportion to the practitioner's total number of patients as the Medicare and medical assistance populations represent of the total number of individuals determined by the Office of Rural Health to be in need of care in the areas served by the practice.

(4) A practitioner whose medical professional liability insurance coverage is provided through a health care facility, as defined in ORS 442.400, and who otherwise meets the requirements of subsection (3) of this section is eligible for a subsidy if the office determines that the practitioner:

(a) Is not an employee of the health care facility;

(b) Is covered by a medical professional liability insurance policy that names the practitioner and separately calculates the premium for the practitioner; and

(c) Fully reimburses the health care facility for the premium calculated for the practitioner.

(5) The Oregon Health Authority shall contract with the Office of Rural Health to establish by rule criteria and procedures for an annual attestation by participating practitioners of compliance with the requirements of subsection (3)(c) of this section. [2011 c.560 §1]

Note: 676.550 is repealed January 2, 2018. See sections 9 and 12, chapter 829, Oregon Laws 2015.

676.552 Amount of subsidy. (1)(a) The amount of the subsidy paid by the Oregon Health Authority under ORS 676.550 shall be a percentage of the actual premium charged

for medical professional liability insurance with limits of coverage of \$1 million per occurrence and up to \$3 million annual aggregate. However, the premium subsidy for a practitioner referred to in paragraph (b)(C) or (D) of this subsection shall be the lesser of the percentage of the premium due or paid for the current calendar year and the premium paid in the previous calendar year. When determining the lesser amount under this paragraph, any step increases in the premium owing to the claims-made nature of the policy may not be considered.

(b) The subsidy paid by the Oregon Health Authority under ORS 676.550 shall be:

(A) Eighty percent for physicians specializing in obstetrics and nurse practitioners certified for obstetric care;

(B) Sixty percent for physicians specializing in family or general practice who provide obstetrical services;

(C) Forty percent for physicians and nurse practitioners engaging in one or more of the following practices:

(i) Family practice without obstetrical services;

(ii) General practice without obstetrical services;

(iii) Internal medicine;

(iv) Geriatrics;

(v) Pulmonary medicine;

(vi) Pediatrics;

(vii) General surgery; and

(viii) Anesthesiology; and

(D) Fifteen percent for physicians and nurse practitioners other than those included in subparagraphs (A) to (C) of this paragraph.

(2) If the funds available for the subsidy program are insufficient to provide the maximum premium subsidy for all practitioners who qualify for the program, the authority shall reduce or eliminate subsidies for practitioners described in subsection (1)(b)(D) of this section. If, after eliminating subsidies for practitioners described in subsection (1)(b)(D) of this section, the funds are insufficient to provide the maximum premium subsidies for the remaining practitioners, the authority shall also reduce or eliminate the subsidies for practitioners described in subsection (1)(b)(C) of this section.

(3) An insurer shall reduce the premium charged to a practitioner by the amount of any premium subsidy paid or to be paid under this section and ORS 676.550. [2011 c.560 §2]

Note: 676.552 is repealed January 2, 2018. See sections 9 and 12, chapter 829, Oregon Laws 2015.

676.554 Report to legislature. On or before January 31 of each odd-numbered year, the Director of the Oregon Health Authority shall report in the manner provided by ORS 192.245 to the Legislative Assembly on the performance of the program established under ORS 676.550. [2011 c.560 §6]

Note: 676.554 is repealed January 2, 2018. See sections 9 and 12, chapter 829, Oregon Laws 2015.

676.556 Rural Medical Liability Subsidy Fund. (1) The Rural Medical Liability Subsidy Fund is established in the State Treasury separate and distinct from the General Fund. The Rural Medical Liability Subsidy Fund is established for the purpose of providing payments under the subsidy program established under ORS 676.550. Interest earned by the Rural Medical Liability Subsidy Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the Oregon Health Authority.

(2) All moneys received by the Oregon Health Authority for the purposes of the subsidy program established in ORS 676.550 shall be deposited to the Rural Medical Liability Subsidy Fund.

(3) All payments authorized to be made by the authority under the subsidy program established under ORS 676.550 shall be made from the Rural Medical Liability Subsidy Fund. [2011 c.560 §3]

Note: 676.556 is repealed January 2, 2018. See sections 9 and 12, chapter 829, Oregon Laws 2015.

HEALTH LICENSING OFFICE

676.575 Purpose of Health Licensing Office. (1) To provide for the more effective coordination of administrative and regulatory functions of certain health boards and councils involved in protecting the public through the licensing and regulation of health-related professions and occupations practiced in this state under a uniform mission and uniform goals, the Health Licensing Office is created within the Oregon Health Authority.

(2) The mission of the office is to serve the public by providing a uniform structure and accountability for the boards and councils under its administration to protect the public from harm. The office's focus is to:

(a) Promote effective health policy that protects the public from incompetent or unauthorized individuals and allows consumers to select a provider from a range of safe options.

(b) Provide outreach and training to stakeholders to improve compliance with public health and safety standards, and to involve stakeholders in the regulation of the various disciplines and fields of practice.

(c) Form partnerships and work in collaboration with each constituency, local and

state governmental agencies, educators, organizations and other affected entities to encourage diverse opinions and perspectives.

(d) Provide the boards and councils with a standardized administrative forum and procedures for operation, fiscal services, licensing, enforcement and complaint resolution.

(e) Resolve disputes between regulatory entities regarding the scope of practice of persons with authorization by those entities in the professions and occupations overseen by those boards and councils. [Formerly 676.605]

676.580 Definitions for ORS 676.575 to 676.625. As used in ORS 676.575 to 676.625:

(1) "Active authorization" means an authorization that is current and not suspended.

(2) "Authorization" means a certificate, license, permit or registration issued by the Health Licensing Office that allows a person to practice:

(a) One of the occupations or professions or maintain a facility subject to the authority of the boards and councils listed in ORS 676.583; or

(b) A profession or occupation subject to direct oversight by the office.

(3) "Expired authorization" means an authorization that has been not current for more than three years.

(4) "Inactive authorization" means an authorization that has been not current for three years or less. [2013 c.314 §2; 2015 c.632 §5]

676.583 Oversight and centralized service by office. Pursuant to ORS 676.586, the Health Licensing Office shall provide administrative and regulatory oversight and centralized service for the following boards and councils:

(1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

(2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;

(3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;

(4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

(5) Respiratory Therapist and Polysomnographic Technologist Licensing Board, as provided in ORS 688.800 to 688.840;

(6) Environmental Health Registration Board, as provided in ORS chapter 700;

(7) Board of Electrologists and Body Art Practitioners, as provided in ORS 690.350 to 690.410;

(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;

(9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;

(10) Nursing Home Administrators Board, as provided in ORS 678.710 to 678.820;

(11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;

(12) Behavior Analysis Regulatory Board, as provided in ORS 676.806; and

(13) Board of Certified Advanced Estheticians, as provided in ORS 676.630 to 676.660. [Formerly 676.606; 2015 c.56 §3; 2015 c.674 §8; 2015 c.722 §10]

Note: The amendments to 676.583 by section 10, chapter 722, Oregon Laws 2015, become operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015. The text that is operative until July 1, 2016, including amendments by section 3, chapter 56, Oregon Laws 2015, and section 8, chapter 674, Oregon Laws 2015, is set forth for the user's convenience.

