

Enrolled House Bill 2103

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Health Licensing Office)

CHAPTER

AN ACT

Relating to Oregon Health Licensing Agency; creating new provisions; amending ORS 345.440, 345.450, 670.304, 676.605, 676.606, 676.607, 676.608, 676.610, 676.612, 676.613, 676.615, 676.618, 676.620, 676.625, 676.992, 680.500, 680.510, 680.515, 680.520, 680.525, 680.530, 680.535, 680.550, 680.556, 680.565, 680.570, 687.420, 687.425, 687.430, 687.435, 687.445, 687.470, 687.485, 687.490, 687.495, 688.800, 688.815, 688.820, 688.830, 688.834, 688.836, 688.840, 690.005, 690.015, 690.035, 690.048, 690.055, 690.057, 690.085, 690.105, 690.123, 690.155, 690.165, 690.167, 690.195, 690.205, 690.225, 690.235, 690.350, 690.355, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, 690.425, 690.430, 690.500, 690.507, 690.510, 690.515, 690.520, 690.530, 690.550, 690.570, 694.015, 694.025, 694.028, 694.036, 694.042, 694.055, 694.065, 694.095, 694.115, 694.125, 694.142, 694.147, 694.155, 694.165, 694.170, 694.185, 694.991, 700.010, 700.030, 700.035, 700.050, 700.052, 700.053, 700.059, 700.062, 700.080, 700.100, 700.105, 700.111, 700.210, 700.220 and 700.240 and sections 2, 3, 4, 5, 9, 10 and 15, chapter 736, Oregon Laws 1999, section 11, chapter 547, Oregon Laws 2003, and section 2, chapter 415, Oregon Laws 2005 (Enrolled House Bill 3219); repealing ORS 676.600, 687.440, 687.455, 690.075 and 700.992 and section 11, chapter 736, Oregon Laws 1999; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 676.605 is amended to read:

676.605. (1) To provide for the more effective coordination of administrative **and regulatory** functions of certain health boards, councils and programs [*charged with responsibility for*] **involved in** protecting the public through the licensing and regulation of health-related professions and occupations practiced in this state under uniform mission and goals, there is hereby created the [*Health Licensing Office*] **Oregon Health Licensing Agency**.

(2) The mission of the [*Health Licensing Office*] **agency** is to serve the public by providing a uniform structure and accountability for the boards, councils and programs under its administration to protect the public from harm. The agency'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, councils and programs 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 licensed by those entities.

[(3) The agency is responsible for:]

[(a) Establishing and administering a uniform application process for licensing, certification or registration of health-related professions or occupations;]

[(b) Approving and collecting fees proposed by the boards, councils and programs administered by the agency;]

[(c) Issuing and renewing licenses, certificates and registrations in consultation with the boards, councils and programs;]

[(d) Conditioning, limiting, suspending, revoking or refusing to issue or renew a license, certificate or registration in consultation with the appropriate board, council or program; and]

[(e) Reviewing board, council and program administrative rules establishing professional standards, continuing education requirements, scope of practice limits and practitioner discipline.]

SECTION 2. ORS 676.606 is amended to read:

676.606. **Pursuant to ORS 676.607**, the *[Health Licensing Office]* **Oregon Health Licensing Agency** shall provide administrative **and regulatory** oversight and centralized service for the following boards, advisory councils and program:

- (1) Board of Athletic Trainers, as provided in sections 1 to 11, chapter 736, Oregon Laws 1999;
- (2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;
- (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.570;
- (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;
- (5) Respiratory Therapist Licensing Board, as provided in ORS 688.800 to 688.840;
- (6) Environmental Health Registration Board, as provided in ORS chapter 700;
- (7) Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, as provided in ORS 690.350 to 690.430;
- (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.185; and
- (9) Body piercing licensing program, as provided in ORS 690.500 to 690.570.

SECTION 3. ORS 676.607 is amended to read:

676.607. (1) **The Oregon Health Licensing Agency is responsible for the administration and regulatory oversight of the boards, councils and programs listed in ORS 676.606. The responsibilities of the agency include, but are not limited to:**

- (a) **Budgeting;**
- (b) **Record keeping;**
- (c) **Staffing;**
- (d) **Contracting;**
- (e) **Consumer protection and investigating complaints;**
- (f) **Approving and collecting fees;**
- (g) **Establishing and administering uniform application processes for the issuance of licenses, certificates, permits and registrations;**
- (h) **Issuing and renewing licenses, certificates, permits and registrations;**
- (i) **Conditioning, limiting, suspending, revoking or refusing to issue or renew a license, certificate, permit or registration or otherwise disciplining applicants, licensees, certificate holders, permit holders and registration holders;**
- (j) **Sanctioning any examination service provider, interpreter or proctor who is under contract or agreement with the agency 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 676.606;**
- (k) **Adopting and enforcing all administrative rules promulgated under any statute the agency is charged with enforcing, including board, council and program administrative rules**

establishing professional standards, continuing education requirements or scope of practice issues;

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

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

(n) Preparing and circulating printed and electronic materials for educating or otherwise assisting applicants, licensees, certificate holders, permit holders and registration holders and the public.

(2) The enumeration of duties, functions and powers in [ORS 676.605] subsection (1) of this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the [Health Licensing Office] agency by other statutes.

SECTION 4. ORS 676.608 is amended to read:

676.608. (1) Upon its own motion or upon any complaint, the [Health Licensing Office] **Oregon Health Licensing Agency** may initiate and conduct investigations of matters relating to the practice of occupations or professions **subject to the authority of the boards, councils and programs** listed in ORS [676.992] **676.606**.

(2) While conducting an investigation authorized under subsection (1) of this section or a hearing related to an investigation, the [Health Licensing Office] **agency** 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.

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

(4) If a person fails to comply with a subpoena issued under this section, the judge of the Circuit Court 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.

(5) **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 agency's authority in any way.**

[5] (6) In all investigations and hearings, the [Health Licensing Office] **agency** and any person affected thereby may have the benefit of counsel.

SECTION 5. ORS 676.610 is amended to read:

676.610. (1)(a) The [Health Licensing Office] **Oregon Health Licensing Agency** 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 agency.

(b) The Director of the Oregon Department of Administrative Services shall establish the qualifications for and appoint the Director of the [Health Licensing Office] **Oregon Health Licensing Agency**, who holds office at the pleasure of the Director of the Oregon Department of Administrative Services.

(c) The Director of the [*Health Licensing Office*] **Oregon Health Licensing Agency** shall receive a salary as provided by law or, if not so provided, as prescribed by the Director of the Oregon Department of Administrative Services.

(d) The Director of the [*Health Licensing Office*] **Oregon Health Licensing Agency** shall be in the unclassified service.

(2) The Director of the [*Health Licensing Office*] **Oregon Health Licensing Agency** shall be responsible for the performance of duties and functions of the boards, councils and programs administered by the agency. The Director of the **Oregon Health Licensing Agency** shall provide the boards, councils and programs with such services and employees as the agency requires to carry out its duties. Subject to any applicable provisions of the State Personnel Relations Law, the Director of the **Oregon Health Licensing Agency** shall appoint all subordinate officers and employees of the agency, prescribe their duties and fix their compensation.

(3) Except as provided in section 18, chapter 885, Oregon Laws 1999, the Director of the [*Health Licensing Office*] **Oregon Health Licensing Agency** shall be responsible for carrying out **the** duties, functions and powers under ORS 680.500 to 680.570, 680.990 (2), 687.405 to 687.495, 688.800 to 688.840, 688.995, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570, 690.992 and 694.015 to 694.185 and ORS chapter 700 [*that prior to October 23, 1999, have been carried out by the Health Division of the Department of Human Resources or the Assistant Director for Health. The director succeeds to all rights and obligations of the Health Division and the Assistant Director for Health.*].

SECTION 6. ORS 676.612 is amended to read:

676.612. (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 680.535, 687.445, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111 and section 11, chapter 547, Oregon Laws 2003, the [*Health Licensing Office*] **Oregon Health Licensing Agency** may refuse to issue or renew, may suspend or revoke or may place on probation or otherwise [*sanction*] **discipline** a holder of a certificate, permit, license or registration to practice issued by the agency for any of the following reasons:

(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 agency concerning the issuance or retention of the authorization.

(b) Using, causing or promoting the use of any advertising matter, promotional literature, 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 certificate, permit, license or registration holder knew or should have known is false or misleading regarding skill or the efficacy or value of treatment or remedy administered by the holder.

(d) Practicing under a false, misleading or deceptive name, or impersonating another certificate, permit, license or registration holder.

(e) Permitting a person other than the certificate, permit, license or registration holder to use the certificate, permit, license or registration.

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

(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, councils and programs** listed in ORS [676.992] **676.606**.

(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, councils and programs** listed under ORS [676.992] **676.606**.

(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 shall be considered a conviction for purposes of this paragraph.

(L) Failing to report any adverse action, as required by statute or rule, taken against the certificate, permit, license, or registration 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, councils and programs** listed in ORS [676.992] **676.606**.

(n) Violation of any rule regulating an occupation or profession **subject to the authority of the boards, councils and programs** listed in ORS [676.992] **676.606**.

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

(2) The agency may refuse to issue or renew, may suspend or revoke or may place on probation or otherwise sanction a holder of a certificate, permit, license or registration to practice issued by the agency for failure to pay an outstanding civil penalty **or fee** that is due or for failure to meet the terms of any order issued by the agency that has become final.

(3) If the agency places a holder of a certificate, permit, license or registration on probation under subsection (1) of this section, the agency, in consultation with the appropriate board, council or program, may determine and at any time modify the conditions of the probation.

(4) If a certificate, permit, license or registration is suspended, the holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the certificate, permit, license or registration may be reinstated by the agency if the conditions of suspension no longer exist and the holder has satisfied all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement.

SECTION 7. ORS 676.613 is amended to read:

676.613. (1) In addition to all other remedies, when it appears to the [*Health Licensing Office*] **Oregon Health Licensing Agency** 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 sections 1 to 11, chapter 736, Oregon Laws 1999, ORS 680.500 to 680.570, 687.405 to 687.495, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570 or 694.015 to 694.185 or ORS chapter 700 **or section 10 of this 2005 Act**, the agency 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.

SECTION 8. ORS 676.615 is amended to read:

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

(2) In accordance with applicable provisions of ORS chapter 183, the director [*of the Health Licensing Office*] may adopt rules necessary for the administration of ORS 676.600 to 676.625 and 676.992.

SECTION 9. Section 10 of this 2005 Act is added to and made a part of ORS 676.600 to 676.625.

SECTION 10. (1) As used in this section, “single facility license” means a license to provide services in a single location in more than one of the following practice areas:

- (a) Cosmetology, as provided in ORS 690.005 to 690.235;
- (b) Electrolysis, as provided in ORS 690.350 to 690.430;
- (c) Permanent coloring, as provided in ORS 690.350 to 690.430;
- (d) Tattooing, as provided in ORS 690.350 to 690.430; and
- (e) Body piercing, as provided in ORS 690.500 to 690.550.

(2) The Oregon Health Licensing Agency may issue a single facility license to an applicant that:

- (a) Owns the facility to be licensed;
- (b) If a natural person, is at least 18 years of age or, if an entity other than a natural person, is formed and operated in accordance with Oregon law;
- (c) Has paid all required fees, as determined by the agency; and
- (d) Has filed an application in the form and manner required by the agency.

(3)(a) A single facility license expires annually on a date determined by the agency.

(b) A single facility license may be renewed by submitting, prior to the expiration date of the license, the required renewal fees and a renewal application in the form and manner prescribed by the agency.

(c) The agency may impose a late fee or require a new application for the failure to renew a single facility license prior to the date on which it expires.

(4) The agency shall establish by rule and collect fees associated with single facility licenses. Fees shall be established for:

- (a) Application for licensure;
- (b) An original license;
- (c) License renewal;
- (d) Late renewal of a license;
- (e) Issuance of a duplicate or replacement license; and
- (f) Costs of compiling, photocopying, preparing and delivering copies of documents and records.

(5) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency only for the administration and enforcement of the provisions of this section.

(6) The fees established by the agency under subsection (4) of this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering the provisions of this section pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.

(7) A single facility license holder shall ensure that the:

(a) Single facility license is displayed in public view where services are being rendered; and

(b) Facility authorized by the single facility license complies with all statutes and rules governing facilities in which services in the practice areas authorized by the license of the holder are provided.

(8) The agency may suspend, condition, limit, revoke or refuse to issue or renew a single facility license, or may place on probation or otherwise discipline a single facility license holder, for the reasons specified in ORS 676.612, 690.167, 690.407 or 690.515 or for failure to comply with subsection (7) of this section.

SECTION 11. ORS 676.618 is amended to read:

676.618. (1) Upon its own motion or upon any complaint, the [Health Licensing Office] **Oregon Health Licensing Agency** 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 licensing, safety, infection control

and sterilization requirements imposed by statute or rule of the **agency or the** boards, councils and programs administered by the agency.

(2) The [*Health Licensing Office*] **agency** shall provide for the periodic inspection of facilities, **business premises or other locations where services are performed by the** [*or the business premises of the following regulated*] **practitioners of the** occupations or professions[:] **subject to the authority of the boards, councils and programs that are administered and regulated by the agency pursuant to ORS 676.606.**

[*(a) Body piercing;*]

[*(b) Cosmetology;*]

[*(c) Electrology and permanent coloring or tattooing; and*]

[*(d) Dealing in hearing aids.*]

SECTION 12. ORS 676.620 is amended to read:

676.620. In performing its powers and duties under chapter 885, Oregon Laws 1999, the [*Health Licensing Office*] **Oregon Health Licensing Agency** may utilize the administrative assistance of the Oregon Department of Administrative Services. The [*office*] **agency** shall pay to the department a proportionate share of the cost of such administrative services, such share to be fixed by biennial negotiation between the [*office*] **agency** and the department.

SECTION 13. ORS 676.625 is amended to read:

676.625. (1) The [*Health Licensing Office*] **Oregon Health Licensing Agency** Account is established in the General Fund of the State Treasury. The account shall consist of the moneys [*appropriated*] **credited** to the account by the Legislative Assembly. All moneys in the account are appropriated continuously **to** and shall be used by the [*Health Licensing Office for*] **Oregon Health Licensing Agency for payment of expenses of the agency in** carrying out the duties and obligations of the boards, councils and programs [*imposed by law*] **administered and regulated by the agency pursuant to ORS 676.606.**

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting [*the*] fees and charges **credited to the account**, the fees and charges shall not exceed the cost of administering the boards, councils and programs within the agency pertaining to the purposes for which the fee or charge is established, as authorized by the Legislative Assembly within the agency's budget, as the budget may be modified by the Emergency Board.

(3) The agency shall keep a record of all moneys deposited into the account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity of each board, council or program.

