



Oregon

John A. Kitzhaber, MD, Governor

Health Licensing Agency

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Website: www.Oregon.gov/OHLA

WHO: Oregon Health Licensing Agency
Board of Denture Technology

WHEN: Monday, June 6, 2011 – 11 am

WHERE: Oregon Health Licensing Agency
Rhoades Conference Room
700 Summer St NE, Suite 320
Salem, Oregon

What is the purpose of the meeting?

The purpose of the meeting is to conduct regular board business. Please use appropriate language, manners and protocols when conducting board business. A working lunch may be served for board members and designated staff in attendance. A copy of the agenda is printed with this notice. Please visit <http://egov.oregon.gov/OHLA/DT/meetings.shtml> for current meeting information.

Is the public or licensees allowed to attend the meeting?

Yes. Members of the public are invited and encouraged to be in attendance at all board/council meetings. All public audience members are asked to sign-in on the attendance roster prior to the meeting. Comments may be heard under public comment at the end of the meeting. Please wait to be recognized by the Chairperson prior to commenting.

Is it possible to watch the meeting live on the internet?

Yes. You may access the meeting at <https://oregon.ilinc.com/join/mytrvcf> (Link provided is specific to this meeting date) If you need assistance accessing the meeting contact the iLinc Join Help Desk at 1-800-799-4510, and select option "1."

What if the board/council enters into executive session?

Prior to entering into executive session the board/council chairperson will announce the nature of and the authority for holding executive session, at which time all audience members are asked to leave the room with the exception of news media and designated staff. Executive session would be held according to ORS 192.660.

No final actions or final decisions will be made in executive session. The board/council will return to open session before taking any final action or making any final decisions.

Who do I contact if I have questions or need special accommodations?

The meeting location is accessible to persons with disabilities. A request for accommodations for persons with disabilities should be made at least 48 hours before the meeting. For questions or requests contact a board specialist at (503) 373-2049.

All members are asked to please give at least 24-hour notice if they are unable to attend the meeting so arrangements may be made.



Oregon Health Licensing Agency
Board of Denture Technology



11 am, Monday, June 6, 2011
700 Summer Street N.E., Suite 320
Salem, Oregon

REVISED 5/31/2011

Call to Order

1. **Approval of Agenda**
2. **Approval of Minutes**
 - ◆ February 14, 2011
3. **Reports**
 - ◆ Director's Report
 - ◆ Outreach and Communication
 - ◆ Statistical Report
 - Licensing, Active License Trends & Web Site Traffic
 - ◆ 2009-2011 Budget
 - Revenues & Expenditures
 - ◆ Regulatory Division Report
 - ◆ Policy, Legislation & Administrative Rules

Working Lunch

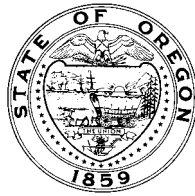
4. **Items for Board Action**
 - ◆ Approve Practical Examination
 - ◆ Approve Administrative Rulemaking Schedule
5. **Public Comment**
6. **Other Board Business**
 - ◆ Board Interest File
7. **Executive Session (if applicable)**

Agenda is subject to change.
For the most up to date information visit www.oregon.gov/OHLA

Approval of Minutes



February 14, 2011



Oregon Health Licensing Agency
Board of Denture Technology

◆ ◆ ◆
11 am, February 14, 2011
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Shawn Murray, Chair
Ivan Collver, Vice-Chair
David Dahl
Ken Holden
Cindy Cunningham
Geoffrey Berg
John Cooper

STAFF PRESENT

Randy Everitt, Director
Sylvie McMillan, Business Services Manager
David Sparks, Regulatory Operations Manager
Samie Patnode, Policy Analyst
Nancy Sellers, Senior Policy Analyst
Cerynthia Murphy, Qualification Analyst
Sinnamon Harris, Board Specialist

MEMBERS ABSENT:

None

GUESTS PRESENT:

Ron Farris

*This meeting was live audio streamed within the Oregon Health Licensing Agency.