676.583. Pursuant to ORS 676.586, the Health Licensing Office shall provide administrative and regulatory oversight and centralized service for the following boards and councils:

(1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

(2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;

(3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;

(4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

(5) Respiratory Therapist and Polysomnographic Technologist Licensing Board, as provided in ORS 688.800 to 688.840;

(6) Environmental Health Registration Board, as provided in ORS chapter 700;

(7) Board of Electrologists and Body Art Practitioners, as provided in ORS 690.350 to 690.410;

(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;

(9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;

(10) Nursing Home Administrators Board, as provided in ORS 678.710 to 678.820;

(11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485; and

(12) Behavior Analysis Regulatory Board, as provided in ORS 676.806.

676.586 Office responsibilities; enumeration of powers not exclusive; rules.

(1) The Health Licensing Office is responsible for the administration and regulatory oversight of the boards and councils listed in ORS 676.583. The responsibilities of the office include, but are not limited to:

- (a) Budgeting;
- (b) Record keeping;
- (c) Staffing;
- (d) Contracting;
- (e) Consumer protection and investigating complaints;
- (f) Establishing and collecting fees;

(g) Establishing and administering uniform application processes for the issuance of authorizations;

(h) Issuing and renewing authorizations;

(i) Subject to ORS 676.616 and 687.445, conditioning, limiting, suspending, revoking or refusing to issue or renew an authorization or otherwise disciplining applicants and authorization holders;

(j) Sanctioning any examination service provider, interpreter or proctor who is under contract or agreement with the office and who compromises the security, confidentiality or integrity of examinations developed or conducted pursuant to the statutory authority of the boards and councils listed in ORS 676.583;

(k) Enforcing all administrative rules adopted under any statute the office is charged with enforcing, including board and council administrative rules establishing professional code of conduct and practice standards, the scope of professional practice and requirements for obtaining informed consent before providing certain services or performing any procedure on clients;

(L) Preparing, tracking and reporting office performance measures;

(m) Implementing regulatory streamlining initiatives to reduce regulatory burdens without compromising regulatory standards;

(n) Preparing and circulating printed and electronic materials for educating or otherwise assisting applicants, authorization holders and the public;

(o) Adopting rules for the issuance of waivers or provisional authorizations to practice, and establishing special conditions of practice, during a state of emergency declared by the Governor under ORS 401.165;

(p) Referring impaired practitioners to a diversion program approved or recognized by the office and establishing criteria by rule for monitoring the impaired practitioner's progress and successful completion of the program;

(q) Establishing requirements for additional education, training or supervised experience to achieve compliance with the laws and rules governing professional practice;

(r) Establishing by rule continuing education requirements for renewal of an authorization if the office determines that continuing education is appropriate for renewal of the authorization;

(s) Exempting from authorization requirements a person who provides services at charitable or fund raising events, after the office has considered and evaluated the written request for an exemption on an individual basis; and

(t) Establishing requirements by rule for the issuance of a provisional authorization for purposes related to education or training.

(2) The enumeration of duties, functions and powers in subsection (1) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office by other statutes. [Formerly 676.607]

676.589 Issuance of authorizations; renewal; activation. (1) Except as provided in subsection (2) or (7) of this section, an authorization issued by the Health Licensing Office becomes not current on the last day of the month, one year from the date of issuance.

(2) A certificate issued under ORS 690.005 to 690.225 becomes not current on the last day of the month, two years from the date of issuance.

(3) In order to renew an authorization, the holder of the authorization shall submit to the office on or before the date on which the authorization becomes not current:

(a) A renewal application;

(b) Fees established by the office under ORS 676.592; and

(c) Any other information required by the office by rule.

(4) In order to activate an inactive authorization, the holder of the authorization shall submit to the office within three years after the authorization becomes not current:

(a) An activation application;

(b) Fees established by the office under ORS 676.592; and

(c) Any other information required by the office by rule.

(5) In order to obtain a new authorization, the holder of an expired authorization shall submit a new application, pay fees established by the office under ORS 676.592 and meet all requirements for a new authorization.

(6) If an authorization has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the office may not issue or renew the authorization for at least one year after the denial, suspension or revocation.

(7) The office may vary the date on which an authorization becomes not current by providing the holder of the authorization with written notice of the new date and prorating the renewal fee accordingly.

(8)(a) An authorization must be posted at all times in public view at the location where services are rendered, in accordance with rules adopted by the office.

(b) A facility authorization must be posted at all times in public view at the facility address on file with the office.

(9) This section does not apply to temporary authorizations or authorizations related to demonstration permits. [2013 c.314 §3]

676.592 Fees. (1) The Health Licensing Office shall establish by rule and collect fees for:

(a) Application for authorization;

(b) Original authorization;

(c) Renewal of authorization;

(d) Examinations and reexaminations;

(e) Authorizations related to demonstration permits;

(f) Temporary or provisional authorization;

(g) Replacement authorization;

(h) Late renewal of authorization;

(i) Reciprocity;

(j) Authorizations related to freelance licenses and independent contractor registrations;

(k) Authorizations related to facilities;

(L) Renewal of dormant authorization;

(m) Activation of inactive authorization;

(n) Verification of authorization;

(o) Duplicate authorization;

(p) Education or training provided by the office; and

(q) Providing copies of official documentation or records and for recovering administrative costs associated with compiling, photocopying, preparing and delivering the documentation or records.

(2) All moneys collected by the office under this section shall be paid into the General Fund of the State Treasury and credited to the Health Licensing Office Account established under ORS 676.625. Fees established under this section may not exceed the cost of administering the office and the boards and councils within the office, and are subject to ORS 676.625 (3). [2013 c.314 §4]

676.600 [1999 c.885 §1; repealed by 2005 c.648 §121]

676.605 [1999 c.885 §2; 2001 c.54 §1; 2005 c.648 §1; 2013 c.314 §7; 2013 c.568 §1; renumbered 676.575 in 2013]

676.606 [2003 c.547 §6; 2005 c.648 §2; 2007 c.841 §13; 2009 c.701 §8; 2009 c.768 §27; 2011 c.346 §24; 2011 c.630 §14; 2011 c.715 §20; 2013 c.314 §8; 2013 c.568 §23; renumbered 676.583 in 2013]

676.607 [1999 c.885 §3; 2005 c.648 §3; 2009 c.701 §9; 2013 c.314 §9; 2013 c.568 §24; 2013 c.657 §8; renumbered 676.586 in 2013]

676.608 Investigative authority; conduct of investigation. (1) As used in this section, "public entity" has the meaning given that term in ORS 676.177.

(2)(a) The Health Licensing Office shall carry out the investigatory duties necessary to enforce the provisions of ORS 676.575 to 676.625 and 676.992.

(b) Subject to subsection (12) of this section, the office, upon its own motion, may initiate and conduct investigations of matters relating to the practice of occupations or professions subject to the authority of the boards and councils listed in ORS 676.583.

(c) Subject to subsection (12) of this section, when the office receives a complaint against an authorization holder, the office shall investigate the complaint as provided in ORS 676.165.

(3) While conducting an investigation authorized under subsection (2) of this section or a hearing related to an investigation, the office may:

- (a) Take evidence;
- (b) Administer oaths;
- (c) Take the depositions of witnesses, including the person charged;
- (d) Compel the appearance of witnesses, including the person charged;
- (e) Require answers to interrogatories;
- (f) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation; and
- (g) Conduct criminal and civil background checks to determine conviction of a crime that bears a demonstrable relationship to the field of practice.