(4) The moneys received from civil penalties assessed [*by any of the entities administered under the Health Licensing Office*] **under ORS 676.992** shall be deposited and accounted for as are other moneys received by the agency and shall be for the administration and enforcement of those laws of the boards, councils and programs administered by the [*Health Licensing Office*] **agency.**

[*(5) All unexpended moneys appropriated or otherwise available to a state officer or agency for the purposes of any of its duties, functions or powers transferred by chapter 885, Oregon Laws 1999, to the Health Licensing Office, are appropriated to the Health Licensing Office.*]

[*(6) Moneys appropriated to the Health Licensing Office under subsection (5) of this section are subject to any expenditure limitations placed on those moneys prior to the appropriation to the Health Licensing Office.*]

SECTION 14. ORS 676.992 is amended to read:

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*] **Oregon Health Licensing Agency** may impose a civil penalty not to exceed \$5,000 for each violation of the following statutes and any rule adopted thereunder:

(a) Sections 1 to 11, chapter 736, Oregon Laws 1999 (athletic training);

(b) ORS 690.500 to 690.570 (body piercing);

(c) ORS 690.005 to 690.235 (cosmetology);

- (d) ORS 680.500 to 680.570 (denture technology);
- (e) ORS 687.405 to 687.495 (direct entry midwifery);
- (f) ORS 690.350 to 690.430 (electrology and permanent coloring or tattooing);
- (g) ORS 694.015 to 694.185 (dealing in hearing aids);
- (h) ORS 688.800 to 688.840 (respiratory therapy); [and]
- (i) ORS chapter 700 (environmental sanitation); **and**
- (j) **Section 10 of this 2005 Act (single facility licensure).**

(2) The agency 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 or rule adopted under any statute listed in subsection (1) of this section.

(3) Subsection (1) of this section [shall] **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 agency 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 agency from civil penalties under this section shall be paid into the General Fund of the State Treasury and credited to the [Health Licensing Office] **Oregon Health Licensing Agency** Account established under ORS 676.625. Such moneys are continuously appropriated to the [Health Licensing Office] **agency** for the administration and enforcement of the laws the agency is charged with administering and enforcing that govern the person against whom the penalty was imposed.

SECTION 15. Section 2, chapter 736, Oregon Laws 1999, is amended to read:

Sec. 2. (1) There is created in the [Health Licensing Office] **Oregon Health Licensing Agency** the Board of Athletic Trainers, consisting of five members appointed by the Director of the [Health Licensing Office] **Oregon Health Licensing Agency**. In making appointments to the board, the director must take into consideration any nominations received from professional organizations of athletic trainers that are based in Oregon.

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

- (a) All members must be citizens of this state.
- (b) Three members must be athletic trainers who have practiced continuously in this state for the three years prior to the date of appointment.
- (c) One member must be a member of the general public who is not an athletic trainer.
- (d) One member must be a physician licensed under ORS chapter 677.

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

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

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

SECTION 16. Section 3, chapter 736, Oregon Laws 1999, is amended to read:

Sec. 3. (1) The Board of Athletic Trainers shall elect one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of those offices as the board determines.

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

(3) The Board of Athletic Trainers shall meet at least once each year at a time and place determined by the [Health Licensing Office] **Oregon Health Licensing Agency**.

SECTION 17. Section 4, chapter 736, Oregon Laws 1999, is amended to read:

Sec. 4. The Board of Athletic Trainers shall:

(1) Advise the [*Health Licensing Office*] **Oregon Health Licensing Agency** about the adoption of rules necessary for the administration of sections 1 to 11, **chapter 736, Oregon Laws 1999** [*of this 1999 Act*].

(2) Determine training and education requirements for registration as described in section 8, **chapter 736, Oregon Laws 1999** [*of this 1999 Act*].

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

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

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

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

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

(8) Establish continuing education requirements for renewal of registration.

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

(10) Adopt rules that include provisions describing procedures, when appropriate, for collaboration between athletic trainers and physicians licensed pursuant to ORS chapter 677.

SECTION 18. Section 5, chapter 736, Oregon Laws 1999, as amended by section 263, chapter 104, Oregon Laws 2001, is amended to read:

Sec. 5. The [*Health Licensing Office*] **Oregon Health Licensing Agency** is granted authority to carry out the following duties:

(1) Adopt rules that are necessary to conduct business, carry out duties and administer the provisions of sections 1 to 11, chapter 736, Oregon Laws 1999.

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

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

(4) Authorize all necessary disbursements to carry out the provisions of sections 1 to 11, chapter 736, Oregon Laws 1999, including but not limited to payment for necessary supplies, office equipment, books and expenses for the conduct of examinations, payment for legal and investigative services rendered to the [*Health Licensing Office*] **agency** and such other expenditures as are provided for in sections 1 to 11, chapter 736, Oregon Laws 1999.

(5) Employ inspectors, examiners, special agents, investigators, clerical assistants and accountants as are necessary for the investigation and prosecution of alleged violations and the enforcement of sections 1 to 11, chapter 736, Oregon Laws 1999, and for such other purposes as the [*Health Licensing Office*] **agency** may require. Nothing in sections 1 to 11, chapter 736, Oregon Laws 1999, shall be construed to prevent assistance being rendered by an employee of the [*Health Licensing Office*] **agency** in any hearing called by it. However, all obligations for salaries and expenses incurred under sections 1 to 11, chapter 736, Oregon Laws 1999, shall be paid only from the fees accruing to the [*Health Licensing Office*] **agency** under sections 1 to 11, chapter 736, Oregon Laws 1999.

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

(7) Maintain an accurate record of all proceedings of the board and of all its meetings, receipts and disbursements, fines and orders for violation of sections 1 to 11, chapter 736, Oregon Laws 1999, records for registration to practice athletic training together with the addresses of those registered, and the names of all persons whose registration has been subject to disciplinary action.

(8) Investigate complaints, take disciplinary action, including assessment of civil fines, and provide opportunity for hearing according to ORS [183.090] **183.745**.

(9) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out duties of the board granted under sections 1 to 11, chapter 736, Oregon Laws 1999.

SECTION 19. Section 9, chapter 736, Oregon Laws 1999, is amended to read:

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

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

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

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

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

SECTION 20. Section 10, chapter 736, Oregon Laws 1999, as amended by section 50b, chapter 885, Oregon Laws 1999, and section 10, chapter 547, Oregon Laws 2003, is amended to read:

Sec. 10. (1) The [Health Licensing Office, in order to carry out its duties, functions and powers related to the Board of Athletic Trainers,] **Oregon Health Licensing Agency** shall establish by rule and collect fees **related to athletic trainers** for:

- (a) Application for athletic trainer registrations, permits and waivers;
- (b) Athletic trainer registration;
- (c) Renewal of athletic trainer registration;
- (d) Temporary practice registration;
- (e) Examinations and reexaminations;
- (f) Reinstatement;
- (g) Delinquency in renewal of a registration;
- (h) Duplication;
- (i) Reciprocity; and
- (j) Providing copies of official documents or records [*in specific formats*] and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the [Health Licensing Office] **agency** under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the [Health Licensing Office Account] **Oregon Health Licensing Agency Account**, and are appropriated continuously **to** and shall be used by the [Health Licensing Office] **agency** only for the administration and enforcement of sections 1 to 11, chapter 736, Oregon Laws 1999.

(3) The fees established by the [Health Licensing Office] **agency** under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering sections 1 to 11, chapter 736, Oregon Laws 1999, pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the [Health Licensing Office's] budget **of the agency**, as that budget may be modified by the Emergency Board.

SECTION 21. Section 15, chapter 736, Oregon Laws 1999, is amended to read:

Sec. 15. (1) Any person actively engaged as an athletic trainer on [the effective date of this 1999 Act] **October 23, 1999**, will be considered registered under sections 1 to 11, **chapter 736, Oregon Laws 1999**, [of this 1999 Act] if the person submits an application and payment of the application and registration fees required by section 10, **chapter 736, Oregon Laws 1999** [of this 1999 Act], and upon evaluation of the person's qualifications by the Board of Athletic Trainers, is found to have a level of competence equal to that of one possessing the educational qualifications set forth in section 8, **chapter 736, Oregon Laws 1999** [of this 1999 Act]. In the evaluation, the board shall accept the applicant's documentation of certification by the National Athletic Trainers Association Board of Certification as proof that the applicant has met the required level of competence. For applicants not having such certification, the [Health Licensing Office] **Oregon Health Licensing Agency** shall, with the advice of the Board of Athletic Trainers, establish rules for examination and evaluation that shall take into account the applicant's education, training and experience qualifications.

(2) Applications for a license under this section must be made within 180 days from [the effective date of this 1999 Act] **October 23, 1999**.

SECTION 22. Section 11, chapter 547, Oregon Laws 2003, is amended to read:

Sec. 11. In the manner prescribed in ORS chapter 183 for contested cases and in consultation with the Board of Athletic Trainers, the [Health Licensing Office] **Oregon Health Licensing Agency** may impose a form of discipline listed in [section 3 of this 2003 Act] **ORS 676.612** against any person practicing athletic training for any of the grounds listed in [section 3 of this 2003 Act] **ORS 676.612** and for any violation of the provisions of sections 1 to 11, chapter 736, Oregon Laws 1999, or the rules adopted thereunder.

SECTION 23. ORS 680.500 is amended to read:

680.500. As used in ORS 680.500 to 680.570, unless the context requires otherwise:

(1) "Board" means the policy-making body known as the State Board of Denture Technology, **established within the Oregon Health Licensing Agency**.

(2) "Denture" means any removable full and/or partial upper or lower prosthetic dental appliance to be worn in the human mouth to replace any missing natural teeth.

(3) "Denturist" means a person licensed under ORS 680.500 to 680.570 to engage in the practice of denture technology and who is authorized within their scope of practice to provide to the public full or partial upper or lower dentures to be worn in the human mouth.

[(4) "Health Licensing Office" means the agency of oversight.]

[(5) (4) "Practice of denture technology" means:

(a) Constructing, repairing, relining, reproducing, duplicating, supplying, fitting or altering any denture in respect of which a service is performed under paragraph (b) of this subsection; and

(b) The taking of impressions, bite registrations, try-ins, and insertions of or in any part of the human oral cavity for any of the purposes listed in paragraph (a) of this subsection.

SECTION 24. ORS 680.510 is amended to read:

680.510. The prohibitions of ORS 680.500 to 680.570 do not apply to:

(1) Any activity described in ORS 680.500 [(5)(a)] **(4)(a)** by a person acting under the supervision of a denturist.

(2) The practice of dentistry or medicine by persons authorized to do so by this state, or any other practices allowed under ORS chapters 677 and 679.

(3) A student of denture technology in pursuit of clinical studies under an approved school program, or a person having met the formal educational requirements, who is operating, for no more than two years, under the direct supervision of a denturist or a licensed dentist in pursuit of practical clinical experience as required for licensure by ORS 680.515 (1)(a) or (b).

SECTION 25. ORS 680.515 is amended to read:

680.515. (1) Upon application, and payment of required fees, the [Health Licensing Office] **Oregon Health Licensing Agency** shall issue a license to practice denture technology to any applicant who:

(a) Furnishes satisfactory evidence that the applicant has successfully completed an associate degree program in denture technology, or the equivalent in formal, post-secondary education, approved by the [Health Licensing Office] **agency** in consultation with the Oregon Student Assistance

Commission and the Department of Education. The educational program shall include pertinent courses in anatomy, including histology, microbiology, physiology, pharmacology, pathology emphasizing periodontology, dental materials, medical emergencies, geriatrics, professional ethics, clinical denture technology and denture laboratory technology;

(b) Furnishes satisfactory evidence that the applicant has successfully completed, during or after post-secondary study, a minimum of 1,000 hours in the practice of denture technology under direct supervision of an approved school or has completed the equivalent supervised experience, as determined by the [Health Licensing Office] **agency** in consultation with the Oregon Student Assistance Commission and the Department of Education; and

(c) Performs to the satisfaction of the [Health Licensing Office] **agency** on a written and a practical examination prescribed by the State Board of Denture Technology and given at least annually. An applicant who fails the practical examination must complete an additional 1,000 hours of clinical and laboratory training in an approved work experience program, as determined by the board, to qualify for reexamination.

(2) Notwithstanding subsection (1)(a) of this section, the board may accept educational training obtained in any other state or country if, upon review of satisfactory evidence, the [Health Licensing Office] **agency** determines that the educational program in the other state or country meets the educational standards prescribed under this section.

SECTION 25a. If House Bill 3219 becomes law, ORS 680.520, as amended by section 4, chapter 415, Oregon Laws 2005 (Enrolled House Bill 3219), is amended to read:

680.520. (1) Examinations of applicants for licensure under ORS 680.500 to 680.570 shall be held at least once a year at such times and places as the State Board of Denture Technology may determine. Timely and appropriate notice shall be given to each applicant.

(2) The examination shall be sufficiently thorough to determine the qualifications, fitness and ability of the applicant to practice denture technology. The examination may be in the form of written, oral or practical demonstration of skills, or a combination of any such types. The examination shall cover at least subjects listed in ORS 680.515 (1)(a) and any additional subjects required by the [Health Licensing Office] **Oregon Health Licensing Agency** by rule that are based on changes in industry technology, health care delivery systems, client safety or scientific infection control techniques.

SECTION 25b. If House Bill 3219 becomes law, section 2, chapter 415, Oregon Laws 2005 (Enrolled House Bill 3219), is amended to read:

Sec. 2. The [Health Licensing Office] **Oregon Health Licensing Agency** may issue a license to practice denture technology, without examination, to any person who:

(1) Submits an application and pays the fees required under ORS 680.525;

(2) Has satisfied the educational requirements established by ORS 680.515 (1);

(3) On the date of submitting the application is a denturist licensed under the laws of any other state or territory of the United States, if the requirements for licensing of denturists in the other state or territory are not less than those required in ORS 680.500 to 680.570 and the applicant has passed a written and practical examination that is substantially similar to the examination required for licensure in this state; and

(4) Has engaged in the active practice of denture technology for no fewer than 3,500 hours in the five years immediately preceding the date of application for licensure under this section.

SECTION 26. ORS 680.525 is amended to read:

680.525. (1) The [Health Licensing Office, in order to carry out its duties, functions and powers related to the State Board of Denture Technology,] **Oregon Health Licensing Agency** shall establish by rule fees **related to denture technologists** to be collected for:

(a) Application;

(b) Examinations;

(c) License;

(d) License renewal;

(e) License restoration;

- (f) Replacement or duplicate license;
 - (g) Delinquency; and
 - (h) Providing copies of official documents or records [*in specific formats*] and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.
- (2) All moneys received by the [*Health Licensing Office*] **agency** under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the [*Health Licensing Office Account*] **Oregon Health Licensing Agency Account**, and are appropriated continuously **to** and shall be used by the [*Health Licensing Office*] **agency** only for the administration and enforcement of ORS 680.500 to 680.570.
- (3) The fees established by the [*Health Licensing Office*] **agency** under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 680.500 to 680.570 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the [*Health Licensing Office's*] budget **of the agency**, as that budget may be modified by the Emergency Board.