Call to Order

Shawn Murray, Chair, called the meeting of the Board of Denture Technology to order at 11:05 am, Monday, February 14, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. Roll was called for present board members and a quorum was established. Dr. Geoffrey Berg and Ken Holden arrived after the approval of the agenda.

1. Approval of Agenda

MOTION:

Ivan Collver made a motion with a second by David Dahl to approve the agenda as amended. Motion passed unanimously.

2. Approval of Minutes

MOTION:

Ivan Collver made a motion with a second by Geoffrey Berg to approve the minutes for September 27, 2010. Motion passed unanimously.

3. Reports

• Director's Report

Randy Everitt, Director, presented a letter from former Governor Kulongoski addressed to the board expressing the former Governor's sincere appreciation for the board's service and dedication during the his administration.

Everitt described the new audio/visual broadcast of today's full board meeting to the members and how stakeholders would be able to gain access via their own computers. Everitt pointed out the system is still in its testing phase and in the near future a link will be available on the OHLA website for interested parties to log in to listen and see the board meetings live.

• Education/Examination

Cerynthia Murphy, Qualification Analyst, presented the board with information regarding a request from the state of Montana. The Montana Board of Dentistry had requested that OHLA Board of Denture Technology provide their state with the completed examination item bank for the denture technology written examination and allow Montana qualified applicants to take the Oregon denture technology practical examination. Everitt stated the agency will not provide the Montana Board of Dentistry with the complete examination item bank for the Board of Denture Technology written examination. Everitt stated an agreement between Oregon and Montana would require an interstate trade agreement that only the United States Congress could approve. The agency will obtain Oregon Department of Justice advice regarding Oregon's authority to allow individuals applying for Montana licensure to take Oregon's practical or written examination, without meeting Oregon's application requirements. Murray offered the reason Montana was seeking another avenue for licensure was George Brown University had ceased offering distance learning. Murphy stated George Brown University's new program instructor will continue with denturist program, however, Montana would like to provide pathways to licensure without relying solely upon George Brown University. Murphy offered to contact George Brown University to verify which programs are still being offered.

Murphy referred a letter of suggestion dated January 28, 2011, provided by Ronald D. Farris L.D., to the board. Farris has served as a proctor for the Oregon denturists practical examination and as such has noted what he termed "a missing link" in the practical examination process. Farris wrote that candidates spend three-plus hours setting their case without an evaluation of the major criteria set for a successful examination. Farris believes the process of taking intra oral records and transferring them correctly to the fabrication articulator should be assessed by proctors prior to the candidate proceeding to Phase III (upper and lower denture try in evaluation). He promoted an insertion of a "Proctor Evaluation of Records" prior to Phase III of the practical examination. Murray called upon Farris at the board meeting for his input and Farris stated he would be glad to attend an Education and Examination Committee meeting to further discuss the issue.

MOTION:

David Dahl made a motion with a second by Ivan Collver to review Ronald Farris' proposal at the Education and Examination Committee level. The motion passed unanimously.

• Outreach and Communications

Sylvie McMillan, Business Services Manager, filled in for Kraig Bohot, Public Information Officer, and presented Bohot's *Central Issues* publication ideas. The issue highlights included a legislative update, curriculum review, duplicate licenses issue, insurance reimbursement, practice accountability, and

collaborating on complaints with the Board of Dentistry. McMillan stated Bohot would email the draft publication to board members for review and requested the board members respond with their feedback.

- **Statistical Report**

McMillan presented an overview of statistics related to the board. Statistics included were licensing, examination and regulatory statistics, active license trends, complaints, age diversity in practitioners, gender of licensees, and website traffic. McMillan noted 46 percent of denturists are age 58 or older.

- **2010-2011 Budget**

McMillan reviewed the statement of cash flow for the period 7/01/09 – 12/31/10. McMillan pointed out where the cost allocation changed for the small board assessment rate on October 1, 2010, because the Regulatory Operations Division was removed from the indirect rate to direct costs. McMillan presented the statement of cash flow projections for 7/01/09 – 6/30/2011. McMillan noted more expenditures are projected than revenues coming into the board and the cash balance is dwindling. McMillan stated unless the board has more new licensees the agency will have to work with the board to adjust fees.