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

(5) If a person fails to comply with a subpoena issued under this section, the judge of the Circuit Court for Marion County may compel obedience by initiating proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court.

(6) If necessary, the director, or an employee designated by the director, may appear before a magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer, to enter the described property, to remove any person or obstacle, to defend any threatened violence to the director or a designee of the director or an officer, upon entering private property, or to assist the director in enforcing the office's authority in any way.

(7) In all investigations and hearings, the office and any person affected by the investigation or hearing may have the benefit of counsel.

(8) If an authorization holder who is the subject of a complaint or an investigation is to appear before the office, the office shall provide the authorization holder with a current summary of the complaint or the matter being investigated not less than 10 days before the date that the authorization holder is to appear. At the time the summary of the complaint or the matter being investigated is provided, the office shall provide the authorization holder with a current summary of documents or alleged facts that the office has acquired as a result of the investigation. The name of the complainant may be withheld from the authorization holder.

(9) An authorization holder who is the subject of an investigation, and any person acting on behalf of the authorization holder, may not contact the complainant until the authorization holder has requested a contested case hearing and the office has authorized the taking of the complainant's deposition pursuant to ORS 183.425.

(10) Except in an investigation or proceeding conducted by the office or another public entity, or in an action, suit or proceeding in which a public entity is a party, an authorization holder may not be questioned or examined regarding any communication with the office made in an appearance before the office as part of an investigation.

(11) This section does not prohibit examination or questioning of an authorization holder regarding records about the authorization holder's care and treatment of a patient or affect the admissibility of those records.

(12) In conducting an investigation related to the practice of direct entry midwifery, as defined in ORS 687.405, the office shall:

(a) Allow the State Board of Direct Entry Midwifery to review the motion or complaint before beginning the investigation;

(b) Allow the board to prioritize the investigation with respect to other investigations related to the practice of direct entry midwifery; and

(c) Consult with the board during and after the investigation for the purpose of determining whether to pursue disciplinary action. [2003 c.547 §1; 2005 c.648 §4; 2009 c.701 §10; 2009 c.756 §§5a,92; 2013 c.314 §10; 2013 c.568 §25; 2013 c.657 §5]

676.609 Disclosure of records. (1) If the Health Licensing Office intends to disclose a

record pursuant to ORS 676.608, the office shall:

(a) Send a notice of the intended disclosure to the person who is the subject of a complaint or an investigation by first class mail at least 14 days before the disclosure date; and

(b) Describe in the notice the type of record being disclosed in sufficient detail to allow the person who is the subject of a complaint or an investigation to understand the contents of the record that the office intends to disclose.

(2) The office shall disclose information obtained as part of an investigation of a person charged if another person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in non-disclosure, including but not limited to the public interest in nondisclosure. [2009 c.701 §2; 2013 c.568 §26]

676.610 Director; appointment and qualifications; responsibilities; duties.

(1)(a) The Health Licensing Office is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers and for the organization of the office.

(b) The Director of the Oregon Health Authority shall establish the qualifications for and appoint the Director of the Health Licensing Office, who holds office at the pleasure of the Director of the Oregon Health Authority.

(c) The Director of the Health Licensing Office shall receive a salary as provided by law or, if not so provided, as prescribed by the Director of the Oregon Health Authority.

(d) The Director of the Health Licensing Office is in the unclassified service.

(2) The Director of the Health Licensing Office shall provide the boards and councils administered by the office with such services and employees as the office requires to carry out the office's duties. Subject to any applicable provisions of the State Personnel Relations Law, the Director of the Health Licensing Office shall appoint all subordinate officers and employees of the office, prescribe their duties and fix their compensation.

(3) The Director of the Health Licensing Office is responsible for carrying out the duties, functions and powers under ORS 675.360 to 675.410, 676.575 to 676.625, 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office by other statutes. [1999 c.885 §6; 2001 c.324 §1; 2005 c.648 §5; 2007 c.841 §14; 2009 c.701 §11; 2009 c.768 §28; 2011 c.346 §25; 2011 c.630 §15; 2013 c.314 §11; 2013 c.568 §2; 2013 c.771 §12; 2015 c.674 §12]

676.611 Duty of director to keep records and prepare reports; peer review of office activities; rules.

(1) In addition to any other duties imposed by law or otherwise required of state agencies, the Director of the Health Licensing Office shall keep all records of the Health Licensing Office and discharge all duties prescribed by the office.

(2) The director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the office. The director shall submit the reports to the Governor. The Oregon Health Authority, in consultation with the office, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the authority. The rules shall require the office to undergo a peer review of office activities by a team of executive directors of health professional regulatory boards, as defined in ORS 676.160, and at least one public member of a health professional regulatory board. The authority may assess the office for the cost of the peer review. [2009 c.756 §5c; 2013 c.568 §4]

676.612 Disciplinary authority; authority of office to require fingerprints.

(1) Subject to ORS 676.616 and 687.445, and in the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 676.825, 678.780, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111, the Health Licensing Office may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit an authorization or may discipline or place on probation an authorization holder for commission of the prohibited acts listed in subsection (2) of this section.

(2) A person subject to the authority of a board or council listed in ORS 676.583 commits a prohibited act if the person engages in:

(a) Fraud, misrepresentation, concealment of material facts or deception in applying for or obtaining an authorization to practice in this state, or in any written or oral communication to the office concerning the issuance or retention of the authorization.

(b) Using, causing or promoting the use of any advertising matter, promotional liter-

ature, testimonial, guarantee, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive.

(c) Making a representation that the authorization holder knew or should have known is false or misleading regarding skill or the efficacy or value of treatment or remedy administered by the authorization holder.

(d) Practicing under a false, misleading or deceptive name, or impersonating another authorization holder.

(e) Permitting a person other than the authorization holder to use the authorization.

(f) Practicing with a physical or mental condition that presents an unreasonable risk of harm to the authorization holder or to the person or property of others in the course of performing the authorization holder's duties.

(g) Practicing while under the influence of alcohol, controlled substances or other skill-impairing substances, or engaging in the illegal use of controlled substances or other skill-impairing substances so as to create a risk of harm to the person or property of others in the course of performing the duties of an authorization holder.

(h) Failing to properly and reasonably accept responsibility for the actions of employees.

(i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered person to practice a regulated occupation or profession subject to the authority of the boards and councils listed in ORS 676.583.

(j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards and councils listed under ORS 676.583.

(k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of the conviction. A plea of no contest or an admission of guilt is a conviction for purposes of this paragraph.

(L) Failing to report any adverse action, as required by statute or rule, taken against the authorization holder by another regulatory jurisdiction or any peer review body, health care institution, professional association, governmental agency, law enforcement agency or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in this section.

(m) Violation of a statute regulating an occupation or profession subject to the authority of the boards and councils listed in ORS 676.583.

(n) Violation of any rule regulating an occupation or profession subject to the authority of the boards and councils listed in ORS 676.583.

(o) Failing to cooperate with the office in any investigation, inspection or request for information.

(p) Selling or fraudulently obtaining or furnishing an authorization to practice in a regulated occupation or profession subject to the authority of the boards and councils listed in ORS 676.583, or aiding or abetting such an act.