SECTION 27. ORS 680.530 is amended to read:

680.530. (1)(a) Licenses to practice denture technology issued by the [*Health Licensing Office*] **Oregon Health Licensing Agency** shall expire one year from the date of issuance unless renewed on or before the expiration date by payment of the required renewal fee and submission of satisfactory evidence of completion of continuing education courses as specified by rule.

(b) Notwithstanding paragraph (a) of this subsection, the agency may vary the renewal date of a license by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(2) A license that has expired less than one year before the date of application for renewal may be renewed upon application for renewal and payment of the required renewal fee and delinquency fee and upon submission of satisfactory evidence of completion of continuing education as specified by rule.

(3) A license that has expired more than one year before the date of application for renewal but less than three years may be renewed upon application for renewal and payment of the required renewal fee and restoration fee and upon submission of satisfactory evidence of completion of continuing education as specified by rule.

(4) A license that has expired more than three years before the date of application for renewal may be reinstated upon application for reinstatement, payment of the prescribed license fee and submission of evidence satisfactory to the [*Health Licensing Office*] **agency** of clinical competence as determined by rule.

(5) The [*Health Licensing Office*] **agency** may refuse to issue or renew the license of a dentist whose license has been denied, suspended or revoked and not renewed under ORS 676.612 for up to one year from the date of denial of the license or the renewal or the date of the order of suspension or revocation.

SECTION 28. ORS 680.535 is amended to read:

680.535. In the manner prescribed in ORS chapter 183 for contested cases, the [*Health Licensing Office*] **Oregon Health Licensing Agency** may impose a form of discipline listed in ORS 676.612 against any person practicing denture technology for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 680.500 to 680.570, or the rules adopted thereunder.

SECTION 29. ORS 680.550 is amended to read:

680.550. The State Board of Denture Technology shall establish policies and criteria for the assessment of the quality of the practice of denture technology based on practice standards subject to the approval of the [*Health Licensing Office*] **Oregon Health Licensing Agency**.

SECTION 30. ORS 680.556 is amended to read:

680.556. (1) There is established, within the [*Health Licensing Office*] **Oregon Health Licensing Agency**, the State Board of Denture Technology.

(2) The board shall consist of seven members appointed by the Governor.

(3) Four members shall be active licensed denturists, one member shall be an Oregon licensed dentist in active practice and two members shall be public members who do not possess the professional qualifications of other members.

(4) The term of office of each member is three 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 July 1 next following. A member is eligible for reappointment. If a person serves two consecutive terms, a period of three years must pass before the person may be appointed to the board again. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(5) The [Health Licensing Office] **agency** shall provide the board with such administrative services and employees as the board requires to carry out its duties for the administration of ORS 680.500 to 680.570 and 680.990 (2).

(6) The [Health Licensing Office] **agency** shall not prescribe minimum educational or training requirements in excess of those specified in ORS 680.515.

(7) Members of the board, or its appointed committees, shall be entitled to compensation and expenses as provided in ORS 292.495 from funds available under ORS 680.570.

SECTION 30a. If House Bill 3219 becomes law, section 30 of this 2005 Act (amending ORS 680.556) is repealed and ORS 680.556, as amended by section 5, chapter 415, Oregon Laws 2005 (Enrolled House Bill 3219), is amended to read:

680.556. (1) There is established, within the [Health Licensing Office] **Oregon Health Licensing Agency**, the State Board of Denture Technology.

(2) The board shall consist of seven members appointed by the Governor.

(3) Four members shall be active licensed denturists, one member shall be an Oregon licensed dentist in active practice and two members shall be public members who do not possess the professional qualifications of other members.

(4) The term of office of each member is three 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 July 1 next following. A member is eligible for reappointment. If a person serves two consecutive terms, a period of three years must pass before the person may be appointed to the board again. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(5) The [Health Licensing Office] **agency** shall provide the board with such administrative services and employees as the board requires to carry out its duties for the administration of ORS 680.500 to 680.570 and 680.990 (2).

(6) Members of the board, or its appointed committees, shall be entitled to compensation and expenses as provided in ORS 292.495 from funds available under ORS 680.570.

SECTION 31. ORS 680.565 is amended to read:

680.565. (1) The [Health Licensing Office] **Oregon Health Licensing Agency** has such authority as is reasonably necessary to administer ORS 680.500 to 680.570 and 680.990 (2), including the authority to adopt rules pursuant to ORS chapter 183.

(2) The Director of the [Health Licensing Office] **Oregon Health Licensing Agency** shall keep a record of all proceedings of the State Board of Denture Technology including a register of all persons licensed to practice denture technology.

(3) When the agency is satisfied that the applicant for licensure under ORS 680.500 to 680.570 has complied with all the requirements, it shall issue to such applicant an appropriate license under ORS 680.500 to 680.570.

SECTION 32. ORS 680.570 is amended to read:

680.570. All moneys received by the [Health Licensing Office] **Oregon Health Licensing Agency** under ORS 679.025, 680.500 to 680.570 and 743.713 shall be paid into the General Fund in the State Treasury and placed to the credit of the [Health Licensing Office Account] **Oregon Health Licensing Agency Account**, and such moneys [hereby] are appropriated continuously to and shall be used by

the agency only for the administration and enforcement of ORS 679.025, 680.500 to 680.570, 680.990 (2) and 743.713.

SECTION 33. ORS 687.420 is amended to read:

687.420. (1) The State Board of Direct Entry Midwifery shall establish standards for qualifications for the licensure of direct entry midwives. Such standards shall include:

- (a) Sufficient knowledge in the following areas:
 - (A) Techniques in taking patient histories;
 - (B) Anatomy and physiology of the female reproductive system;
 - (C) Appropriate use of diagnostic testing;
 - (D) Necessity for referral;
 - (E) Pathology in childbirth;
 - (F) Mechanisms of labor;
 - (G) Aseptic techniques;
 - (H) Postpartum care;
 - (I) Examinations of newborn infants; and
 - (J) Family planning;
- (b) Successful passage of written and oral examinations; *[and]*
- (c) Participation in:
 - (A) 25 assisted deliveries;
 - (B) 25 deliveries for which the midwife was the primary care provider;
 - (C) 100 prenatal care visits;
 - (D) 25 newborn examinations; and
 - (E) 40 postnatal examinations;
- (d) Current certification in cardiopulmonary resuscitation for infants and adults; and
- (e) A written plan for emergency transport.

(2) Any person who desires to become licensed as a direct entry midwife shall submit an application to the *[Health Licensing Office]* **Oregon Health Licensing Agency** stating the applicant's qualifications for licensure. If the applicant meets the standards established under subsection (1) of this section and the applicant is not disqualified from licensure under ORS 676.612, the agency shall issue an annual license to the direct entry midwife. The agency shall impose a fee for licensure and examination in the amount established pursuant to ORS 687.435.

(3) Any direct entry midwife licensed under this section is entitled to payment under the rules of the medical assistance program for services provided to any eligible recipient of medical assistance.

SECTION 34. ORS 687.425 is amended to read:

687.425. (1) A license issued by the *[Health Licensing Office]* **Oregon Health Licensing Agency** for a direct entry midwife shall expire after one year. The agency shall renew a license upon receipt of the renewal application and fee and proof of current cardiopulmonary resuscitation certification for infants and adults, if the applicant is otherwise in compliance with the rules adopted by the State Board of Direct Entry Midwifery and the agency.

(2) The agency shall establish a procedure for the renewal of licenses. Notwithstanding subsection (1) of this section, the agency may vary the renewal date of a license by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(3) The board shall prescribe requirements for license renewal including, but not limited to, continuing education that must include training in use of legend drugs and devices. In addition to continuing education requirements, a midwife who has attended fewer than five births in the previous year shall be required to take an additional 10 hours of continuing education as prescribed by the board. All licensing requirements shall be approved by the board by rule.

(4) Any license that is not renewed shall automatically revert to inactive status. The license may be reactivated only if the license holder meets other qualifications for reactivation as prescribed by the agency in consultation with the *[State]* board *[of Direct Entry Midwifery]*.

(5) The agency may mail a notice of renewal to the last-known address of the license holder.

SECTION 35. ORS 687.430 is amended to read:

687.430. A person licensed to practice direct entry midwifery under the laws of another state who demonstrates to the satisfaction of the [Health Licensing Office] **Oregon Health Licensing Agency** that the person has passed a written examination at least equal to the written examination required of persons eligible for licensure under ORS 687.405 to 687.495 may have the written examination waived pursuant to standards of the **State Board of Direct Entry Midwifery**.

SECTION 36. ORS 687.435 is amended to read:

687.435. (1) The [Health Licensing Office] **Oregon Health Licensing Agency** shall, **in consultation with the State Board of Direct Entry Midwifery**, establish by rule and collect fees. [to carry out the duties, functions and powers of the State Board of Direct Entry Midwifery.] Fees established pursuant to this section [shall] **may** not exceed the following:

- (a) License application, \$100;
- (b) Initial license, \$2,000;
- (c) Annual renewal for active license, \$2,000;
- (d) Written examination, \$500;
- (e) Oral examination, \$150;
- (f) Late fee, \$50;
- (g) Duplicate license, \$25;
- (h) Reciprocity license, \$500; and
- (i) License reactivation, \$500.

(2) Fees established pursuant to subsection (1) of this section shall be subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting fees. The fees shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. The fees shall not exceed the cost of administering the program or the purpose for which the fee is established as authorized by the Legislative Assembly for the board's budget, or as modified by the Emergency Board of future sessions of the Legislative Assembly.

(3) All moneys received by the [Health Licensing Office] **agency** under this section shall be paid into the General Fund of the State Treasury and credited to the [Health Licensing Office Account] **Oregon Health Licensing Agency Account**, and are appropriated continuously **to** and shall be used by the [Health Licensing Office] **agency** only for the administration and enforcement of ORS 687.405 to 687.495.

(4) In addition to the fees established under subsection (1) of this section, the [Health Licensing Office] **agency** may assess fees for providing copies of official documents or records [in specific formats] and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

SECTION 37. ORS 687.445 is amended to read:

687.445. In the manner prescribed in ORS chapter 183 for contested cases and in consultation with the State Board of Direct Entry Midwifery, the [Health Licensing Office] **Oregon Health Licensing Agency** may impose a form of discipline specified in ORS 676.612 against any person practicing direct entry midwifery for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 687.405 to 687.495, or the rules adopted thereunder.

SECTION 38. ORS 687.470 is amended to read:

687.470. There is established within the [Health Licensing Office] **Oregon Health Licensing Agency** the State Board of Direct Entry Midwifery consisting of seven members appointed by the Governor. Each member of the board shall serve a term of three years and until a successor is appointed and qualified. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. All appointments of members of the board are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. The membership of the board shall include:

- (1) Four licensed direct entry midwives.

(2) Two certified nurse midwives.

(3) One physician licensed under ORS chapter 677 involved at the time of appointment in obstetrical care or education.

SECTION 39. ORS 687.485 is amended to read:

687.485. In addition to the powers otherwise granted by ORS 687.405 to 687.495, the [*Health Licensing Office*] **Oregon Health Licensing Agency**, in consultation with the State Board of Direct Entry Midwifery, may:

(1) Determine whether applicants meet the qualifications under ORS 687.405 to 687.495, conduct examinations and grant licenses to qualified applicants upon compliance with the rules of the board and the agency;

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

(3) Adopt rules for the administration of ORS 687.405 to 687.495; and

(4) Accept and expend donations, contributions and grant funds for the purposes of ORS 687.405 to 687.495.

SECTION 40. ORS 687.490 is amended to read:

687.490. (1) Any information provided to the State Board of Direct Entry Midwifery or the [*Health Licensing Office*] **Oregon Health Licensing Agency** under ORS 687.445 is confidential and [*shall not be*] **is not** subject to public disclosure or admissible as evidence in any judicial proceeding.

(2) Any person who in good faith provides information to the board or the agency [*shall not be*] **is not** subject to an action for civil damages as a result thereof.

SECTION 41. ORS 687.495 is amended to read:

687.495. In cooperation with the State Board of Direct Entry Midwifery, the [*Health Licensing Office*] **Oregon Health Licensing Agency** shall collect and report data on births for which a direct entry midwife was the primary care provider. The report shall distinguish outcomes between licensed direct entry midwives and direct entry midwives who are not licensed under ORS 687.405 to 687.495.

SECTION 42. ORS 688.800 is amended to read:

688.800. As used in ORS 688.800 to 688.840:

[1] "*Agency*" means the *Health Licensing Office*.]

[2] (1) "Board" means the Respiratory Therapist Licensing Board, **established within the Oregon Health Licensing Agency**.

[3] (2) "Qualified medical director" means the medical director of any inpatient or outpatient respiratory care service, department or home care agency who is a physician licensed by the State of Oregon and who has special interest and knowledge in the diagnosis and treatment of respiratory problems.

[4] (3) "Respiratory care" means the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system in accordance with the prescription of a licensed physician and under a qualified medical director. "Respiratory care" includes, but is not limited to:

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

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

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

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

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

[5] (4) "Respiratory care practitioner" means a person licensed under ORS 688.800 to 688.840.

[6] (5) "Respiratory care services" means cardiopulmonary care services rendered in accordance with the prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following:

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

(b) Environmental control mechanisms and hyperbaric therapy;

(c) Pharmacologic agents related to respiratory care procedures;

(d) Mechanical or physiological ventilatory support;

(e) Bronchopulmonary hygiene;

(f) Cardiopulmonary resuscitation;

(g) Maintenance of the natural airway;

(h) Maintenance of artificial airways;

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

(j) Hemodynamic and other related physiologic measurements of the cardiopulmonary system.

SECTION 43. ORS 688.815 is amended to read:

688.815. (1) An applicant for a license to practice respiratory care shall submit to the [Health Licensing Office] **Oregon Health Licensing Agency** written evidence, verified by oath, that the applicant:

(a) Is at least 18 years of age;

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

(c) Has completed a respiratory care education program approved by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education or their successors or equivalent organizations, as approved by the Respiratory Therapist Licensing Board.

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

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

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

(b) An applicant holding a credential conferred by the National Board for Respiratory Care as a Certified Respiratory [Therapy Technician (CRTT)] **Therapist (CRT)** or as a Registered Respiratory Therapist (RRT), or both, providing such credential has not been suspended or revoked.

SECTION 44. ORS 688.820 is amended to read:

688.820. (1) There is established within the [Health Licensing Office] **Oregon Health Licensing Agency** the Respiratory Therapist Licensing Board, consisting of five members appointed by the Governor.