Collver asked about legislative sweeps. Everitt explained if the Legislature finds a huge ending balance it may sweep the monies into the General Fund. OHLA is an “Other Funds” agency and the past 15 years the Legislature has not swept any of the agency’s funds. Everitt stated that each board should have at minimum three months operating costs at the end of a biennium and that none of the agency’s boards have large ending balances.

- **Regulatory Operations Division Report**

David Sparks, Regulatory Operations Manager, reported on enforcement activity. For the current biennium of July, 2009, through February, 2011, a total of 23 complaints had been filed with the agency. Of those 23 complaints five remain open. For the current reporting period dates of September 14, 2010 through February 7, 2011, the agency had received six complaints. Sparks presented a report with details of the open and closed complaints to the board.

- **Policy, Legislation and Administrative Rules**

Nancy Sellers, Senior Policy Analyst, presented a memorandum outlining an overview of the legislative process and the role of the board member in this process.

Hierarchy of Law Governing State Agencies

- US and Oregon Constitutions
- Oregon Revised Statutes
 - *Oregon Laws*
 - *Budget Notes*
- Governor’s Executive Orders/Agency Directives
- Oregon Administrative Rules
- Agency Policies
- Agency Practices

OHLA works closely with the Governor’s Office, Department of Administrative Services, partner agencies, stakeholder groups and the Legislature to ensure that all bills, potential amendments and budgets that may impact the agency and its stakeholders are fully vetted and understood.

Sellers made it clear to the board that as OHLA board members they can be a great asset in the legislative process. The board members often play a dual role: both as agents of the state in their official capacity with OHLA, and as private citizens working in their individual professions. If a legislator, staffer or other agent of the Legislature contacts a board member directly regarding policies and legislation of the agency, please clarify with him or her that you are speaking as an individual, and not as a representative of the regulatory/advisory board of which you are a member.

Persons acting as agents of the Executive Branch of government – including agency management, employees and appointed board and council members – are not allowed to advocate for or against legislation, budgets or other legislative initiatives without the express permission of the Governor's Office.

Sellers reminded board members that if legislators or staffers are looking for an *official response*, please direct them to her or Samie Patnode, Policy Analyst, and they will follow-up promptly, and keep the board informed.

House Bill 2145

Everitt informed the board that he would be testifying later this afternoon on behalf of the Board of Denture Technology for HB 2145. He invited the board to watch the proceedings online through a link on the www.leg.state.or.us website. HB 2145 permits denturists to provide removable nonorthodontic dental appliances to be worn in human mouth. The bill would also authorize the Oregon Health Licensing Agency to adopt rules waiving examination requirement for license to practice denture technology and providing for issuance of temporary license to practice denture technology. Everitt stated he had talked with the Board of Dentistry and they had no objections to HB 2145.

House Bill 2144

Patnode stated this is the OHLA "housekeeping" bill that she presented at the last board meeting that, for example, aligns the licensees across all boards to have the same "active, inactive and expired" statuses. The summary for the bill reads: "Modifies provisions relating to Oregon Health Licensing Agency and boards, councils and programs administered by agency."

Senate Bill 227

SB 227 "Directs Oregon Board of Dentistry to issue certificates to dental therapists to perform certain dental services. Declares emergency, effective on passage." Patnode explained the bill would allow a person who holds a dental therapist certificate a host of services under Section 3, but her concern was line 38, under Section 3, subsection 2(g) "Final impressions." Patnode has asked Murray to draft a letter regarding her concerns about health and safety in relation to SB 227 and send it to both Patnode and Sellers for review. Patnode stated she is tracking the bill and watching for any hearing dates. Murray remarked she would like the agency to confer with the Board of Dentistry to see what their stance is on the bill. Murray stated information from the National Denturist Association has found in unregulated states that this type of legislation has been an avenue to not allow denturists by having dental therapist perform this service. Murray also stated the state of Washington just defeated a similar bill because it would undermine denturists. Dahl pointed out line 26 (m) "Temporary soft relines of complete dentures for tissue conditioning," which is part of the denturists' scope of practice. Patnode assured the board that she would be carefully tracking the bill and would keep them informed and up-to-date. Everitt asked the origins of the bill. Dr. Berg stated there was a website for the Oregon Oral Health Coalition at www.OROHC.org

5. Public Comment

No public comment was provided at this time.