(q) Selling or fraudulently obtaining or furnishing any record related to practice in a regulated occupation or profession subject to the authority of the boards and councils listed in ORS 676.583, or aiding or abetting such an act.

(r) Failing to pay an outstanding civil penalty or fee that is due or failing to meet the terms of any order issued by the office that has become final.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the office may require the fingerprints of a person who is:

(a) Applying for an authorization;

(b) Applying for renewal of an authorization; or

(c) Under investigation by the office.

(4) If the office places an authorization holder on probation under subsection (1) of this section, the office, in consultation with the appropriate board or council, may determine and at any time modify the conditions of the probation.

(5) If an authorization is suspended, the authorization holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the authorization may be reinstated by the office if the conditions of suspension no longer exist and the authorization holder has satisfied all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement. [2003 c.547 §3; 2005 c.648 §6; 2005 c.730 §66; 2007 c.841 §15; 2009 c.701 §12; 2009 c.768 §29; 2011 c.346 §26; 2011 c.630 §16; 2013 c.314 §12; 2013 c.568 §27; 2013 c.657 §9; 2013 c.771 §13]

676.613 Injunctions. (1) In addition to all other remedies, when it appears to the Health Licensing Office that a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that violates any provision of ORS 675.360 to 675.410, 676.810, 676.815, 678.710 to 678.820,

680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 or 694.015 to 694.170 or ORS chapter 700, the office may, through the Attorney General or the district attorney of the county in which the act, practice or transaction occurs or will occur, apply to the court for an injunction restraining the person from the act, practice or transaction.

(2) A court may issue an injunction under this section without proof of actual damages. An injunction issued under this section does not relieve a person from any other prosecution or enforcement action taken for violation of statutes listed in subsection (1) of this section. [2003 c.547 §5; 2005 c.648 §7; 2007 c.841 §16; 2009 c.768 §30; 2011 c.346 §27; 2011 c.630 §17; 2013 c.314 §13; 2013 c.568 §28; 2013 c.771 §14; 2015 c.674 §13]

676.615 Rulemaking authority. (1) In accordance with applicable provisions of ORS chapter 183, the Director of the Health Licensing Office may adopt rules necessary for the administration of the laws that the Health Licensing Office is charged with administering.

(2) In accordance with applicable provisions of ORS chapter 183, the director may adopt rules necessary for the administration of ORS 676.575 to 676.625 and 676.992.

(3) The office may adopt rules establishing requirements for placement of an authorization issued by the office in a dormant status upon application by the authorization holder and establishing conditions for reactivation of the authorization.

(4) Pursuant to ORS 676.575 and 676.586, the office may adopt rules to recognize specialties within a regulated field of practice subject to the authority of the boards and councils listed in ORS 676.583 and may establish requirements for education, experience, examinations and supervision as necessary to ensure public safety and competency within the specialty. [1999 c.885 §7; 2005 c.648 §8; 2009 c.701 §13; 2013 c.314 §14; 2013 c.568 §29]

676.616 Final order authority for contested cases related to practice of direct entry midwifery. The Health Licensing Office shall delegate the authority to enter a final order for all contested cases related to the practice of direct entry midwifery, as defined in ORS 687.405, to the State Board of Direct Entry Midwifery. Notwithstanding ORS 183.411, the delegation of authority does not need to be made in writing before the issuance of an order. [2013 c.657 §7]

676.617 [2005 c.648 §10; 2009 c.701 §14; 2011 c.346 §28; repealed by 2013 c.314 §65]

676.618 Inspection of facilities. (1) Upon its own motion or upon any complaint, the Health Licensing Office may conduct an inspection to determine whether a facility or a part of the facility that is the subject of the inspection complies with the authorization, safety, infection control and sterilization requirements imposed by statute or rule of the office or the boards and councils administered by the office.

(2) The office shall provide for the periodic inspection of facilities, business premises or other locations where services are performed by the practitioners of the occupations or professions subject to the authority of the boards and councils that are administered and regulated by the office pursuant to ORS 676.583. [2003 c.547 §2; 2005 c.648 §11; 2013 c.314 §15; 2013 c.568 §31]

676.620 [1999 c.885 §13; 2001 c.104 §259; 2005 c.648 §12; 2009 c.701 §15; repealed by 2013 c.568 §139]

676.622 Electronic and facsimile signatures. (1) A transaction conducted through a state or local system or network that provides electronic access to the Health Licensing Office information and services is exempt from any requirement under ORS 675.360 to 675.410, 676.575 to 676.625, 676.810, 676.815, 676.992, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700, and rules adopted thereunder, requiring an original signature or the submission of handwritten materials.

(2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are acceptable and have the same force as original signatures. [2009 c.701 §3; 2011 c.346 §29; 2011 c.630 §18; 2013 c.568 §32; 2013 c.771 §15; 2015 c.674 §14]

676.625 Health Licensing Office Account; fees; record keeping; disposition of receipts. (1) The Health Licensing Office shall establish by rule and shall collect fees and charges to carry out the office's responsibilities under ORS 676.575 to 676.625 and 676.992 and any responsibility imposed on the office pertaining to the boards and councils administered and regulated by the office pursuant to ORS 676.583.

(2) The Health Licensing Office Account is established separate and distinct from the General Fund. The account shall consist of the moneys credited to the account by the Legislative Assembly. All moneys in the account are continuously appropriated to and shall be used by the office for payment of expenses of the office in carrying out the duties, functions and obligations of the office, and for payment of the expenses of the boards and councils administered and regulated by the office pursuant to ORS 676.583. The office shall keep a record of all moneys

credited to the account and report the source from which the moneys are derived and the activity of each board or council that generated the moneys.

(3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to establishing fees and charges credited to the account, the fees and charges may not exceed the cost of administering the office and the boards and councils within the office, as authorized by the Legislative Assembly within the office's budget, as the budget may be modified by the Emergency Board.

(4) All moneys credited to the account pursuant to ORS 676.592 and 676.806, and moneys credited to the account from other office and program fees established by the office by rule, are continuously appropriated to the office for carrying out the duties, functions and powers of the office under ORS 676.575 to 676.625, 676.806 and 676.992.

(5) The moneys received from civil penalties assessed under ORS 676.992 shall be deposited and accounted for as are other moneys received by the office and shall be for the administration and enforcement of the statutes governing the boards and councils administered by the office. [1999 c.885 §14; 2005 c.648 §13; 2009 c.701 §16; 2011 c.346 §30; 2011 c.630 §19; 2013 c.314 §16; 2013 c.568 §6; 2013 c.771 §16]

Note: The amendments to 676.625 by section 7, chapter 240, Oregon Laws 2013, become operative January 1, 2017. See section 20, chapter 240, Oregon Laws 2013. The text that is operative on and after January 1, 2017, is set forth for the user's convenience.

676.625. (1) The Health Licensing Office shall establish by rule and shall collect fees and charges to carry out the office's responsibilities under ORS 676.575 to 676.625, 676.850 and 676.992 and any responsibility imposed on the office pertaining to the boards and councils administered and regulated by the office pursuant to ORS 676.583.