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

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

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

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

SECTION 45. ORS 688.830 is amended to read:

688.830. (1) The [*Health Licensing Office in consultation with the Respiratory Therapist Licensing Board*] **Oregon Health Licensing Agency** shall:

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

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

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

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

(2) The Respiratory Therapist Licensing Board shall:

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

(b) Select a licensing examination that meets the standards of the National Commission for Health Certifying Agencies or an equivalent that is nationally recognized in testing respiratory care competencies.

(c) Establish continuing education requirements for renewal of a license.

(d) Provide for waivers of examinations, grandfathering requirements and temporary licenses as considered appropriate.

SECTION 46. ORS 688.834 is amended to read:

688.834. (1) The [*Health Licensing Office, in order to carry out its duties, functions and powers related to the Respiratory Therapist Licensing Board,*] **Oregon Health Licensing Agency** shall establish by rule and collect fees **related to respiratory therapists** for:

(a) Application;

(b) Examinations;

(c) License;

(d) License renewal;

(e) License restoration;

(f) Replacement or duplicate license;

(g) Delinquency; and

(h) Providing copies of official documents or records [*in specific formats*] and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the [*Health Licensing Office*] **agency** under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the [*Health Licensing Office Account*] **Oregon Health Licensing Agency Account**, and are appropriated continuously **to** and shall be used by the [*Health Licensing Office*] **agency** only for the administration and enforcement of ORS 688.800 to 688.840.

(3) The fees established by the [*Health Licensing Office*] **agency** under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 688.800 to 688.840 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the [*Health Licensing Office's*] budget **of the agency**, as that budget may be modified by the Emergency Board.

SECTION 47. ORS 688.836 is amended to read:

688.836. In the manner prescribed in ORS chapter 183 for contested cases, **the Oregon Health Licensing Agency** [*and in consultation with the Respiratory Therapist Licensing Board, the Health*

Licensing Office] may impose a form of discipline specified in ORS 676.612 against any person practicing respiratory care for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 688.800 to 688.840, or the rules adopted thereunder.

SECTION 48. ORS 688.840 is amended to read:

688.840. The Respiratory Therapist Licensing Board and its members and the [*Health Licensing Office*] **Oregon Health Licensing Agency** and its employees and contractors are immune from any civil liability arising from good faith actions taken pursuant to ORS 688.800 to 688.840.

SECTION 49. ORS 670.304 is amended to read:

670.304. Except as otherwise specifically provided, ORS 670.300 to 670.410 apply to the following professional licensing and advisory boards:

- (1) Professional licensing and advisory boards established in the Office of the Secretary of State.
- (2) The Oregon Board of Maritime Pilots, in the Department of Transportation.
- (3) The Board of Cosmetology, in the [*Health Licensing Office*] **Oregon Health Licensing Agency**.

(4) The State Board of Architect Examiners.

(5) The State Landscape Contractors Board.

(6) The State Board of Examiners for Engineering and Land Surveying.

(7) State Landscape Architect Board.

(8) State Board of Geologist Examiners.

(9) State Board of Tax Practitioners.

(10) Oregon Board of Accountancy.

(11) The Construction Contractors Board.

SECTION 50. ORS 690.005 is amended to read:

690.005. As used in ORS 690.005 to 690.235:

[(1) "*Agency*" means the *Health Licensing Office*.]

[(2)] (1) "Barbering" means any of the following practices, when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

(a) Shampooing, arranging, styling, curling, cutting, temporarily waving, singeing, cleansing and conditioning of the hair of an individual.

(b) Applying hair tonics, dressings and rinses.

(c) Massaging of the scalp, face and neck and applying facial and scalp treatments with creams, lotions, oils and other cosmetic preparations, either by hand or mechanical appliances, but such appliances shall not be galvanic or faradic.

(d) Shaving, trimming or cutting of the beard or mustache.

[(3)] (2) "Board" means the Board of Cosmetology, **created within the Oregon Health Licensing Agency**.

[(4)] (3) "Certificate" means a written authorization for the holder to perform in one or more fields of practice.

[(5)] (4) "Cosmetology" means the art or science of beautifying and improving the skin, nails and hair. "Cosmetology" includes the study of cosmetics and their application.

[(6)] (5) "Demonstration permit" means a written authorization for a person to practice, demonstrate and teach one or more fields of practice on a temporary basis.

[(7)] (6) "Facial technology" means the use of the hands, mechanical or electrical apparatus or appliances, cosmetic preparations, antiseptics, tonics, lotions or creams in massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work performed on the human face and neck above the seventh vertebra for cosmetic purposes and not for the treatment of disease or physical or mental ailments.

[(8)] (7) "Facility" means an establishment operated on a regular or irregular basis for the purpose of providing services in one or more fields of practice.

[(9)] (8) "Field of practice" means:

(a) Barbering.

(b) Facial technology.

- (c) Hair design.
- (d) Nail technology.

[(10)] (9) “Hair design” means, when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments any one or more of the following practices:

- (a) Shaving, trimming or cutting of the beard or mustache.
- (b) Arranging, styling, dressing, curling, temporary waving, permanent waving, relaxing, cutting, singeing, bleaching, coloring, dyeing, cleansing, shampooing, conditioning, applying hair tonics or similar work upon the hair of an individual.
- (c) Massaging the scalp and neck when performed in conjunction with activities in paragraph (a) or (b) of this subsection.

[(11)] (10) “Independent contractor” means a practitioner who qualifies as an independent contractor under ORS 670.600 and who is not under the control and direction of a facility license holder.

[(12)] (11) “License” means a written authorization issued under ORS 690.055 to a person to operate a facility for providing services related to one or more fields of practice to the public.

[(13)] (12) “Nail technology” means manicuring or pedicuring performed for cosmetic purposes and not for treatment of disease or physical or mental ailments. “Manicuring or pedicuring” includes:

- (a) Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise treating the nails of the hands or feet;
- (b) Massaging, cleansing, treating or beautifying the hands or feet; and
- (c) Applying, sculpturing and removing of artificial nails of the hands.

[(14)] (13) “Practitioner” means a person certified to perform services included within a field of practice.

[(15)] (14) “Registration” means a written authorization issued to an independent contractor to hold forth to the public as a business entity providing services in a field of practice.

[(16)] (15) “School” means an educational establishment that has a license issued by the Department of Education and is operated for the purpose of teaching one or more fields of practice.

[(17)] (16) “Temporary facility permit” means a written authorization issued under ORS 690.055 to provide services on a temporary basis in one or more fields of practice.

SECTION 51. ORS 690.015 is amended to read:

690.015. (1) This section establishes prohibitions relating to the practice of hair design, barbering, facial technology and nail technology. The prohibitions under this section are subject to the exemptions under ORS 690.025. A person who *[violates a prohibition]* **commits an act prohibited** under this section is subject to the penalties under ORS 690.992 in addition to any administrative action taken by *[the Board of Cosmetology under ORS 690.075]* or any civil penalty imposed by the *[Health Licensing Office]* **Oregon Health Licensing Agency** under ORS 676.612. *[A person violates a prohibition under this section if the person does any of the following:]*

(2) A person may not:

[(1)] (a) *[Performs or attempts]* **Perform or attempt** to perform as a practitioner without a certificate, demonstration permit or certificate of identification.

[(2)] (b) *[Operates]* **Operate** a facility without a license or temporary facility permit.

[(3)] (c) *[Operates]* **Operate** a facility unless it is at all times under the direct supervision of a practitioner.

[(4)] (d) *[Practices]* **Practice** hair design, barbering, facial technology or nail technology as an independent contractor without a registration.

[(5)] (e) *[Displays]* **Display** a sign or in any way *[advertises]* **advertise** or *[purports]* **purport** to offer services in a field of practice without first obtaining a permit, certificate, independent contractor registration or facility license.

[(6)] (f) Knowingly *[makes]* **make** a false statement on an application to obtain or renew a certificate, registration, license or permit or to obtain a certificate of identification.

[(7)] (g) [Allows] **Allow** an individual in the employ or under the supervision or control of the person to perform in a field of practice without a certificate or permit.

[(8)] (h) [Sells, barter or offers] **Sell, barter or offer** to sell or barter a document evidencing a certificate, registration, license, permit or certificate of identification.

[(9)] (i) [Purchases or procures] **Purchase or procure** by barter a document evidencing a certificate with intent to use it as evidence of the person's qualification as a practitioner.

[(10)] (j) Materially [alters] **alter** with fraudulent intent a document evidencing a certificate, registration, license, permit or certificate of identification.

[(11)] (k) [Uses or attempts] **Use or attempt** to use as valid a fraudulently obtained, counterfeited or materially altered document evidencing a certificate, registration, license, permit or certificate of identification.

SECTION 52. ORS 690.035 is amended to read:

690.035. A person desiring to obtain a certificate or demonstration permit shall apply in writing to the [Board of Cosmetology] **Oregon Health Licensing Agency** on a form approved by the [board] **agency**. Each application shall contain an affirmation by the applicant that the information contained therein is accurate. The application must also include evidence establishing to the satisfaction of the [board] **agency** that the applicant possesses the necessary qualifications.

SECTION 53. ORS 690.048 is amended to read:

690.048. (1) The [Health Licensing Office] **Oregon Health Licensing Agency** shall issue a certificate to each applicant who qualifies under ORS 690.046. The certificate is prima facie evidence of the right of the holder to practice **in** a field of practice for which the holder has qualified and purports to be a practitioner.

(2) A certificate must show the practitioner's name, address, certificate number, expiration date and field of practice for which the practitioner is qualified to perform services.

SECTION 54. ORS 690.055 is amended to read:

690.055. (1) To be issued a license to operate a facility, each applicant shall:

(a) Be 18 years of age or older, if the applicant is a natural person.

(b) Comply with the rules of the Board of Cosmetology concerning health, safety and infection control.

(c) Comply with the applicable health and safety laws and rules of the Department of Human Services and any other state agencies.

(d) Pay the [application fee] **required fees**.

(e) If the applicant is an entity other than a natural person, be formed and operated in accordance with Oregon law.

[(2) A license shall confer the right to a facility owner to operate the facility and to advertise the services for which the facility is licensed.]

[(3) A facility must at all times be under the direct supervision of a practitioner.]

[(4)] (2) To be issued a temporary facility permit, each applicant must:

(a) Operate the facility on a temporary basis for a period not to exceed 30 consecutive calendar days and in accordance with rules of the board.

(b) Be 18 years of age or older, if the applicant is a natural person.

(c) Be under the direct supervision of a practitioner at all times the facility is open for business.

(d) Apply on forms prescribed by the [Health Licensing Office] **Oregon Health Licensing Agency** prior to opening for business.

(e) Comply with the rules of the board concerning health, safety and infection control.

(f) Comply with the applicable health and safety laws and rules of the Department of Human Services and any other state agencies.

(g) Pay the appropriate application and permit fees.

(h) If the applicant is an entity other than a natural person, be formed and operated in accordance with Oregon law.

(3) The agency may issue a single facility license to an applicant pursuant to section 10 of this 2005 Act.

(4) A license issued under this section shall confer on a facility owner the right to operate the facility and to advertise the services for which the facility is licensed.

(5) A facility must at all times be under the direct supervision of a practitioner.

SECTION 55. ORS 690.057 is amended to read:

690.057. (1) To be issued a registration to operate as an independent contractor, each applicant shall:

(a) Be 18 years of age or older.

(b) Comply with the rules of the Board of Cosmetology concerning health, safety and infection control.

(c) Comply with the applicable health and safety laws and rules of the Department of Human Services and any other state agencies.

(d) Pay the *[application fee]* **required fees**.

(2) A registration shall confer the right to an independent contractor to advertise and directly offer practitioner services to the public in a licensed facility or a facility operating under a temporary facility permit.

SECTION 56. ORS 690.085 is amended to read:

690.085. (1) All practitioner certificates shall expire on the last day of the month, two years from the date of issuance, unless renewed prior to the expiration date by payment of the required renewal fee and compliance with other requirements as established by the Board of Cosmetology.

(2) All registrations and licenses shall expire on the last day of the month, one year from the date of issuance, unless renewed prior to the expiration date by payment of the required renewal fee and compliance with other requirements as established by the board.

(3) The *[board]* **Oregon Health Licensing Agency** may vary the date of certificate, registration and license renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(4) A certificate, registration or license not renewed before it expires may be renewed by payment of the required renewal and late fees and by compliance with other requirements for renewal as determined by the board.

(5) A certificate that has not been renewed for a period of two years after date of expiration may be renewed and restored if the applicant:

(a) Submits an application for certification;

(b) Satisfactorily passes the examination required by ORS 690.065; and

(c) Submits payment of the application, examination and certificate fees at the time of reapplication.

SECTION 57. ORS 690.105 is amended to read:

690.105. (1) A person not certified under ORS 690.048 who wishes to practice, demonstrate and teach a field of practice, or perform a field of practice, temporarily and primarily for educational purposes and who is otherwise qualified as determined by the Board of Cosmetology shall first obtain a demonstration permit from the *[board]* **Oregon Health Licensing Agency**.

(2) The permit shall specify:

(a) The purpose for which it is granted.

(b) The period during which the person is permitted to practice, demonstrate and teach, which period shall not exceed 30 days.

(c) The time and place of exercising the privilege granted by the permit.

(3) A person may be granted a permit if the person:

(a) Makes application to the *[board]* **agency** for the permit.

(b) Is currently licensed or certified to practice or teach a field of practice in another state and presents satisfactory evidence of that fact to the *[board]* **agency**, or is otherwise qualified as determined by the board.

(c) Describes the purpose for which the permit is sought.

(d) Pays the required application and permit fees.

SECTION 58. ORS 690.123 is amended to read:

690.123. (1) The [*Health Licensing Office*] **Oregon Health Licensing Agency** may issue a practitioner a certificate of identification to practice outside of or away from a licensed facility.

(2) The Board of Cosmetology shall determine requirements and the agency shall establish fees for issuance of a certificate of identification.

(3) Practitioners performing services outside of a licensed facility under the provisions of a certificate of identification shall comply with the safety and infection control requirements under ORS 690.165 and 690.205 and rules adopted thereunder.

SECTION 59. ORS 690.155 is amended to read:

690.155. (1) There is created within the [*Health Licensing Office*] **Oregon Health Licensing Agency** the Board of Cosmetology consisting of seven members appointed by the Governor. Each member of the board shall serve for a term of three years and until a successor is appointed and qualified. At all times the membership of the board shall be so constituted that:

(a) Six members of the board shall be practitioners with valid certificates.

(b) One member shall be a public member who is not a practitioner.

(2) A person is not eligible for appointment as a member of the board if the person has previously served two terms.

(3) A member of the board serves at the pleasure of the Governor. Vacancies shall be filled by the Governor, by appointment for the unexpired term.

(4) The Director of the [*Health Licensing Office*] **Oregon Health Licensing Agency**, or a designated representative, shall serve as an ex officio member of the board but without the right to vote.