6. Other Board Business/Board Interest

The board was provided with a copy of an article from the *Register-Guard* by Matt Cooper, entitled: "Ruling sheds new light on public meetings, but questions remain" on their notebook computers to upload and take home for review.

7. Executive Session

No executive session was held.

The meeting adjourned at approximately 12:47 pm.

Prepared by: Sinnamon Harris, Board Specialist

Director's Report

Outreach and Communication



Overview of Public Information Activities at OHLA

Board members are probably aware of the flagship electronic publication focusing on key issues of OHLA-regulated professions, called *Central Issues*, but what are the other activities that constitute the public information program at OHLA?

Here's a quick snapshot:

Licensing Line – OHLA's electronic news digest highlights agency-wide issues and developments in OHLA-regulated professions.

Print Publications – Agency and profession-specific brochures, reports and fact sheets provide information dissemination beyond the online world.

OHLA Website – With unique sections for each board, council and profession OHLA oversees, the agency website features more than 50 global pages (agency-wide information) and more than 270 total pages, not counting external links, photos and PDF / Word files.

Media Relations – From responding to media inquiries to proactively issuing news releases to monitoring media coverage, OHLA informs and clarifies licensing and regulatory issues.

Presentations – Need a PowerPoint? Communications delivers.

Public Record Requests – OHLA responds to numerous public record requests for licensing and regulatory information on licensees and agency and board/council activities.

Application Forms – Communications develops and maintains application forms for all OHLA-regulated professions and agency-wide forms.

Kraig Bohot / OHLA Communications

503-373-1939 – *direct line*

kraig.bohot@state.or.us

www.oregon.gov/OHLA

Investigatory Improvements at OHLA

The Regulatory Operations Division staff of the Oregon Health Licensing Agency (OHLA) was recently put to the test, literally, in measuring its knowledge of the investigative process.

The goal? To ensure agency regulatory staff are consistently conducting inspections and investigations in a uniform, efficient and legally defensible manner that results in improved outcomes for consumers, licensees and the agency.

Beginning in late 2010, OHLA regulatory staff participated in a series of 10 weekly training sessions.

I based these training sessions, which I led, on the agency's Investigative Protocol, which is a regulatory roadmap that provides clear-cut steps to conduct investigations.

We weren't reinventing the wheel here, just making sure we have good tread and are aligned correctly. The investigative protocol and trainings are based on tried-and-true standards and my years of investigatory experience in state and federal government and law enforcement.

The investigative protocol, which can be found at www.oregon.gov/OHLA, was the main focus of the training sessions, which also focused on ethics, investigation report format, investigative skills, and testifying in court.

The agency's Assistant Attorney General (AAG) from the Department of Justice also provided training on agency Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR), practice standards versus unprofessional conduct, and criminal violations.

The training culminated in a test created by the AAG that spanned the full scope of investigatory scenarios related to the multiple health and related professions OHLA licenses and regulates.

I believe this training has provided OHLA staff with additional knowledge and skills to perform their jobs at a higher level, and I commend them for their commitment to our regulatory efforts.

Watch Board Meetings Online

OHLA now offers online live access to all regularly scheduled full board and council meetings. To view, just click on the link on a meeting notice posted at www.oregon.gov/OHLA/DT.

We hope this provides those of you who can't make the trip to Salem an opportunity to learn more about licensing and regulatory developments.