(2) The Health Licensing Office Account is established separate and distinct from the General Fund. The account shall consist of the moneys credited to the account by the Legislative Assembly. All moneys in the account are continuously appropriated to and shall be used by the office for payment of expenses of the office in carrying out the duties, functions and obligations of the office, and for payment of the expenses of the boards and councils administered and regulated by the office pursuant to ORS 676.583. The office shall keep a record of all moneys credited to the account and report the source from which the moneys are derived and the activity of each board or council that generated the moneys.

(3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to establishing fees and charges credited to the account, the fees and charges may not exceed the cost of administering the office and the boards and councils within the office, as authorized by the Legislative Assembly within the office's budget, as the budget may be modified by the Emergency Board.

(4) All moneys credited to the account pursuant to ORS 676.592 and 676.806, and moneys credited to the account from other office and program fees established by the office by rule, are continuously appropriated to

the office for carrying out the duties, functions and powers of the office under ORS 676.575 to 676.625, 676.806, 676.850 and 676.992.

(5) The moneys received from civil penalties assessed under ORS 676.992 shall be deposited and accounted for as are other moneys received by the office and shall be for the administration and enforcement of the statutes governing the boards and councils administered by the office.

CERTIFIED ADVANCED ESTHETICIANS

676.630 Definitions for ORS 676.630 to 676.660. As used in ORS 676.630 to 676.660:

(1) "Advanced nonablative esthetics procedure" means a procedure that uses a laser or other device registered with the United States Food and Drug Administration for nonablative procedures performed on the skin or hair, including, but not limited to, procedures performed in conjunction with one of the following modalities:

- (a) Skin rejuvenation;
- (b) Photo rejuvenation;
- (c) Body contouring;
- (d) Dyschromia reduction;
- (e) Cellulite reduction;
- (f) Hair removal or reduction; and
- (g) Nonablative tattoo removal.

(2) "Certified advanced esthetician" means a person certified to practice advanced nonablative esthetics procedures under ORS 676.630 to 676.660.

(3) "Esthetician" means a person certified to practice esthetics under ORS 690.005 to 690.225.

(4) "Nonablative" means involving an action performed on the skin or hair of a person that does not result in the wounding of skin or underlying tissue. [2015 c.722 §1]

Note: 676.630 becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

676.635 Prohibition on unauthorized practice of advanced nonablative esthetics procedures or unauthorized use of title.

(1) A person may not practice advanced nonablative esthetics procedures or use a title, word or abbreviation, including the designation certified advanced esthetician, that indicates that the person is authorized to practice advanced nonablative esthetics procedures unless the person is certified by the Board of Certified Advanced Estheticians under ORS 676.640.

(2) Notwithstanding ORS 677.080, a certified advanced esthetician may practice advanced nonablative esthetics procedures.

(3) This section does not apply to:

(a) A person who is a licensed health care professional if the person's scope of

practice includes the practice of advanced nonablative esthetics procedures; or

(b) A student enrolled in an advanced nonablative esthetics education program or training program or in an advanced nonablative esthetics program that combines education and training. [2015 c.722 §2]

Note: 676.635 becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

676.640 Certification for practice of advanced nonablative esthetics procedures; rules. (1) Except as provided in subsection (3) of this section, the Health Licensing Office shall issue a certificate to practice advanced nonablative esthetics procedures to an applicant who:

- (a) Is at least 18 years of age;
- (b) Is an esthetician in good standing with the Board of Cosmetology;
- (c) Successfully completes:

(A) Subject to subsection (2) of this section, an advanced nonablative esthetics education program or training program, or an advanced nonablative esthetics program that combines education and training, that is approved by the Board of Certified Advanced Estheticians; or

(B) A nationally recognized program that is approved by the Board of Certified Advanced Estheticians and through which individuals are certified to use lasers or other devices for purposes related to practicing advanced nonablative esthetics procedures;

(d) Passes an examination adopted by the Board of Certified Advanced Estheticians by rule; and

(e) Pays the applicable fees established under ORS 676.592.

(2) An education program described in subsection (1)(c)(A) of this section must be:

(a) If the program is located in this state, licensed through the Higher Education Coordinating Commission; or

(b) If the program is not located in this state, substantially equivalent to a program licensed through the Higher Education Coordinating Commission.

(3) The office shall issue a certificate to practice advanced nonablative esthetics procedures to an applicant who:

(a) Is an esthetician in good standing with the Board of Cosmetology;

(b) Is authorized and in good standing to practice advanced nonablative esthetics procedures in a state where the requirements to practice nonablative esthetics procedures are substantially similar to the requirements to practice advanced nonablative esthetics procedures in this state; and

(c) Pays the applicable fee established under ORS 676.592.

(4) The office shall issue a temporary certificate to perform advanced nonablative esthetics procedures to an applicant who:

(a) Is an esthetician in good standing with the Board of Cosmetology;

(b) Meets any qualifications prescribed by the office by rule; and

(c) Pays the applicable fee established under ORS 676.592. [2015 c.722 §3]

Note: 676.640 becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

Note: Section 8, chapter 722, Oregon Laws 2015, provides:

Sec. 8. Notwithstanding the requirements listed in section 3 (1)(c) of this 2015 Act [676.640 (1)(c)], the Health Licensing Office shall, until January 1, 2018, issue a certificate to practice advanced nonablative esthetics procedures to an applicant who, in lieu of those requirements:

(1) Provides proof to the office of having been employed for not less than 500 hours as a laser operator under the supervision of a health care professional whose scope of practice includes the practice of advanced nonablative esthetics procedures; or

(2) Provides proof to the office of having completed 40 hours of education related to laser theory and fundamentals and of having completed 24 hours of practical experience performing each modality listed in section 1 (1) of this 2015 Act [676.630 (1)]. [2015 c.722 §8]

Note: Section 8, chapter 722, Oregon Laws 2015, becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

676.645 Renewal of certificate; rules.

(1) A certificate issued under ORS 676.640 (1) or (3) must be renewed annually. To renew a certificate under this section, a certified advanced esthetician must submit to the Health Licensing Office:

(a) A renewal application;

(b) Proof that the certified advanced esthetician has completed any continuing education requirements established by the Board of Certified Advanced Estheticians by rule; and

(c) The applicable renewal fee established under ORS 676.592.

(2) A temporary certificate issued under ORS 676.640 (4) expires as prescribed by the office by rule. [2015 c.722 §4]

Note: 676.645 becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

676.650 Board of Certified Advanced Estheticians. (1) There is established the Board of Certified Advanced Estheticians within the Health Licensing Office, consisting of:

(a) Nine members appointed by the Governor; and

(b) The section manager of the Radiation Protection Services Section of the Oregon

Health Authority, or the section manager's designee.

(2) Of the nine members appointed by the Governor:

(a) Five must be certified advanced estheticians;

(b) Two must be physicians or physician assistants licensed under ORS chapter 677 or nurse practitioners licensed under ORS 678.375 to 678.390; and

(c) Two must be public members who are residents of this state.

(3) The board member described in subsection (1)(b) of this section is a nonvoting ex officio member of the board.

(4) The term of office of each appointed member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(5) The voting members of the board shall select one of the voting members as chairperson and another voting member as vice chairperson. The board shall establish the terms of service for the chairperson and the vice chairperson and the duties and powers of the chairperson and the vice chairperson.

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

(7) Official action by the board requires the approval of a majority of the voting members of the board.