SECTION 60. ORS 690.165 is amended to read:

690.165. In addition to the powers otherwise granted by ORS 345.430 and 690.005 to 690.235, the Board of Cosmetology shall have the power to:

(1) Determine whether applicants are qualified to take certification examinations.

(2) Administer, approve or recognize certification examinations and designate the time, place and administrators of certification examinations.

(3) Contract for the administration of examinations as part of regional or national examinations and contract with independent testing services for examination administration.

(4) **Pursuant to ORS 676.607**, direct the [*Health Licensing Office*] **Oregon Health Licensing Agency** to issue certificates, registrations, licenses, permits and certificates of identification to individuals determined by the board to be qualified.

(5) Except as otherwise provided in ORS 690.205 (2) or other provision of law, adopt rules establishing and enforcing standards for safety, infection control, professional conduct and any other matters relating to fields of practice, facilities or locations used by persons providing services regulated by ORS 690.005 to 690.235.

(6) **Pursuant to ORS 676.612 and 690.167**, direct the [*Health Licensing Office*] **agency** to suspend, revoke, limit or refuse to issue or renew certificates, registrations, licenses or permits or impose a period of probationary activity on the holder thereof.

(7) Do any act necessary or proper to effect and carry out the duties required of the board by ORS 690.005 to 690.235.

(8) Adopt rules prescribing standards of professional conduct for persons practicing hair design, barbering, facial technology or nail technology.

(9) Consult with the agency about the issuance and renewal of a single facility license under section 10 of this 2005 Act authorizing a facility to provide cosmetology services.

SECTION 61. ORS 690.167 is amended to read:

690.167. In the manner prescribed in ORS chapter 183 for contested cases and at the direction of the Board of Cosmetology, the [*Health Licensing Office*] **Oregon Health Licensing Agency** may impose a form of discipline listed in ORS 676.612 against any person practicing barbering, cosmetology, hair design, facial technology or nail technology for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 690.005 to 690.235, or the rules adopted thereunder.

SECTION 62. ORS 690.195 is amended to read:

690.195. (1) The *[Health Licensing Office]* **Oregon Health Licensing Agency** shall keep a record of its proceedings relating to the issuance, refusal, suspension and revocation of certificates, registrations, licenses and permits and to the imposition of probation. This record shall also contain the name, place of business and the date of each certificate, registration, license and permit issued by the agency.

(2) The agency shall keep a record of all complaints received, including the date of receipt, name and place of business of each practitioner involved, the name and address of each complainant and the nature of the complaint.

(3) The records of the agency shall at all reasonable times be open to inspection by the public.

SECTION 63. ORS 690.205 is amended to read:

690.205. (1) The Board of Cosmetology *[has authority to make reasonable]* **may adopt** rules for the administration of *[the provisions of]* ORS *[345.430]* **345.440** and 690.005 to 690.235 and *[prescribe]* **for prescribing** safety and infection control requirements for facilities. Infection control requirements for facilities shall be subject to the approval of the Department of Human Services. A copy of the rules adopted by the board shall be furnished by the board to the owner or manager of each facility.

(2) Notwithstanding subsection (1) of this section, **the board may not prohibit** the use of the facility for domestic purposes *[may not be prohibited by the board]* if the part devoted to domestic purposes is in a completely separate room not used by customers, with walls extending from floor to ceiling and with any connecting doors kept closed while the facility is in actual operation.

(3) *[Any]* Rules adopted by the board **prescribing safety and infection control requirements for facilities** shall be adopted in accordance with the procedures set forth in ORS chapter 183.

SECTION 64. ORS 690.225 is amended to read:

690.225. (1) In addition to any other duties prescribed by law, the *[Health Licensing Office]* **Oregon Health Licensing Agency** shall provide for the inspection of facilities and schools licensed to teach practitioner skills under ORS 345.010 to 345.450.

(2) Inspections conducted under this section shall determine whether the facilities comply with the health, safety, infection control and licensing rules of the Board of Cosmetology and whether the schools comply with the health, safety and infection control requirements under ORS 345.010 to 345.450 and rules of the *[Health Licensing Office]* **agency**. A report of the results of the inspection shall be submitted to the Department of Education.

SECTION 65. ORS 690.235 is amended to read:

690.235. (1) The *[Health Licensing Office]* **Oregon Health Licensing Agency**, in consultation with the Board of Cosmetology, shall establish by rule and collect fees **related to the practice of cosmetology**. *[No fee shall exceed]* **Fees may be assessed for** the following:

- (a) Application for a certificate, license or permit[, \$25].
- (b) Issuance of an original two-year practitioner certificate[, \$100].
- (c) Renewal of a two-year practitioner certificate[, \$100].
- (d) Each initial examination section in an individual field of practice and reexamination of failed sections[, \$25].
- (e) Issuance of a demonstration permit[, \$25].
- (f) Issuance of a facility license[, \$100].
- (g) Renewal of a facility license[, \$100].
- (h) Issuance of a temporary facility permit[, \$100].
- (i) Issuance of an independent contractor registration[, \$100].
- (j) Renewal of an independent contractor registration[, \$100].
- (k) Issuance of a duplicate or replacement certificate, license or permit[, \$25].
- (L) Late renewal fee[, \$25].
- (m) Reciprocity fee[, \$200].
- (n) Issuance of a certificate of identification[, \$100].

(2) All moneys received by the [Health Licensing Office] **agency** under this section shall be paid into the General Fund of the State Treasury and credited to the [Health Licensing Office Account] **Oregon Health Licensing Agency Account**, and are appropriated continuously **to** and shall be used by the [Health Licensing Office] **agency** only for the administration and enforcement of ORS 690.005 to 690.235.

(3) The fees established by the [Health Licensing Office] **agency** under subsection (1) of this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 690.005 to 690.235 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the [Health Licensing Office's] budget **of the agency**, as that budget may be modified by the Emergency Board.

(4) In addition to the fees established under subsection (1) of this section, the [Health Licensing Office] **agency** may assess fees for providing copies of official documents or records [*in specific formats*] and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

SECTION 66. ORS 690.350 is amended to read:

690.350. As used in ORS 690.350 to 690.430, unless the context requires otherwise:

[(1)] *“Agency” means the Health Licensing Office.*

[(2)] (1) **“Council” means the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, created in the Oregon Health Licensing Agency.**

[(3)] (2) **“Electrologist” means a person who practices electrolysis pursuant to the provisions of ORS 690.350 to 690.430.**

[(4)] (3) **“Electrology facility” means any room or space or any part thereof where electrolysis is practiced or where the business of electrology is conducted.**

[(5)] (4) **“Electrolysis” means the process by which hair, with a series of treatments, is permanently removed from the skin by inserting a needle-conductor into the hair follicle and directing electrical energy toward the hair cell. The word “electrolysis” is used in generic form in ORS 690.350 to 690.430 and refers to modalities of galvanic electrolysis, thermolysis and combinations thereof.**

[(6)] (5) **“Licensed electrologist” means a person licensed under the provisions of ORS 690.350 to 690.430 to practice electrolysis.**

[(7)] (6) **“Licensed permanent color technician and tattoo artist” means a person licensed under the provisions of ORS 690.350 to 690.430 to practice tattooing.**

[(8)] (7) **“Permanent color technician and tattoo artist” means a person who practices tattooing pursuant to the provisions of ORS 690.350 to 690.430.**

[(9)] (8) **“Physician” means a person licensed to practice the healing arts by this state pursuant to ORS chapter 677, 684 or 685.**

[(10)] (9) **“Schools of electrolysis” means career schools licensed by the Department of Education under ORS 345.010 to 345.450 where electrolysis and related subjects are taught.**

[(11)] (10) **“Schools of permanent coloring or tattooing” means career schools licensed by the Department of Education under ORS 345.010 to 345.450 in which permanent coloring or tattooing and related subjects are taught.**

[(12)] (11) **“Tattoo” means the indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the dermal portion of the skin upon the body of a live human being.**

[(13)] (12) **“Tattooing” means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the dermal portion of the skin so as to form indelible marks for cosmetic, medical or figurative purposes.**

[(14)] (13) **“Tattoo facility” means any room or space or any part thereof where tattooing is practiced or where the business of tattooing is conducted.**

[(15)] (14) **“Teacher” means a person who is registered by the Department of Education to teach in a school of electrolysis or school of permanent coloring or tattooing pursuant to the provisions of ORS 345.010 to 345.450 and 690.350 to 690.430.**

SECTION 67. ORS 690.355 is amended to read:

690.355. No person, including an electrologist or a permanent color technician and tattoo artist, shall perform electrolysis or tattooing, display a sign or in any other way advertise or purport to be an electrologist or permanent color technician and tattoo artist unless that person holds a valid license issued by the [*Health Licensing Office*] **Oregon Health Licensing Agency**. However, ORS 690.350 to 690.430 do not prevent or affect the use of electrolysis or tattooing by a physician, a person under the control and supervision of a physician or any other person specifically permitted to use electrolysis or tattooing by law.

SECTION 68. ORS 690.365 is amended to read:

690.365. (1) An applicant for licensure shall pay a fee established by the [*Health Licensing Office*] **Oregon Health Licensing Agency** under ORS 690.350 to 690.430 and shall show to the satisfaction of the agency that the applicant:

(a) Has complied with the provisions of ORS 690.350 to 690.430 and the applicable rules of the agency;

(b) Is not less than 18 years of age;

(c) Has a high school diploma or equivalent education;

(d) Has submitted evidence of completion of education and training prescribed and approved by the agency under ORS 690.410; and

(e) Has passed an examination approved, administered or recognized by the agency.

(2) Subject to the provisions of ORS 676.612, the agency shall issue a license to each applicant who provides evidence satisfactory to the agency of completion of all requirements for licensure. An initial license shall be issued for one year and expires unless renewed on or before the expiration date by payment of required fees and demonstration of completion of continuing education requirements specified by rule.

SECTION 69. ORS 690.370 is amended to read:

690.370. (1) An applicant for licensure who is notified by the [*Health Licensing Office*] **Oregon Health Licensing Agency** that the applicant has fulfilled the requirements of ORS 690.365 (1)(a) to (d) shall appear at a time, place and before such persons as the agency may designate, for an examination.

(2) The agency shall offer an examination at least twice a year. The applicant who fails any part of the examination may apply to retake the failed section or sections twice without being required to obtain additional training.

SECTION 70. ORS 690.380 is amended to read:

690.380. (1) A person who holds a license under ORS 690.350 to 690.430 shall notify the [*Health Licensing Office*] **Oregon Health Licensing Agency** in writing of the regular address of the place or places where the person performs or intends to perform electrolysis or tattooing and shall keep the license conspicuously posted in the place of business at all times.

(2) The agency shall keep a record of the place or places of business of each person who holds a license.

(3) Any notice required to be given by the agency to a person who holds a license may be given by mailing the notice to the address of the last place of business of which the person has notified the agency.

(4) The agency shall issue to each qualified applicant a license to operate an electrology facility and to advertise electrolysis services for which the facility is licensed.

(5) The agency shall issue to each qualified applicant a license to operate a tattoo facility and to advertise permanent [*makeup*] **coloring** or tattooing services for which the facility is licensed.

(6) The agency may issue a single facility license to an applicant pursuant to section 10 of this 2005 Act.

SECTION 71. ORS 690.385 is amended to read:

690.385. (1) Except as otherwise provided in this section, a license issued under ORS 690.365 expires one year after the date of issue unless renewed by payment of the required renewal fee. The [*Health Licensing Office*] **Oregon Health Licensing Agency**, however, may vary the date of license

renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee. If payment is transmitted by postal service, the envelope must be postmarked on or before the expiration of the license. If the license expires, the license may be renewed on payment of a renewal fee and late penalty fee established by the agency under ORS 690.350 to 690.430.

(2) The agency may suspend the license of any person who fails to renew. A suspended license may be reactivated upon the payment of a reactivation fee established by the agency under ORS 690.350 to 690.430 and all past unpaid renewal fees.

(3) A person applying for reactivation shall not be required to take an examination as a condition of reactivation if the reactivation occurs within three years after the date of the license expired.

(4) All electrologists and permanent color technicians and tattoo artists must participate in continuing education, with guidelines and effective date to be established by rule of the agency.

SECTION 72. ORS 690.390 is amended to read:

690.390. Licensed practicing electrologists and permanent color technicians and tattoo artists shall meet the following standards and any others the *[Health Licensing Office]* **Oregon Health Licensing Agency** may adopt by rule:

(1) Electrolysis and tattooing instruments shall be sterilized in accordance with methods approved by the rules of the *[Health Licensing Office]* **agency**;

(2) Practicing electrologists and permanent color technicians and tattoo artists shall be equipped with appropriate sterilizing equipment, with availability of hot and cold running water and a covered waste receptacle; and

(3) Case history cards shall be kept for each client.

SECTION 73. ORS 690.405 is amended to read:

690.405. The powers and duties of the *[Health Licensing Office]* **Oregon Health Licensing Agency** as related to ORS 690.350 to 690.430 are as follows:

(1) To authorize all disbursements necessary to carry out the provisions of ORS 690.350 to 690.430;

(2) To determine training and experience requirements for taking the examination and to supervise and administer examinations to test the knowledge of applicants for licensure;

(3) To license persons who apply to the agency and who have qualified to practice electrolysis, permanent coloring or tattooing;

(4) To rent facilities when necessary to carry out the examination of applicants for licensure;

(5) To renew licenses;

(6) To suspend or revoke licenses or place licensees on probation in the manner provided by ORS 690.350 to 690.430;

(7) To appoint representatives to conduct or supervise the examination of applicants for licensure;

(8) To designate the time and place for examining applicants for licensure;

(9) Subject to the provisions of ORS chapter 183, to adopt rules that are necessary to carry out the provisions of ORS 690.350 to 690.430;

(10) To carry out the periodic inspection of facilities of persons who practice electrolysis or tattooing;

(11) To issue a tattoo facility license or a temporary facility permit to qualified applicants upon compliance with ORS 690.350 to 690.430;

(12) To issue an electrology facility license or a temporary facility permit to qualified applicants upon compliance with ORS 690.350 to 690.430; and

(13) Notwithstanding ORS 690.355, to issue demonstration and temporary permits to perform services as prescribed by agency rule.

(14) To issue a single facility license to an applicant pursuant to section 10 of this 2005 Act.

SECTION 74. ORS 690.407 is amended to read:

690.407. In the manner prescribed in ORS chapter 183 for contested cases, the [Health Licensing Office] **Oregon Health Licensing Agency** may impose a form of discipline listed in ORS 676.612 against any person practicing electrolysis or permanent coloring or tattooing for any of the grounds listed in ORS 676.612, and for any violation of the provisions of ORS 690.350 to 690.430, or the rules adopted thereunder.