Statistical Report



**Licensing, Active License Trends &
Web Site Traffic**

Oregon Health Licensing Agency

Board of Denture Technology - (DT)

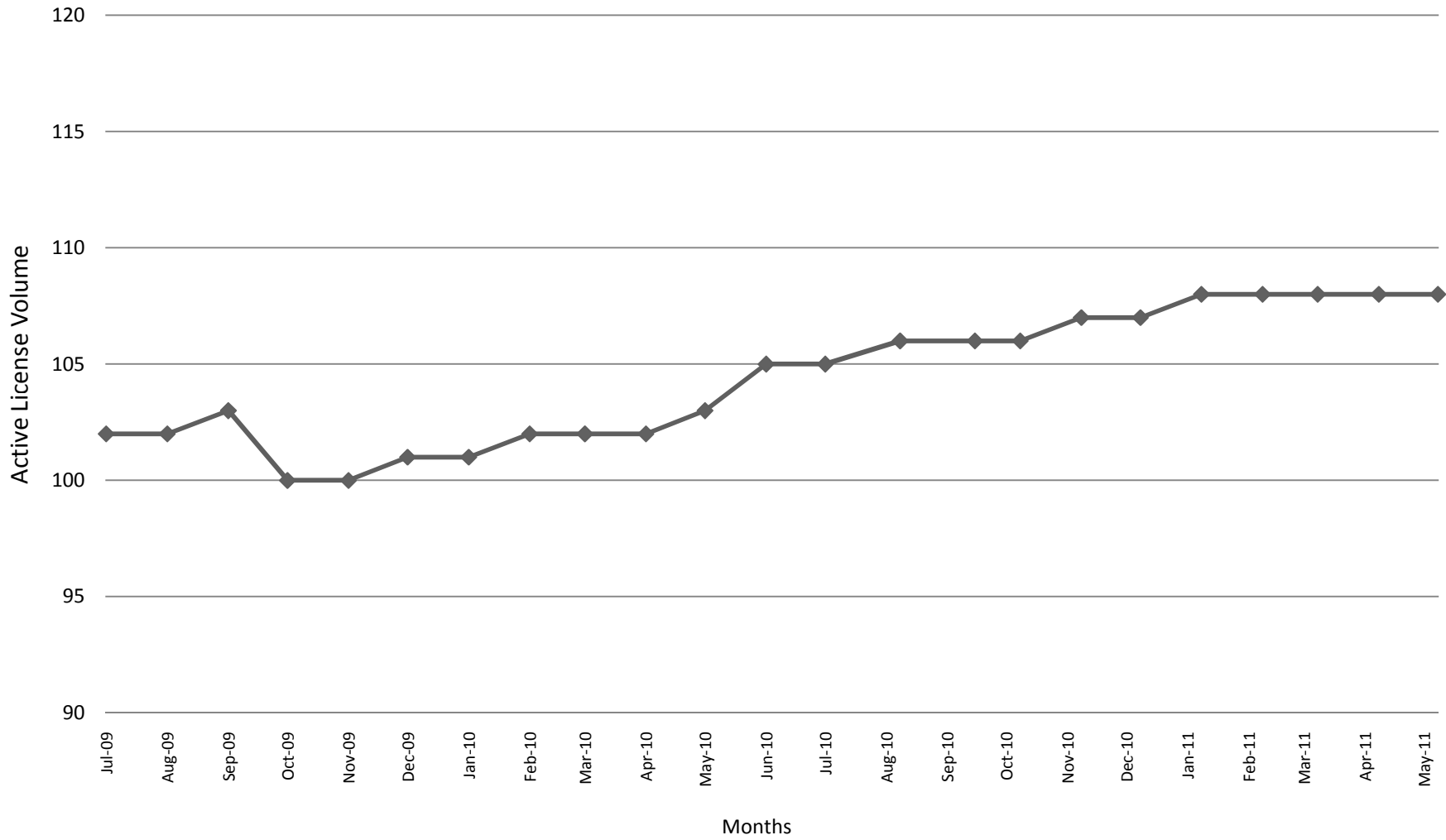
2009-11 Biennium

	Jul09-Sep09	Oct09-Dec09	Jan10-Mar10	Apr10-Jun10	Jul10-Sep10	Oct10-Dec10	Jan11-Mar11	Apr11-Jun11	
Licensing	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Totals
Licenses issued	0	0	0	1	2	3	0	2	8
Renewals processed over the counter (OTC) or by mail	25	3	1	1	0	19	15	2	66
Renewals processed online	3	0	0	1	0	3	12	0	19
% of licenses renewed OTC or by mail	89%	100%	100%	50%	0%	86%	56%	100%	78%
% of licenses renewed online	11%	0%	0%	50%	0%	14%	44%	0%	22%