(8) The board shall meet at a place, day and hour determined by the board. The board also may meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the board. [2015 c.722 §5]

Note: 676.650 becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

Note: Section 9, chapter 722, Oregon Laws 2015, provides:

Sec. 9. (1) Notwithstanding the term of office specified by section 5 of this 2015 Act [676.650], of the members first appointed to the Board of Certified Advanced Estheticians:

(a) Two shall serve for terms ending December 31, 2016.

(b) Two shall serve for terms ending December 31, 2017.

(c) Two shall serve for terms ending December 31, 2018.

(d) Three shall serve for terms ending December 31, 2019.

(2) Notwithstanding the requirements for board membership specified by section 5 (2)(a) of this 2015 Act,

the members first appointed to the board under section 5 (2)(a) of this 2015 Act may be estheticians who have at least three years' experience practicing advanced nonablative esthetics procedures. [2015 c.722 §9]

Note: Section 9, chapter 722, Oregon Laws 2015, becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

676.655 Board powers; rules. (1) In addition to the powers granted to the Board of Certified Advanced Estheticians by ORS 676.630 to 676.660, the board shall have the power to:

(a) Adopt rules and take actions necessary to carry out the duties of the board under ORS 676.630 to 676.660.

(b) Adopt rules establishing sanitation and safety requirements for advanced nonablative esthetics procedures.

(c) Adopt rules establishing a professional code of conduct for certified advanced estheticians.

(d) Adopt any other rule necessary to regulate certified advanced estheticians.

(e) Provide advice to the Health Licensing Office on issues related to advanced nonablative esthetics procedures.

(f) Compile information related to advanced nonablative esthetics procedures and direct the office to disseminate the information to certified advanced estheticians.

(2) In adopting rules under subsection (1)(b) of this section, the board shall adopt rules:

(a) Requiring a certified advanced esthetician to conduct all advanced nonablative esthetics procedures in a facility for which a license has been issued under ORS 690.055;

(b) Requiring a certified advanced esthetician to maintain client disclosure forms that include, at a minimum, disclosure of the existence of professional liability insurance; and

(c) Requiring a certified advanced esthetician to enter into an agreement with:

(A) A physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS 678.375 to 678.390; or

(B) A licensed health care professional who works at the same location as the certified advanced esthetician and who has the authority to prescribe drugs listed in Schedule III, IV or V.

(3) The purpose of an agreement described in subsection (2)(c) of this section is to provide a certified advanced esthetician with a licensed health care professional to whom the certified advanced esthetician may refer a client of the certified advanced esthetician. [2015 c.722 §6]

Note: 676.655 becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

676.660 Health Licensing Office authority to discipline persons certified to practice advanced nonablative esthetics procedures. In the manner provided by ORS chapter 183 for contested cases, and after consultation with the Board of Certified Advanced Estheticians, the Health Licensing Office may impose a form of discipline described in ORS 676.612 against any person certified under ORS 676.640 for a violation of the provisions of ORS 676.630 to 676.660 or of a rule adopted under ORS 676.630 to 676.660, or for commission of a prohibited act listed in ORS 676.612. [2015 c.722 §7]

Note: 676.660 becomes operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015.

676.800 [2013 c.771 §3; 2013 c.771 §19; 2015 c.674 §2; renumbered 676.806 in 2015]

APPLIED BEHAVIOR ANALYSIS

676.802 Definitions for ORS 676.802, 676.806 and 676.810 to 676.820. As used in this section, ORS 676.806 and 676.810 to 676.820:

(1)(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human social behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

(b) “Applied behavior analysis” does not mean psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy or long-term counseling as treatment modalities.

(2) “Licensed health care professional” means an individual whose scope of practice includes applied behavior analysis and who is licensed by:

(a) The Occupational Therapy Licensing Board;

(b) The Oregon Board of Licensed Professional Counselors and Therapists;

(c) The Oregon Medical Board;

(d) The Oregon State Board of Nursing;

(e) The Physical Therapist Licensing Board;

(f) The State Board of Examiners for Speech-Language Pathology and Audiology;

(g) The State Board of Licensed Social Workers; or

(h) The State Board of Psychologist Examiners. [2015 c.674 §1]

676.805 [2013 c.771 §11; 2015 c.674 §15; renumbered 676.825 in 2015]

676.806 Behavior Analysis Regulatory Board. (1) There is created, within the Health Licensing Office, the Behavior Analysis Regulatory Board consisting of nine members appointed by the Governor, including:

(a) Four members who are licensed by the board under ORS 676.810;

(b) One member who is a licensed psychiatrist, with experience or training in treating autism spectrum disorder;

(c) One member who is a licensed psychologist, with experience or training in treating autism spectrum disorder;

(d) One member who is a licensed developmental pediatrician, with experience or training in treating autism spectrum disorder;

(e) One member of the general public who does not have a financial interest in the provision of applied behavior analysis and does not have a ward or family member who has been diagnosed with autism spectrum disorder; and

(f) One member who is a parent, guardian or family member of an individual who has been diagnosed with autism spectrum disorder and has received some form of applied behavior analysis therapy.

(2) Not more than one member of the board may be an employee of an insurer.

(3) The appointments of the members of the board are subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(4) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on November 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

(6) The board shall select 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 such offices as the board determines.

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

(8) The board shall meet at least once every year as determined by the office. The board may also meet at other times and

places specified by the call of the chairperson or of a majority of the members of the board. [Formerly 676.800]

Note: Section 4, chapter 771, Oregon Laws 2013, provides:

Sec. 4. (1) An individual actively practicing applied behavior analysis as defined in section 1 of this 2015 Act [676.802] on August 14, 2013, may continue to claim reimbursement from a health benefit plan, the Public Employees' Benefit Board or the Oregon Educators Benefit Board for services provided without a license before July 1, 2018.

(2) An individual may claim reimbursement under subsection (1) of this section only if the individual submits a satisfactory declaration and other required documentation to the Health Licensing Office not later than April 30, 2016. [2013 c.771 §4; 2015 c.674 §11]

Note: Section 10, chapter 674, Oregon Laws 2015, provides:

Sec. 10. (1) Notwithstanding the term of office specified in ORS 676.800 [renumbered 676.806] or any provision of section 3a, chapter 771, Oregon Laws 2013, of the board members added to the Behavior Analysis Regulatory Board by the amendments to ORS 676.800 by section 2 of this 2015 Act:

(a) One shall serve for a term ending October 31, 2018.

(b) One shall serve for a term ending October 31, 2019.

(2) The terms of office specified in subsection (1) of this section commence on November 1, 2015.

(3) A person who is a member of the board as of the effective date of this 2015 Act [July 6, 2015] is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. [2015 c.674 §10]

676.810 Board duties; licensure of behavior analysts and assistant behavior analysts; rules. (1) The Behavior Analysis Regulatory Board shall establish by rule criteria and procedures for the licensing of:

(a) Behavior analysts; and

(b) Assistant behavior analysts.

(2) The criteria for the licensing of a behavior analyst:

(a) Must include the requirement that the applicant have successfully completed a state and nationwide criminal records check that requires fingerprinting; and

(b) May include, but are not limited to, the requirement that the applicant:

(A) Be certified by the Behavior Analyst Certification Board, Incorporated, or its successor agency, or another agency approved by the Behavior Analysis Regulatory Board, as a board certified behavior analyst or equivalent; or

(B) Meet other requirements of the board that include the submission of a declaration to the Health Licensing Office that satisfies the requirements of section 4, chapter 771, Oregon Laws 2013.