SECTION 75. ORS 690.410 is amended to read:

690.410. (1) The [Health Licensing Office] **Oregon Health Licensing Agency**, in accordance with ORS chapter 183 and in consultation with the Advisory Council for Electrologists[,] and Permanent Color Technicians and Tattoo Artists, shall adopt by rule minimum standards of education and training requirements for the practice of electrolysis, permanent coloring and tattooing.

(2) The [Health Licensing Office] **agency** shall approve electrolysis, permanent coloring and tattooing courses of study. An outline of instruction shall be filed with the agency and with the Department of Education. The outline must include the approved courses, total hours of instruction, hours of lectures in theory and the hours of instruction in application of practical skills.

(3) Schools of electrolysis and schools of permanent coloring or tattooing must comply with the agency's safety and infection control rules and are subject to inspection at the discretion of the agency and the Department of Education. A report of the results of each inspection shall be submitted to the department.

(4) An owner of a facility that is also licensed by the Department of Education as a school of electrolysis or a school of permanent coloring or tattooing under ORS 345.010 to 345.450[,] may employ an individual licensed under ORS 690.350 to 690.430 and registered as a teacher by the Department of Education to perform electrolysis, permanent coloring or tattooing for instructional purposes.

SECTION 76. ORS 690.415 is amended to read:

690.415. (1) The [Health Licensing Office] **Oregon Health Licensing Agency** shall establish by rule and collect fees **related to electrologists and permanent color technicians and tattoo artists** for:

- (a) Application.
- (b) Examination.
- (c) Reexamination.
- (d) Reciprocity.
- (e) Initial annual license.
- (f) License renewal, active and inactive.
- (g) Late renewal.
- (h) License reactivation.
- (i) Duplicate license.
- (j) Demonstration and temporary permits.
- (k) Facility license issuance and renewal, active or inactive.

(L) Providing copies of official documents or records [*in specific formats*] and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the [Health Licensing Office] **agency** under this section shall be paid into the General Fund of the State Treasury and credited to the [Health Licensing Office Account] **Oregon Health Licensing Agency Account**, and are appropriated continuously **to** and shall be used by the [Health Licensing Office] **agency** only for the administration and enforcement of ORS 690.350 to 690.430.

(3) The fees established by the [Health Licensing Office] **agency** under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees established under this subsection shall not exceed the cost of administering the regulatory program under ORS 690.350 to 690.430 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget for ORS 690.350 to 690.430, as the budget may be modified by the Emergency Board.

SECTION 77. ORS 690.425 is amended to read:

690.425. (1) There hereby is created in the [*Health Licensing Office*] **Oregon Health Licensing Agency** the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists. The council shall consist of five members to be appointed by the Governor.

(2) Members of the council shall be residents of this state. Two members must be practicing electrologists with a minimum of two years of experience. One member shall be a licensed and practicing permanent color technician and tattoo artist. One member shall be a licensed physician in this state. One member shall be a public member who does not possess the professional qualifications of other members.

(3) No person shall serve more than two consecutive two-year terms.

(4) The term of office of a member shall begin on January 1. A member shall continue to serve until a successor who qualifies has been appointed. Before a member's term expires, the Governor shall appoint a successor to assume the duties of office on January 1 at the expiration of the predecessor's term.

(5) A vacancy on the council shall be filled by appointment for the unexpired term through a list of qualified names submitted to the Governor.

(6) The council shall meet at least once a year.

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

SECTION 78. ORS 690.430 is amended to read:

690.430. (1) The Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists shall have the responsibility and duty of advising the [*Health Licensing Office*] **Oregon Health Licensing Agency** in all matters relating to ORS 690.350 to 690.430, shall prepare or adopt the examinations required by ORS 690.350 to 690.430 subject to the approval of the agency and shall assist the agency in carrying out the provisions of ORS 690.350 to 690.430.

(2) The agency shall consider and be guided by the recommendations of the council in all matters relating to ORS 690.350 to 690.430.

SECTION 79. ORS 690.500 is amended to read:

690.500. As used in ORS 690.500 to 690.550:

[(1) "Agency" means the *Health Licensing Office*.]

[(2)] (1) "Body piercing" means the puncturing of a part of the body of a live human being so as to create a permanent hole for cosmetic purposes.

[(3)] (2) "Body piercing facility" means any room, space, location, place, area, structure or business, or any part thereof, where body piercing is practiced or where the business of body piercing is conducted.

[(4)] (3) "Body piercing technician" means a person who practices body piercing pursuant to the provisions of ORS 690.500 to 690.570.

SECTION 80. ORS 690.507 is amended to read:

690.507. (1) A person may not provide body piercing services without a body piercing technician registration issued by the [*Health Licensing Office*] **Oregon Health Licensing Agency**.

(2) A person may not operate a body piercing facility without a body piercing facility license issued by the agency.

(3) This section does not prevent or affect the use of body piercing by a physician, a person under the control and supervision of a physician or any other person specifically permitted by law to engage in body piercing.

SECTION 81. ORS 690.510 is amended to read:

690.510. (1) In addition to any other duties prescribed by law, there is established within the [*Health Licensing Office*] **Oregon Health Licensing Agency** a registration program to provide for the registering of body piercing technicians.

(2) The agency shall issue a body piercing technician registration to any person who:

(a) Files an application in the form and manner prescribed by the agency;

(b) Pays the application and registration fees prescribed by the agency;

(c) Affirms by written signature on a form prescribed by the agency receipt of:

(A) An information packet regarding safety, infection control and sterilization requirements adopted by the agency by rule;

(B) A copy of the written notification for clients advising of the risks and possible consequences of body piercing services; and

(C) A disclosure statement to be posted in public view within the licensed body piercing facility; and

(d) Complies with all other requirements established by the agency.

(3) A registration issued under this section shall state that registration does not attest to the body piercing technician's qualifications based on training or education, nor does the registration validate minimum competency to perform body piercing services.

(4) The body piercing technician registration shall be posted in a conspicuous place on the premises of a licensed body piercing facility.

(5) A registration issued under this section expires annually and may be renewed upon application to the agency, payment of the renewal fee established pursuant to ORS 690.550 and compliance with ORS 690.500 to 690.550 and rules adopted by the agency pursuant to ORS 690.500 to 690.550.

SECTION 82. ORS 690.515 is amended to read:

690.515. In the manner prescribed in ORS chapter 183 for contested cases, the [Health Licensing Office] **Oregon Health Licensing Agency** may impose a form of discipline listed in ORS 676.612 against any person practicing body piercing for any of the grounds listed in ORS 676.612, and for any violation of the provisions of ORS 690.500 to 690.550 or the rules adopted thereunder.

SECTION 83. ORS 690.520 is amended to read:

690.520. (1) In addition to any other duties prescribed by law, there is established within the [Health Licensing Office] **Oregon Health Licensing Agency** a licensing program to provide for the licensing of body piercing facilities.

(2) Pursuant to ORS 676.618, the agency shall conduct periodic inspections of body piercing facilities to determine compliance with safety, infection control and sterilization requirements.

(3) The agency shall issue a body piercing facility license to any person who:

(a) Files an application in the form and manner prescribed by the agency;

(b) Pays the application and license fees prescribed by the agency;

(c) Demonstrates compliance with all safety, infection control and sterilization requirements adopted by the agency by rule; and

(d) Complies with all other requirements established by the agency.

(4) A license issued under this section expires annually and may be renewed upon application to the agency, payment of the renewal fee established pursuant to ORS 690.550 and compliance with ORS 690.500 to 690.550 and rules adopted by the agency pursuant to ORS 690.500 to 690.550.

(5) The body piercing facility license shall be posted in a conspicuous place on the premises of the facility.

[(6) This section shall not prevent or affect the use of body piercing by a physician, a person under the control and supervision of a physician or any other person specifically permitted by law to engage in body piercing.]

(6) The agency may issue a single facility license to an applicant pursuant to section 10 of this 2005 Act.

SECTION 84. ORS 690.530 is amended to read:

690.530. Any person operating a body piercing facility licensed under ORS 690.520 shall:

(1) Provide to all customers a written statement approved by the [Health Licensing Office] **Oregon Health Licensing Agency** that advises the customer of risks or dangers involved in the procedure and all complications that may occur;

(2) Post in public view in the body piercing facility a disclosure statement established by the [Health Licensing Office] **agency** by rule; and

(3) Post in public view in the body piercing facility a notice containing the address of the [Health Licensing Office] **agency** and the procedure for filing a complaint as established by the [Health Licensing Office] **agency** by rule.

SECTION 85. ORS 690.550 is amended to read:

690.550. (1) The *[Health Licensing Office]* **Oregon Health Licensing Agency** shall *[charge fees]* **establish by rule and collect fees related to body piercing. Fees may be assessed** for *[the following in amounts not less than]:*

- (a) Facility application[, \$100].
- (b) Initial facility license[, \$100].
- (c) Annual renewal of facility license[, \$100].
- (d) Technician application[, \$10].
- (e) Initial technician registration[, \$25].
- (f) Annual renewal of technician registration[, \$25].
- (g) Duplicate license or registration[, \$10].

(2) The fees in subsection (1) of this section shall not exceed the cost of administering the regulatory programs established pursuant to ORS 690.500 to 690.550 pertaining to the purpose for which each fee is established.

(3) In addition to the fees established under subsection (1) of this section, the agency may assess fees for the actual cost of providing copies of official documents or records, including but not limited to the administrative costs associated with compiling, photocopying or preparing and delivering the documents or records.

[(3)] (4) All moneys received by the agency under this section shall be paid into the General Fund in the State Treasury and *[placed to the credit of the Health Licensing Office Account]* **credited to the Oregon Health Licensing Agency Account**, and such moneys *[hereby]* are appropriated continuously **to** and shall be used **by the agency** only for the expenditures, including but not limited to costs associated with staffing, needed for the administration and enforcement of ORS 690.500 to 690.570.

SECTION 86. ORS 690.570 is amended to read:

690.570. In accordance with ORS chapter 183, the *[Health Licensing Office]* **Oregon Health Licensing Agency** shall adopt rules necessary to implement and enforce ORS 690.500 to 690.550.

SECTION 87. ORS 694.015 is amended to read:

694.015. As used in ORS 694.015 to *[694.170]* **694.185**, unless the context requires otherwise:

[(1) "Agency" means the Health Licensing Office.]

[(2)] (1) "Council" means the Advisory Council on Hearing Aids, **created within the Oregon Health Licensing Agency.**

(2) **"Dealing in hearing aids" means the sale, lease or rental or attempted sale, lease or rental of hearing aids in conjunction with the evaluation or measurement of the powers or range of human hearing and the recommendation, selection or adaptation of hearing aids.**

(3) "Hearing aid" means any prosthetic instrument or device designed for or represented as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device. A hearing aid is not intended to include any device which is surgically implanted or otherwise medically inserted by a physician licensed by ORS chapter 677 for the purpose of treating or correcting a hearing impairment.

[(4) "Dealing in hearing aids" means the sale, lease or rental or attempted sale, lease or rental of hearing aids in conjunction with the evaluation or measurement of the powers or range of human hearing and the recommendation, selection or adaptation of hearing aids.]

SECTION 88. ORS 694.025 is amended to read:

694.025. No person, including an audiologist or a physician, shall deal in hearing aids or display a sign or in any other way advertise or represent that the person deals in hearing aids unless the person holds a valid license issued by the *[Health Licensing Office]* **Oregon Health Licensing Agency** as provided in ORS 694.015 to *[694.170]* **694.185**.

SECTION 89. ORS 694.028 is amended to read:

694.028. It shall be unlawful for any person holding a temporary license under ORS 694.095 to make or attempt to sell a hearing aid to a person unless the temporary licensee has successfully passed the qualifying examination or the supervising licensee has certified to the *[Health Licensing*

Office] **Oregon Health Licensing Agency** that the temporary licensee has received adequate training.

SECTION 90. ORS 694.036 is amended to read:

694.036. (1) Prior to consummation of the sale of a hearing aid, a person dealing in hearing aids shall deliver to the prospective purchaser a written statement, signed by the person dealing in hearing aids. The statement shall be on a form prescribed by the [*Health Licensing Office which*] **Oregon Health Licensing Agency** that shall include but not be limited to all of the following:

- (a) The name and address of the prospective purchaser.
- (b) The date of the sale.
- (c) Specifications as to the make, serial number and model number of the hearing aid or aids sold.
- (d) The address or principal place of business of the person dealing in hearing aids.
- (e) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.
- (f) The number of the license of the person dealing in hearing aids.
- (g) The terms of any guarantee or expressed warranty, if any, made to the purchaser with respect to such hearing aid or hearing aids, including that provided in ORS 646.482 to 646.498 and 694.042.
- (h) The address of the [*Health Licensing Office*] **agency** and the procedure for making a complaint under ORS 694.015 to [*694.170*] **694.185**.
- (i) In no smaller type than the largest used in the body copy portion, the following bordered statement:

It is desirable that a person seeking help with a hearing problem (especially for the first time) consult an ear doctor and obtain a clinical hearing evaluation. Although hearing aids are often recommended for hearing problems, another form of treatment may be necessary.

(j) The signature of the prospective purchaser indicating that the prospective purchaser has read and understands the information contained in the statement.

(2) A duplicate copy of the statement required under subsection (1) of this section shall be kept for one year by the person selling the hearing aid. The statement shall be made available to the [*Health Licensing Office*] **agency** upon request.

SECTION 91. ORS 694.042 is amended to read:

694.042. (1) In addition to any other rights and remedies the purchaser may have, including rights under ORS 646.482 to 646.498, the purchaser of a hearing aid shall have the right to rescind the transaction if:

- (a) The purchaser for whatever reason consults a licensed medical physician specializing in diseases of the ear, or an audiologist not licensed under this chapter and not affiliated with anyone licensed under this chapter and licensed medical physician, subsequent to purchasing the hearing aid, and the licensed physician advises such purchaser against purchasing or using a hearing aid and in writing specifies the medical reason for the advice;
- (b) The seller, in dealings with the purchaser, failed to adhere to the practice standards listed in ORS 694.142, or failed to provide the statement required by ORS 694.036;
- (c) The fitting of the hearing instrument failed to meet current industry standards; or
- (d) The licensee fails to meet any standard of conduct prescribed in the law or rules regulating fitting and dispensing of hearing aids and this failure affects in any way the transaction which the purchaser seeks to rescind.

(2) The purchaser of a hearing aid shall have the right to rescind the transaction, for other than the seller's breach, as provided in subsection (1)(a), (b), (c) or (d) of this section only if the purchaser

returns the product and it is in good condition less normal wear and tear and gives written notice of the intent to rescind the transaction by either:

(a) Returning the product with a written notice of the intent to rescind sent by certified mail, return receipt requested, to the licensee's regular place of business; or

(b) Returning the product with a written notice of the intent to rescind to an authorized representative of the company from which it was purchased.