Examinations	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Totals
Practical Examinations - passed	3	0	0	0	1	0	0	0	4
Practical Examinations - failed	7	0	0	0	3	0	0	0	10
% of Examinations passed	30%	0%	0%	0%	25%	0%	0%	0%	29%
Written Examinations - passed	3	0	0	0	0	1	0	0	4
Written Examinations - failed	1	1	1	0	1	0	0	2	6
% of Examinations passed	75%	0%	0%	0%	0%	100%	0%	0%	40%

Regulatory	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Totals
Critical Complaints regarding licensing	0	1	1	0	1	0	0	0	3
Critical Complaints regarding safety/sanitation	0	1	0	0	0	0	0	0	1
Compliants regarding licensing	2	0	0	0	0	0	1	0	3
Complaints regarding services provided	3	3	1	2	4	2	2	1	18
Complaints closed	1	9	0	3	2	2	2	5	24
Notice of Proposed Sanctions	1	0	1	1	0	0	0	0	3
Final Orders issued	0	2	1	0	1	0	0	0	4

Oregon Health Licensing Agency
Board of Denture Technology
Active license trend through May 2011
2009-11 Biennium

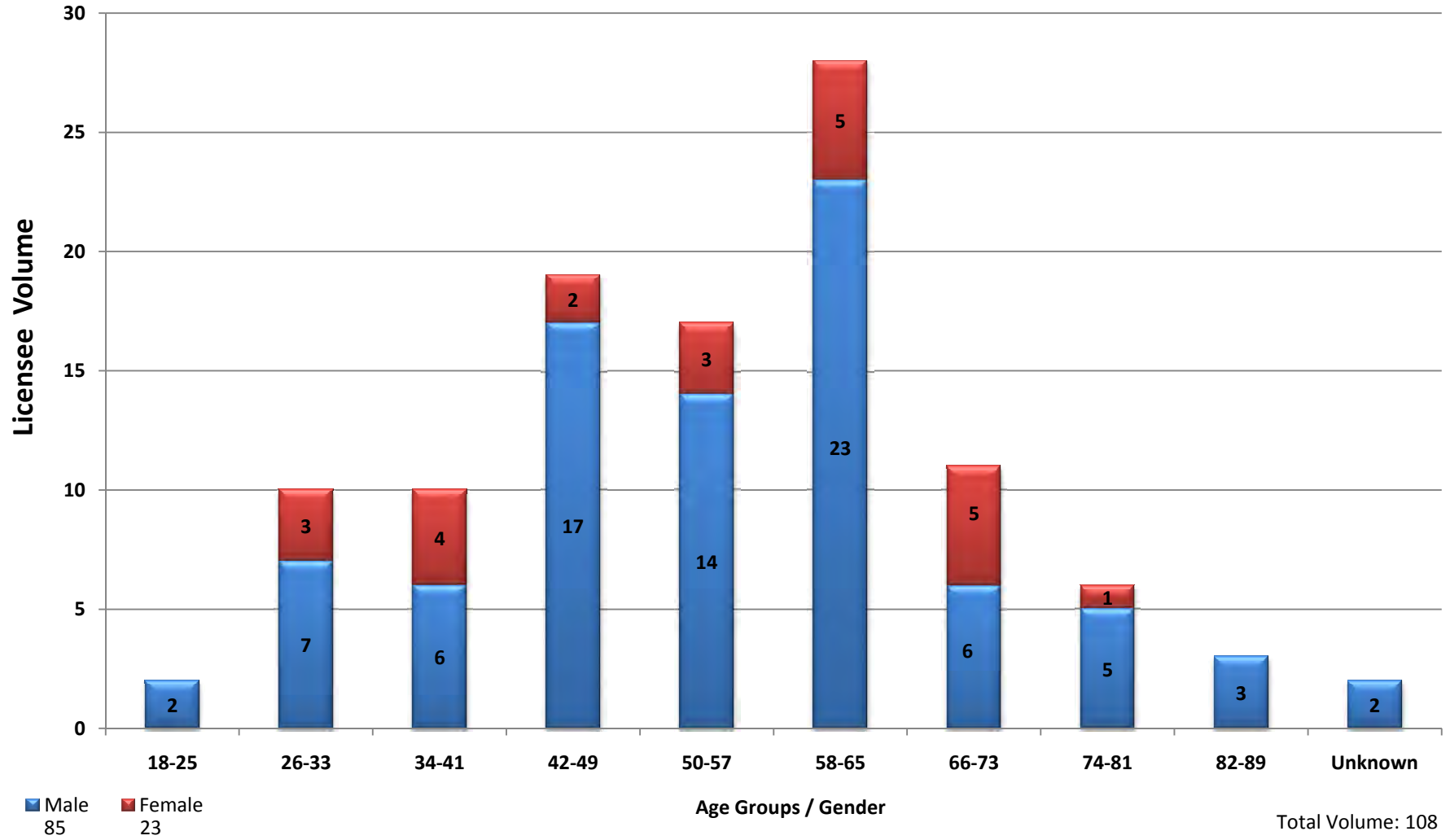


◆ Active LicenseTrend

Oregon Health Licensing Agency

Board of Denture Technology

Active licensee gender statistics quantified by age group as of May 2011
2009 - 2011 Biennium



**OREGON HEALTH LICENSING AGENCY
DENTURE TECHNOLOGY FUND 7530
STATEMENT OF CASH FLOW
FOR THE PERIOD 07/01/09 - 4/30/11**

09-'11 Beginning Cash Balance	\$	54,926
Revenues	\$	79,435
Expenditures	\$	106,896
Less: Accrued Expenditures	\$	(89)
Less: Total Expenditures	\$	(106,806)
Subtotal: Resources Available	\$	27,555