(3) The criteria for the licensing of an assistant behavior analyst:

(a) Must include the requirement that the applicant have successfully completed a state and nationwide criminal records check that requires fingerprinting; and

(b) May include, but are not limited to, the requirement that the applicant:

(A) Be certified by the Behavior Analyst Certification Board, Incorporated, or its successor agency, or another agency approved by the Behavior Analysis Regulatory Board, as a board certified assistant behavior analyst or equivalent; and

(B) Be supervised by a behavior analyst who is licensed by the board.

(4) The Behavior Analysis Regulatory Board shall adopt rules to establish guidelines for the professional methods and procedures to be used by individuals licensed under this section. [2015 c.674 §3]

676.815 Behavior analysis interventionists; rules. The Health Licensing Office shall establish by rule criteria for the registration of behavior analysis interventionists. The criteria must include, but are not limited to, the requirement that the applicant:

(1) Have a high school diploma or a General Educational Development (GED) certificate;

(2) Be at least 18 years of age;

(3) Have successfully completed a state and nationwide criminal records check that requires fingerprinting;

(4) Have completed at least 40 hours of professional training in applied behavior analysis approved by the office by rule; and

(5) Receive ongoing training and supervision by a licensed behavior analyst, by a licensed assistant behavior analyst or by another licensed health care professional. [2015 c.674 §4]

676.820 Use of titles "licensed behavior analyst," "licensed assistant behavior analyst," "registered behavior analysis interventionist." (1) An individual licensed under ORS 676.810 or registered under ORS 676.815 may practice applied behavior analysis.

(2) Only an individual who is licensed under ORS 676.810 or registered under ORS 676.815 may use the title "licensed behavior analyst," "licensed assistant behavior

analyst” or “registered behavior analysis interventionist.” [2015 c.674 §5]

676.825 Disciplinary authority over persons licensed or registered. In the manner prescribed in ORS chapter 183 for contested cases, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against any person licensed or registered under ORS 676.810 or 676.815 for any of the prohibited acts listed in ORS 676.612 and for any violation of a rule adopted under ORS 676.810 or 676.815. [Formerly 676.805]

676.830 Health benefit plan credentialing for applied behavior analysis providers. A health benefit plan as defined in ORS 743B.005 may establish credentialing requirements for the provision of applied behavior analysis as defined in ORS 676.802 by licensed health care professionals as defined in ORS 676.802, by behavior analysts or assistant behavior analysts licensed by the Behavior Analysis Regulatory Board or by behavior analysis interventionists registered by the Health Licensing Office. [2015 c.674 §17]

CULTURAL COMPETENCY CONTINUING EDUCATION

676.850 Authority of regulatory boards to require cultural competency continuing education; documentation of participation; rules. (1) As used in this section, “board” means the:

- (a) State Board of Examiners for Speech-Language Pathology and Audiology;
- (b) State Board of Chiropractic Examiners;
- (c) State Board of Licensed Social Workers;
- (d) Oregon Board of Licensed Professional Counselors and Therapists;
- (e) Oregon Board of Dentistry;
- (f) Board of Licensed Dietitians;
- (g) State Board of Massage Therapists;
- (h) Oregon Board of Naturopathic Medicine;
- (i) Oregon State Board of Nursing;
- (j) Nursing Home Administrators Board;
- (k) Oregon Board of Optometry;
- (L) State Board of Pharmacy;
- (m) Oregon Medical Board;
- (n) Occupational Therapy Licensing Board;
- (o) Physical Therapist Licensing Board;

(p) State Board of Psychologist Examiners;

(q) Board of Medical Imaging;

(r) State Board of Direct Entry Midwifery;

(s) State Board of Denture Technology;

(t) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(u) Home Care Commission; and

(v) Oregon Health Authority, to the extent that the authority licenses emergency medical service providers.

(2)(a) In collaboration with the Oregon Health Authority, a board may adopt rules under which the board may require a person authorized to practice the profession regulated by the board to receive cultural competency continuing education approved by the authority under ORS 413.450.

(b) Cultural competency continuing education courses may be taken in addition to or, if a board determines that the cultural competency continuing education fulfills existing continuing education requirements, instead of any other continuing education requirement imposed by the board.

(3)(a) A board, or the Health Licensing Office for those boards for which the office issues and renews authorizations to practice the profession regulated by the board, shall document participation in cultural competency continuing education by persons authorized to practice a profession regulated by the board.

(b) For purposes of documenting participation under this subsection, a board may adopt rules requiring persons authorized to practice the profession regulated by the board to submit documentation to the board, or to the office for those boards for which the office issues and renews authorizations to practice the profession regulated by the board, of participation in cultural competency continuing education.

(4) A board shall report biennially to the authority on the participation documented under subsection (3) of this section.

(5) The authority, on or before August 1 of each even-numbered year, shall report to the interim committees of the Legislative Assembly related to health care on the information submitted to the authority under subsection (4) of this section. [2013 c.240 §1]

Note: 676.850 becomes operative January 1, 2017. See section 20, chapter 240, Oregon Laws 2013.

676.855 Authority of public universities and community colleges to require cultural competency continuing education. Each public university listed in ORS 352.002 and each community college, as defined in ORS 341.005, may require persons authorized to practice a profession regulated by a board, as defined in ORS 676.850, who provide services to students at health care facilities located on a campus of the public university or community college to provide proof of participating at least once every two years in a continuing education opportunity relating to cultural competency approved by the Oregon Health Authority under ORS 413.450. [2013 c.240 §18]

Note: 676.855 becomes operative January 1, 2017. See section 20, chapter 240, Oregon Laws 2013.

SURGICAL TECHNOLOGY

676.870 Definitions for ORS 676.870 to 676.890. As used in ORS 676.870 to 676.890:

(1) “Health care facility” means a hospital or an ambulatory surgical center, as those terms are defined in ORS 442.015.

(2) “Rural or medically underserved community” means a geographic area of this state that is 10 or more miles from the geographic center of a population center of 40,000 or more individuals.

(3) “Surgical technology” means intraoperative surgical patient care that involves:

(a) Preparing an operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely;

(b) Preparing an operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments and equipment using sterile techniques;

(c) Anticipating the needs of a surgical team based on knowledge of human anatomy and pathophysiology and how those fields relate to the surgical patient and the patient’s surgical procedure; and

(d) Performing tasks as directed in an operating room, including:

(A) Passing instruments, equipment or supplies;

(B) Sponging or suctioning of an operative site;

(C) Preparing and cutting suture material;

(D) Transferring fluids or drugs;

(E) Handling specimens;

(F) Holding retractors and other equipment;

(G) Applying electrocautery to clamps on bleeders;

(H) Connecting drains to suction apparatus;

(I) Applying dressings to closed wounds; and

(J) Assisting in counting supplies and instruments, including sponges and needles. [2015 c.373 §1]

Note: 676.870 becomes operative July 1, 2016. See section 7, chapter 373, Oregon Laws 2015.

Note: Section 6, chapter 373, Oregon Laws 2015, provides:

Sec. 6. (1) During the period beginning on July 1, 2016, and ending on July 1, 2017, sections 1 [676.870] and 2 [676.875] of this 2015 Act do not apply to a rural or medically underserved community.