(3) The notice described in subsection (2) of this section shall state that the transaction is canceled pursuant to this section. The notice of intent to rescind must be postmarked:

(a) Within 30 days from the date of the original delivery; or

(b) Within specified time periods if the 30-day period has been extended in writing by both parties. The consumer's rescission rights can only be extended through a written agreement by both parties.

(4) If the conditions of subsection (1)(a), (b), (c) or (d) of this section and subsection (2)(a) or (b) of this section have been met, the seller, without further request and within 10 days after the cancellation, shall issue a refund to the purchaser. However, the hearing aid specialist may retain a portion of the purchase price as specified by rule by the *[Health Licensing Office]* **Oregon Health Licensing Agency** when the purchaser rescinds the sale during the 30-day rescission period. At the same time, the seller shall return all goods traded in to the seller on account of or in contemplation of the sale. The purchaser shall incur no additional liability for the cancellation.

SECTION 92. ORS 694.055 is amended to read:

694.055. An applicant for licensure under this chapter shall pay a fee established by the *[Health Licensing Office]* **Oregon Health Licensing Agency** under ORS 694.185 and shall show to the satisfaction of the agency that the applicant:

(1) Is a person 18 years of age or older.

(2) Has graduated from high school or has been awarded a General Educational Development (GED) certificate.

(3) Has completed the training and has the experience required under ORS 694.065.

SECTION 93. ORS 694.065 is amended to read:

694.065. (1) Before an applicant may take the qualifying examination for licensure under *[this chapter]* **ORS 694.015 to 694.185**, the applicant must:

(a) Meet the training and experience requirements established by the *[Health Licensing Office]* **Oregon Health Licensing Agency** by rule;

(b) Meet the training requirements for licensure as an audiologist or for certification of a licensed physician by the American Board of Otolaryngology; or

(c) Meet the requirements for certification by the National Board for Certification in Hearing Instrument Sciences.

(2) An individual seeking to obtain the experience and training specified in subsection (1)(a) of this section necessary to take the examination shall obtain a trainee registration from the agency pursuant to rules adopted by the agency. A trainee registration issued pursuant to this subsection shall allow the holder of the registration to obtain training and experience only under the direct supervision of a hearing aid specialist licensed in the State of Oregon.

(3) Examination of applicants for licensure under ORS 694.015 to *[694.170]* **694.185** shall be held at least once each quarter at such times and places as the *[Health Licensing Office]* **agency** may determine.

(4) Timely and appropriate notice of the time and place of the examination shall be given to each applicant and to each licensed hearing aid specialist supervising a temporary hearing aid specialist pursuant to rules adopted by the agency.

(5) The agency, in consultation with the Advisory Council on Hearing Aids, shall adopt rules establishing standards for examination scope, format, minimum acceptable performance and reexamination qualifications. The examination shall be sufficiently thorough to determine the qualifications, fitness and ability of the applicant to practice as a hearing aid specialist. The examination

may be in the form of written, oral or practical demonstration of skills, or a combination of any such types. The examination shall cover at least the subjects listed in ORS 694.075.

SECTION 94. ORS 694.095 is amended to read:

694.095. (1) An applicant who fulfills the requirements of ORS 694.055 and 694.065 (1) and who has not previously applied to take the qualifying examination provided under ORS 694.065 (3) or previously been issued a temporary license may apply to the [*Health Licensing Office*] **Oregon Health Licensing Agency** for a temporary license.

(2) Upon receiving an application provided under subsection (1) of this section accompanied by a fee established by the agency under ORS 694.185, the agency shall issue a temporary license which shall be valid for one year following the date of issuance or until the date the temporary licensee obtains a permanent license pursuant to ORS 694.085, whichever date occurs first.

(3) A temporary license issued under this section shall allow the holder of the license to practice as a hearing aid specialist only under the supervision of a licensed hearing aid specialist, in accordance with rules adopted by the agency.

(4) If a person who holds a temporary license issued under this section is found by the agency to be dealing in hearing aids without the supervision required in subsection (3) of this section, the agency may revoke or suspend the temporary license.

SECTION 95. ORS 694.115 is amended to read:

694.115. (1) A person who holds a license shall notify the [*Health Licensing Office*] **Oregon Health Licensing Agency** in writing of the regular address of the place or places where the person deals or intends to deal in hearing aids.

(2) The agency shall keep a record of the places of business of persons who hold a license.

(3) Any notice required to be given by the agency to a person who holds a license may be given by mailing it to the address of the last place of business of which the person has notified the agency.

SECTION 96. ORS 694.125 is amended to read:

694.125. (1) All licenses issued under ORS 694.015 to [*694.170*] **694.185** expire one year following the date of issuance, unless renewed on or before the expiration date by payment of the required renewal fee and submission of satisfactory evidence of completion of continuing education courses as specified by rule.

(2) A license that has expired less than one year before the date of application for renewal may be renewed upon application therefor and payment of the required renewal fee and upon submission of satisfactory evidence of completion of continuing education as specified by rule, and payment of a delinquency fee.

(3) A license that has expired more than one year but less than three years before the date of application for renewal may be renewed upon application therefor and payment of the required renewal fee and delinquency fee and upon submission of satisfactory evidence of completion of continuing education as specified by rule.

(4) A license that has expired more than three years before the date of application for renewal may be reinstated upon application, payment of required fees and completion of other conditions for license issuance as determined by rule.

(5) A license shall be conspicuously posted in public view in the office or place of business of the hearing aid specialist at all times.

(6) The [*Health Licensing Office*] **Oregon Health Licensing Agency** shall require proof of completion of continuing education as a condition of license renewal as determined by rule.

SECTION 97. ORS 694.142 is amended to read:

694.142. The [*Health Licensing Office*] **Oregon Health Licensing Agency** shall adopt by rule standards of practice for hearing aid specialists in providing services to consumers. The standards must include, but are not limited to:

(1) Before fitting or dispensing a hearing aid, the hearing aid specialist shall determine through direct observation and a personal interview whether any of the following conditions exist:

(a) Visible congenital or traumatic deformity of the ear;

(b) Active drainage from the ear within the previous 90 days or a history of active drainage from the ear;

(c) Sudden or rapidly progressive hearing loss within the previous 90 days;

(d) Acute or chronic dizziness;

(e) Unilateral hearing loss of sudden or recent onset within 90 days;

(f) Significant air-bone gap of greater than or equal to 15 decibels, American National Standards Institute, 500, 1,000 and 2,000 Hz average; or

(g) Any other condition that the agency may establish by rule.

(2) If any of the conditions listed in subsection (1) of this section are found, the hearing aid specialist shall refer the person to a physician licensed under ORS chapter 677 who specializes in diseases of the ear or, if no such licensed physician is available in the community, to any physician licensed under ORS chapter 677.

(3) Within the 90 days prior to fitting or dispensing a hearing aid to a person under 18 years of age, the person receiving the hearing aid must be referred to one of the following licensed medical physicians:

(a) An otolaryngologist for examination and for a recommendation of corrective measures that may be required;

(b) A properly licensed medical physician for like examination and recommendation; or

(c) An audiologist licensed by the State of Oregon for an evaluation of the person's hearing and for a recommendation of corrective measures that may be required if the person is also examined by a properly licensed medical physician who gives approval for possible hearing aid use.

(4) Notwithstanding subsection (3) of this section, replacement of a hearing aid with an identical hearing aid within one year of the initial fitting or dispensing of the hearing aid does not require a referral to a physician.

(5)(a) Hearing aid specialists shall make clear their credentials, never representing that the services or advice of a person licensed to practice medicine and surgery, osteopathy and surgery, or a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true. Hearing aid specialists shall also refrain from using the word "doctor" or "clinic" or other words, abbreviations or symbols that tend to connote an audiologic, medical or osteopathic profession when that use is not accurate.

(b) A person issued a temporary license shall deal in hearing aids only under supervision of a person licensed under this chapter.

(c) A hearing aid specialist shall maintain a business address and telephone number at which the specialist may be reached during normal business hours.

(d) Sales of hearing aids shall be made by a licensed hearing aid specialist and not by direct mail. For purposes of this paragraph, delivery by mail of a replacement hearing aid or parts does not constitute sale by direct mail.

(6) If the person or the parent or guardian of the person refuses to seek a medical opinion from the physician to whom the person has been referred under subsection (2) or (3) of this section, the person dealing in hearing aids must obtain from the person or the parents or guardian of the person prior to fitting or dispensing a hearing aid a certificate to that effect in a form prescribed by the agency. Any person dealing in hearing aids or employees and putative agents thereof, upon making the required referral for medical opinion, may not in any manner whatsoever disparage or discourage a prospective hearing aid user from seeking a medical opinion prior to the fitting and dispensing of a hearing aid. Nothing required to be performed by a person dealing in hearing aids under this section means that the person is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of ORS 694.042 and 694.095 and this section.

SECTION 98. ORS 694.147 is amended to read:

694.147. (1) In the manner prescribed in ORS chapter 183 for contested cases, the [*Health Licensing Office*] **Oregon Health Licensing Agency** may impose a form of discipline listed in ORS 676.612 against any person dealing in hearing aids for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 694.015 to 694.185, or the rules adopted thereunder.

(2) The [*Health Licensing Office*] **agency** may also impose disciplinary sanctions against a person dealing in hearing aids for any of the following causes:

(a) Failing or refusing to honor or to perform as represented any promise, agreement, warranty or representation in connection with the promotion, dispensing or fitting of a hearing aid.

(b) Advertising a particular model, type or kind of hearing aid for sale that purchasers or prospective purchasers responding to the advertisement cannot purchase.

(c) Failing to adhere to practice standards established by ORS 694.142 or rules adopted by the agency.

SECTION 99. ORS 694.155 is amended to read:

694.155. The powers and duties of the [*Health Licensing Office*] **Oregon Health Licensing Agency with regard to dealing in hearing aids** are as follows:

(1) To authorize all disbursements necessary to carry out the provisions of ORS 694.015 to [694.170] **694.185**.

(2) To determine training and experience requirements prerequisite to taking the examination and to supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for licensure.

(3) To license persons who apply to the agency and who have qualified to deal in hearing aids.

(4) To purchase and maintain or rent audiometric equipment and facilities necessary to carry out the examination of applicants for licensure.

(5) To issue and renew licenses.

(6) To suspend or revoke licenses in the manner provided in ORS chapter 183.

(7) To appoint representatives to conduct or supervise the examination of applicants for licensure.

(8) To designate the time and place for examining applicants for licensure.

(9) To adopt rules not inconsistent with the laws of this state which are necessary to carry out the provisions of ORS 694.015 to [694.170] **694.185**.

(10) With the advice of the Advisory Council on Hearing Aids, to prescribe safety and sanitation requirements, to require the periodic inspection of the audiometric testing equipment and to carry out the periodic inspection of facilities of persons who deal in hearing aids.

(11) To appoint or employ subordinate employees.

(12) To adopt rules specifying exemptions relating to assistive listening devices.

SECTION 100. ORS 694.165 is amended to read:

694.165. (1) There is created within the [*Health Licensing Office*] **Oregon Health Licensing Agency** the Advisory Council on Hearing Aids. The council shall consist of seven members to be appointed by the Governor.

(2) Members of the council shall be residents of this state. No member of the council shall be a member or employee of the agency.

(3) Membership on the council shall consist of:

(a) One member who is licensed to practice medicine in this state and holds a certificate of qualification from the American Board of Otolaryngology;

(b) One member who holds a clinical certification in audiology with the American Speech-Language-Hearing Association and is a member in good standing with that association;

(c) Four members who are experienced in the fitting of hearing aids and possess the qualifications provided in ORS 694.055; and

(d) One member who is a consumer of hearing aids and does not possess the professional qualifications of the other members.

(4) The term of office of a member is three years beginning on July 1 of the year of appointment. A member shall continue to serve until a successor has been appointed and qualifies. Before a member's term expires, the Governor shall appoint a successor to assume the duties of office on July 1 at the expiration of the predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(5) Members of the council are entitled to compensation and expenses as provided in ORS 292.495.

SECTION 101. ORS 694.170 is amended to read:

694.170. (1) The Advisory Council on Hearing Aids shall have the responsibility and duty of advising the [Health Licensing Office] **Oregon Health Licensing Agency** in all matters relating to ORS 694.015 to [694.170] **694.185** including standards of practice and professional conduct, shall prepare the examinations required by ORS 694.015 to [694.170] **694.185** subject to the approval of the agency and shall assist the agency in carrying out the provisions of ORS 694.015 to [694.170] **694.185**.

(2) The agency shall consider and be guided by the recommendations of the council in all matters relating to ORS 694.015 to [694.170] **694.185**.

SECTION 102. ORS 694.185 is amended to read:

694.185. (1) The [Health Licensing Office] **Oregon Health Licensing Agency**, by rule, shall establish and collect fees **related to dealing in hearing aids** for:

- (a) Application;
- (b) Examinations;
- (c) License;
- (d) License renewal;
- (e) License restoration;
- (f) Replacement or duplicate license;
- (g) Delinquency; and

(h) Providing copies of official documents or records [*in specific formats*] and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the [Health Licensing Office] **agency** under ORS 694.015 to [694.170] **694.185** shall be paid into the General Fund in the State Treasury and credited to the [Health Licensing Office Account] **Oregon Health Licensing Agency Account**, and are appropriated continuously **to** and shall be used by the [Health Licensing Office] **agency** only for the administration and enforcement of ORS 694.015 to [694.170] **694.185**.

(3) The fees established by the [Health Licensing Office] **agency** under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 694.015 to 694.185 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the [Health Licensing Office's] budget **of the agency**, as that budget may be modified by the Emergency Board.

SECTION 103. ORS 694.991 is amended to read:

694.991. (1) Violation of any provision of ORS 694.025, 694.028, 694.032 and 694.145 is a Class B misdemeanor.

(2) Justice courts have concurrent jurisdiction with the circuit courts of [*violation under ORS 694.015 to 694.170*] **violations listed in subsection (1) of this section**.

SECTION 104. ORS 700.010 is amended to read:

700.010. As used in this chapter, unless the context requires otherwise:

[(1) "Agency" means the Health Licensing Office.]

[(2)] (1) "Board" means the Environmental Health Registration Board, **established within the Oregon Health Licensing Agency**.

[(3)] (2) "Certified professional soil scientist" means a person registered in good standing with the American Registry of Certified Professionals in Agronomy, Crops and Soils.

[(4)] (3) "Environmental health specialist" means a person who by education, training and experience in the sanitary, biological and physical sciences is qualified to perform duties in environmental sanitation, including but not limited to scientific investigation and education and counseling in environmental sanitation.

[(5)] (4) "Environmental health specialist trainee" means a person who lacks the combination of training, education and experience required for a registered environmental health specialist, but who is engaged in meeting the requirements.

[(6)] (5) “Environmental sanitation” means the art and science of applying sanitary, biological and physical science principles and knowledge to improve and control the environment and factors therein for the protection of the health and welfare of the public.

[(7)] (6) “Registrant” means any person registered with the agency under this chapter.

[(8)] (7) “Registration” means written authorization issued under ORS 700.030 or 700.053 for the holder to perform duties in the fields of environmental sanitation or waste water sanitation.

[(9)] (8) “Science courses relating to environmental sanitation” include courses in public or community health or in sanitary, biological or physical sciences.

[(10)] (9) “Trainee registration” means written authorization issued under ORS 700.035 or 700.062 for the holder to perform duties as an environmental health specialist trainee or as a waste water specialist trainee.

[(11)] (10) “Waste water specialist” means a person who by education, training and experience in the sanitary, biological and physical sciences is qualified to perform duties in the field of waste water treatment, disposal and reuse where soil is used in the final stage of the treatment process.

[(12)] (11) “Waste water specialist trainee” means a person who lacks the combination of training, education and experience required for a registered waste water specialist, but who is engaged in the process of meeting the requirements.

SECTION 105. ORS 700.030 is amended to read:

700.030. (1) Subject to ORS 676.612, upon application accompanied by payment of required fees, the [*Health Licensing Office*] **Oregon Health Licensing Agency** shall issue a registration to any applicant who performs to the satisfaction of the Environmental Health Registration Board on an examination approved by the board and furnishes evidence satisfactory to the agency that the applicant:

(a) Has a bachelor’s degree from an accredited college or university with at least 45 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation and two years of experience in environmental sanitation under the supervision of a registered environmental health specialist or a person possessing equal qualifications, as determined by the board. Accumulated schooling relevant to environmental sanitation gained while serving in the United States Public Health Service or a branch of the Armed Forces of the United States may be credited toward the educational requirement as evaluated by the current edition of the “Guide to Evaluation of Educational Experience in the Armed Services,” by the American Council on Education; or

(b) Has a graduate degree in public or community health from an accredited college or university and one year of experience in environmental sanitation under the supervision of a registered environmental health specialist or a person possessing equal qualifications, as determined by the board.

(2) The agency, in consultation with the board, shall establish by rule requirements for registration as an environmental health specialist when an individual’s date of employment precedes attainment of registration.

SECTION 106. ORS 700.035 is amended to read:

700.035. (1) **Subject to ORS 676.612**, upon application and payment of required fees, the [*Health Licensing Office*] **Oregon Health Licensing Agency** shall issue an environmental health specialist trainee registration to any applicant who performs to the satisfaction of the Environmental Health Registration Board on an examination approved by the board and furnishes evidence satisfactory to the agency that the applicant:

(a) Has a bachelor’s degree with 45 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation from an accredited college or university; or

(b) Has at least 15 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation from an accredited college or university and has at least five years of experience in environmental sanitation or related activities, as determined by the board, under the supervision of a registered environmental health specialist or a person possessing equal qualifications, as determined by the board.

(2) A person may not be registered as an environmental health specialist trainee for more than two years' full-time employment in the environmental sanitation profession, or the equivalent hours if employment in environmental sanitation is less than full-time or 40 hours per week.

(3) The agency, in consultation with the board, shall establish by rule requirements for registration as an environmental health specialist trainee when an individual's date of employment precedes attainment of registration.

(4) An environmental health specialist trainee shall be supervised by a registered environmental health specialist or a person possessing equal qualifications as determined by the board.

SECTION 107. ORS 700.050 is amended to read:

700.050. (1) Examinations for registration as an environmental health specialist shall be held at least once every year at such time and place as the [*Health Licensing Office*] **Oregon Health Licensing Agency** may determine. The examination shall be sufficiently thorough to determine the qualifications, fitness and ability of the applicant to practice as an environmental health specialist and may be in the form of written, oral or practical demonstrations of skill. The examination shall cover subject areas determined by the Environmental Health Registration Board by rule.

(2) [*Within 30 days after the examination,*] The agency shall notify each applicant whether the applicant passed or failed the examination.

(3) Upon written request to the agency, any applicant may discuss performance on the examination.

(4) Any applicant who fails to make a passing grade on the examination may be allowed to take the examination a second time upon payment of the required fee. The agency, in consultation with the board, may require the applicant to undergo additional training as determined by the board before taking the examination a third or subsequent time.

(5) The agency shall give reasonable notice by mail of the time and place of examination to each applicant accepted for examination.

SECTION 108. ORS 700.052 is amended to read:

700.052. The [*Health Licensing Office*] **Oregon Health Licensing Agency** shall issue a registration without written examination to an applicant who pays the required fees and furnishes documentation, as determined by the agency by rule, showing satisfactory evidence that the applicant meets the education requirements of this chapter, and at the time of application is registered as an environmental health specialist or waste water specialist by a national association that is recognized by the Environmental Health Registration Board or is registered by the regulatory body of another state. The registration requirements of the other state or the national association, including the written examination, must be substantially equivalent to registration requirements in this state.

SECTION 109. ORS 700.053 is amended to read:

700.053. (1) An applicant for registration as a waste water specialist shall submit an application to the [*Health Licensing Office*] **Oregon Health Licensing Agency** in the manner required by the Environmental Health Registration Board. The application shall be on a form approved by the agency, include proof satisfactory to the board that the applicant meets the education and experience requirements under subsection (3) of this section and include payment of required fees.

(2) Upon receipt of an application for registration complying with subsection (1) of this section, successfully completing the examination required under subsection (5) of this section and passing the examination required under subsection (6) of this section, the agency shall issue the applicant registration as a waste water specialist.

(3) An applicant for registration as a waste water specialist is required to have:

(a) A bachelor's degree from an accredited college or university, including at least 45 quarter hours or the equivalent in soil science courses and two years of experience in waste water treatment, disposal and reuse within this state supervised by a registered waste water specialist or by an equally qualified person as determined by the board;

(b) A graduate degree in soil science from an accredited college or university and one year of experience in waste water treatment, disposal and reuse within this state supervised by a registered waste water specialist or by an equally qualified person as determined by the board; or

(c) A graduate degree in soil science from an accredited college or university and currently certified as a professional soil scientist.

(4) Soil science schooling obtained while serving in the United States Public Health Service or a branch of the Armed *[Forces]* **Services** of the United States may be credited toward the soil science course requirement under subsection (3)(a) of this section. The board may use any system it considers reliable in assigning credit for relevant schooling under this subsection, including but not limited to assigning credit in conformance with the "Guide to Evaluation of Educational Experience in the Armed Services" published by the American Council on Education.

(5) The board may, at its discretion, conduct an examination of candidates for registration as waste water specialists. The examination may be on any matter pertaining to the fitness of the applicant to be registered as a waste water specialist, but shall not duplicate matters covered on the examination required under subsection (6) of this section.

(6) Every applicant for registration as a waste water specialist[,] shall be given a written or practical examination prepared by the board and designed to test the technical competence of the applicant in all major areas of waste water sanitation.

SECTION 110. ORS 700.059 is amended to read:

700.059. (1) Examinations for registration as a waste water specialist shall be held at least once every year at such time and place as the *[Environmental Health Registration Board]* **Oregon Health Licensing Agency** may determine. The **Environmental Health Registration Board** shall determine the content of the examination, utilizing such advisory committees as the board deems necessary.

(2) *[Within 30 days after the examination, the board]* **The agency** shall notify each applicant whether the applicant passed or failed the examination.

(3) Upon written request to the board, any applicant may discuss performance on the examination.

(4) Any applicant who fails to make a passing grade on the examination may be allowed to take the examination a second time upon payment of required fees. However, any applicant who fails the examination a second time must obtain special permission from the board to take the examination a third or subsequent time.

(5) The *[Health Licensing Office]* **agency** shall give reasonable notice by mail of the time and place of examination to each applicant accepted for examination.

SECTION 111. ORS 700.062 is amended to read:

700.062. (1) Subject to ORS 676.612, upon application and payment of required fees established by the *[Health Licensing Office]* **Oregon Health Licensing Agency**, the agency shall issue registration as a waste water specialist trainee to any applicant who furnishes evidence satisfactory to the agency that the applicant:

(a) Has a bachelor's degree from an accredited college or university, including at least 45 quarter hours or the equivalent in soil science courses; or

(b) Has a graduate degree in soil science from an accredited college or university.

(2) Soil science schooling obtained while serving in the United States Public Health Service or a branch of the Armed Services of the United States may be credited toward the soil science course requirement under this section. The Environmental Health Registration Board may use any system it considers reliable in assigning credit for relevant schooling under this subsection, including but not limited to assigning credit in conformance with the "Guide to Evaluation of Educational Experience in the Armed Services" published by the American Council on Education.

SECTION 112. ORS 700.080 is amended to read:

700.080. (1) The *[Health Licensing Office]* **Oregon Health Licensing Agency** shall establish by rule and collect fees **related to environmental and waste water specialists** for:

(a) Application.

(b) Examination of an applicant.

(c) Trainee registration.

(d) Original registration issuance.

(e) Registration renewal.

- (f) Reciprocity.
 - (g) Delinquency payment.
 - (h) Duplicate or replacement certificate of registration.
 - (i) Restoration of an expired registration.
 - (j) Providing copies of official documents or records [*in specific formats*] and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.
- (2) All moneys received by the [*Health Licensing Office*] **agency** under subsection (1) of this section shall be paid into the General Fund in the State Treasury and credited to the [*Health Licensing Office Account*] **Oregon Health Licensing Agency Account**, and are appropriated continuously **to** and shall be used by the [*Health Licensing Office*] **agency** only for the administration and enforcement of this chapter.
- (3) The fees established by the [*Health Licensing Office*] **agency** under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering this chapter pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the [*Health Licensing Office's*] budget **of the agency**, as that budget may be modified by the Emergency Board.

SECTION 113. ORS 700.100 is amended to read:

700.100. (1)(a) Registrations issued under this chapter shall expire one year from the date of issuance, unless renewed on or before the expiration date by payment of the required renewal fee and submission of satisfactory evidence of completion of continuing education courses as specified by the [*Environmental Health Registration Board*] **Oregon Health Licensing Agency** by rule and compliance with all other requirements for renewal.

(b) Notwithstanding paragraph (a) of this subsection, the [*Health Licensing Office*] **agency** may vary the renewal date of a registration by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(2) A registration that has not been renewed before the expiration date may be renewed within one year of the expiration date if the holder of a registration submits an application for renewal and pays the renewal fee and a delinquency fee for each calendar month following expiration, provides satisfactory evidence in the application of completion of continuing education requirements and complies with all other requirements for renewal.

(3) A registration that has not been renewed for more than one year and less than three years after the expiration date may be renewed if the holder of a registration submits an application for renewal, pays the renewal fee and a one-time restoration fee, submits satisfactory evidence in the application of completion of continuing education requirements and complies with all other requirements for renewal.

(4) The [*Health Licensing Office*] **agency** shall not renew the registration of any person who fails to renew a registration for three successive years, but shall issue a registration to such a person upon compliance with all of the requirements of ORS 700.030, 700.035, 700.053 or 700.062.

SECTION 114. ORS 700.105 is amended to read:

700.105. The [*Health Licensing Office*] **Oregon Health Licensing Agency**, in consultation with the Environmental Health Registration Board, may adopt rules establishing continuing education requirements that an applicant must meet to obtain renewal of a registration.

SECTION 115. ORS 700.111 is amended to read:

700.111. In the manner prescribed in ORS chapter 183 for contested cases, the [*Health Licensing Office*] **Oregon Health Licensing Agency** may impose a form of discipline listed in ORS 676.612 against any person practicing as an environmental health specialist, an environmental health specialist trainee, a waste water specialist or a waste water specialist trainee for any of the grounds listed in ORS 676.612, and for any violation of the provisions of this chapter or the rules adopted thereunder.

SECTION 116. ORS 700.210 is amended to read:

700.210. There is established [a board to be known as] **within the Oregon Health Licensing Agency** the Environmental Health Registration Board to consist of seven members to be appointed by the Governor.

SECTION 117. ORS 700.220 is amended to read:

700.220. (1) The members of the Environmental Health Registration Board appointed by the Governor shall be appointed from among the residents of this state and shall have the following qualifications and terms of office:

(a) One shall be a physician licensed to practice medicine or surgery by the Board of Medical Examiners for the State of Oregon [and certified by the American Board of Preventive Medicine and] **who has an emphasis in** public health.

(b) Four shall be persons registered under this chapter who have at least four years of experience in environmental sanitation.

(c) One shall be a representative of the food or food and alcoholic beverage retail industry.

(d) One shall be a public member.

(2) Each successor to the members first appointed by the Governor and each successor to the members first appointed by the Governor under subsection (1)(c) and (d) of this section shall hold office for a term of three years to commence on July 1 following the expiration of the term of a predecessor.

(3) Any vacancy among the seven members appointed by the Governor shall be filled for the unexpired term by appointment by the Governor.

(4) Any member of the Environmental Health Registration Board may be removed by the Governor for misconduct, incapacity or neglect of duty or inability to serve.

(5) The members of the board are entitled to compensation and expenses as provided in ORS 292.495, to be paid from the Environmental Health Registration Account.

SECTION 118. ORS 700.240 is amended to read:

700.240. (1) The [Health Licensing Office] **Oregon Health Licensing Agency**, in consultation with the Environmental Health Registration Board, has such authority as is reasonably necessary to administer this chapter, including the authority to adopt rules pursuant to ORS chapter 183.

(2) The agency has authority to administer oaths and subpoena witnesses.

(3) The agency shall keep a record of all proceedings of the agency, including a register of all registrants. These records shall at reasonable times be open to the public.

(4) When the agency is satisfied that an applicant for registration under this chapter has complied with all of the requirements thereof, it shall have issued to such applicant an appropriate certificate evidencing registration.

SECTION 119. ORS 345.440 is amended to read:

345.440. Safety and sanitation inspections performed in schools licensed under ORS 345.010 to 345.450 to teach hair design, barbering, facial technology or nail technology shall be conducted by the [Health Licensing Office] **Oregon Health Licensing Agency**.

SECTION 120. ORS 345.450 is amended to read:

345.450. (1) In addition to the fees required by ORS 345.080, before issuing any license under ORS 345.010 to 345.450 to a school teaching hair design, barbering, facial technology or nail technology, and annually thereafter, the Department of Education shall collect a nonrefundable annual inspection fee of \$100.

(2) The inspection fee collected under subsection (1) of this section shall be transferred to the [Health Licensing Office] **Oregon Health Licensing Agency** for inspections performed under ORS 345.440.

SECTION 121. ORS 676.600, 687.440, 687.455, 690.075 and 700.992 and section 11, chapter 736, Oregon Laws 1999, are repealed.

SECTION 121a. Notwithstanding section 5, chapter 117, Oregon Laws 2005 (Enrolled House Bill 2105) (amending ORS 690.075), if House Bill 2105 becomes law, ORS 690.075 is repealed.

Passed by House June 29, 2005

Repassed by House July 15, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate July 12, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State