(2) As used in this section, “rural or medically underserved community” means a geographic area of this state that is 10 or more miles from the geographic center of a population center of 40,000 or more individuals. [2015 c.373 §6]

676.875 Requirements for practice of surgical technology in health care facilities; rules. (1) A health care facility may not allow a person to practice surgical technology at the health care facility unless the person:

(a)(A) Provides the health care facility with documentation showing that the person has completed an educational program for surgical technologists accredited by a national accreditation organization approved by the Oregon Health Authority by rule; and

(B) Holds and maintains a surgical technologist certification issued by a nationally accredited certifying organization for surgical technologists approved by the authority by rule;

(b)(A) Provides the health care facility with documentation showing that the person has completed a training program for surgical technologists in the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States or in the United States Public Health Service Commissioned Corps; and

(B) Every two years completes 16 hours of continuing education approved by the authority; or

(c)(A) Provides the health care facility with documentation showing that the person practiced surgical technology during at least two of the three years immediately preceding January 1, 2017:

(i) In a health care facility in Oregon or in another state; or

(ii) As an employee of an agency or institution of the federal government; and

(B) Every two years completes 16 hours of continuing education approved by the authority.

(2) Notwithstanding subsection (1)(a)(B) of this section, a health care facility may allow a person who does not hold a surgical

technologist certification to perform surgical technology at the health care facility for 12 months after the person completes an educational program for surgical technologists accredited by a national accreditation organization approved by the authority by rule. [2015 c.373 §2]

Note: 676.875 becomes operative July 1, 2016. See section 7, chapter 373, Oregon Laws 2015.

Note: See second note under 676.870.

676.880 Exemption. ORS 676.875 does not apply to a health care facility that allows a licensed health care practitioner to perform the duties of a surgical technologist if the practitioner is acting within the scope of practice of the practitioner's license. [2015 c.373 §4]

Note: 676.880 becomes operative July 1, 2016. See section 7, chapter 373, Oregon Laws 2015.

676.885 Practice of surgical technology in health care facility in rural or medically underserved community. (1) A health care facility in a rural or medically underserved community may allow a person to practice as a surgical technologist at the health care facility who does not meet the requirements of ORS 676.875 while the person is attending an educational program for surgical technologists accredited by a national accreditation organization approved by the Oregon Health Authority by rule.

(2) A person described in subsection (1) of this section is exempt from the requirements of ORS 676.875 for three years from the date on which the person began practicing as a surgical technologist at the health care facility. [2015 c.373 §3]

Note: 676.885 becomes operative July 1, 2017. See section 7, chapter 373, Oregon Laws 2015.

676.890 Penalties; rules. The Oregon Health Authority shall adopt rules necessary to carry out ORS 676.870 to 676.890, including but not limited to penalties for violation of ORS 676.870 to 676.890 or rules adopted under ORS 676.870 to 676.890. [2015 c.373 §5]

Note: 676.890 becomes operative July 1, 2016. See section 7, chapter 373, Oregon Laws 2015.

PENALTIES

676.990 Criminal penalties. Violation of any of the provisions of ORS 676.110 to 676.130 is a Class C misdemeanor. [Amended by 2011 c.597 §278]

676.992 Civil penalties. (1) Except as provided in subsection (3) of this section, and in addition to any other penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to exceed \$5,000 for each violation of the following statutes and any rule adopted under the following statutes:

(a) ORS 688.701 to 688.734 (athletic training);

(b) ORS 690.005 to 690.225 (cosmetology);

(c) ORS 680.500 to 680.565 (denture technology);

(d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);

(e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal implanting and scarification);

(f) ORS 694.015 to 694.170 (dealing in hearing aids);

(g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);

(h) ORS chapter 700 (environmental sanitation);

(i) ORS 675.360 to 675.410 (sex offender treatment);

(j) ORS 678.710 to 678.820 (nursing home administrators);

(k) ORS 691.405 to 691.485 (dietitians);

(L) ORS 676.612 (prohibited acts);

(m) ORS 676.810 and 676.815 (applied behavior analysis);

(n) ORS 681.700 to 681.730 (music therapy); and

(o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure).

(2) The office may take any other disciplinary action that it finds proper, including but not limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any statute listed in subsection (1) of this section or any rule adopted under any statute listed in subsection (1) of this section.

(3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a violation of ORS 694.042.

(4) In imposing a civil penalty under this section, the office shall consider the following factors:

(a) The immediacy and extent to which the violation threatens the public health or safety;

(b) Any prior violations of statutes, rules or orders;

(c) The history of the person incurring a penalty in taking all feasible steps to correct any violation; and

(d) Any other aggravating or mitigating factors.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(6) The moneys received by the office from civil penalties under this section shall

be deposited in the Health Licensing Office Account and are continuously appropriated to the office for the administration and enforcement of the laws the office is charged with administering and enforcing that govern the person against whom the penalty was imposed. [2003 c.547 §4; 2005 c.648 §14; 2007 c.841 §17; 2009 c.701 §17; 2009 c.768 §31; 2011 c.346 §31; 2011 c.630 §20; 2011 c.715 §21; 2013 c.82 §5; 2013 c.314 §17; 2013 c.568 §33; 2013 c.657 §10; 2013 c.771 §17; 2015 c.632 §6; 2015 c.674 §16; 2015 c.722 §11]

Note: The amendments to 676.992 by section 11, chapter 722, Oregon Laws 2015, become operative July 1, 2016. See section 14, chapter 722, Oregon Laws 2015. The text that is operative until July 1, 2016, including amendments by section 6, chapter 632, Oregon Laws 2015, and section 16, chapter 674, Oregon Laws 2015, is set forth for the user's convenience.

676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to exceed \$5,000 for each violation of the following statutes and any rule adopted thereunder:

- (a) ORS 688.701 to 688.734 (athletic training);
- (b) ORS 690.005 to 690.225 (cosmetology);
- (c) ORS 680.500 to 680.565 (denture technology);
- (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);
- (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal implanting and scarification);
- (f) ORS 694.015 to 694.170 (dealing in hearing aids);
- (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);
- (h) ORS chapter 700 (environmental sanitation);

- (i) ORS 675.360 to 675.410 (sex offender treatment);
- (j) ORS 678.710 to 678.820 (nursing home administrators);
- (k) ORS 691.405 to 691.485 (dietitians);
- (L) ORS 676.612 (prohibited acts);
- (m) ORS 676.810 and 676.815 (applied behavior analysis); and
- (n) ORS 681.700 to 681.730 (music therapy).

(2) The office may take any other disciplinary action that it finds proper, including but not limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any statute listed in subsection (1) of this section or any rule adopted under any statute listed in subsection (1) of this section.

(3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a violation of ORS 694.042.

(4) In imposing a civil penalty pursuant to this section, the office shall consider the following factors:

- (a) The immediacy and extent to which the violation threatens the public health or safety;
- (b) Any prior violations of statutes, rules or orders;
- (c) The history of the person incurring a penalty in taking all feasible steps to correct any violation; and
- (d) Any other aggravating or mitigating factors.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(6) The moneys received by the office from civil penalties under this section shall be deposited in the Health Licensing Office Account and are continuously appropriated to the office for the administration and enforcement of the laws the office is charged with administering and enforcing that govern the person against whom the penalty was imposed.

OCCUPATIONS AND PROFESSIONS