Change in (Current Assets)/Liabilities	\$	129
Ending Cash Balance (Actual)	\$	27,683.78

Cost Allocation 7/1/2009 - 1/31/2010

Small Board Assessment Rate	1.60%
License Volume / Workload Complexity Rate	0.31%
	1.91%

Cost Allocation 2/1/2010 - 9/30/2010

Small Board Assessment Rate	1.60%
License Volume / Workload Complexity Rate	0.42%
	2.02%

Cost Allocation_10/1/2010 - 6/30/2011

Small Board Assessment Rate	1.50%
License Volume Rate	0.15%
Indirect Rate for - DO / BSD / LICEN	1.65%

Regulatory Direct Cost

**OREGON HEALTH LICENSING AGENCY
DENTURE TECHNOLOGY FUND 7530
STATEMENT OF CASH FLOW - Projections
FOR THE PERIOD 07/01/09 - 6/30/11**

09-'11 Beginning Cash Balance	\$	54,926
Revenues	\$	95,733
Expenditures	\$	118,213
Less: Accrued Expenditures		
Less: Total Expenditures	\$	(118,213)
Subtotal: Resources Available	\$	32,446
Change in (Current Assets)/Liabilities		
Ending Cash Balance (Projection)	\$	32,446

Cost Allocation 7/1/2009 - 1/31/2010

Small Board Assessment Rate	1.60%
License Volume / Workload Complexity Rate	0.31%
	<u>1.91%</u>

Cost Allocation 2/1/2010 - 9/30/2010

Small Board Assessment Rate	1.60%
License Volume / Workload Complexity Rate	0.42%
	<u>2.02%</u>

Cost Allocation_10/1/2010 - 6/30/2011

Small Board Assessment Rate	1.50%
License Volume Rate	0.15%
Indirect Rate for - DO / BSD / LICEN	<u>1.65%</u>

Regulatory Direct Cost

**Regulatory
Operations Division
Report**



BOARD OF DENTURE TECHNOLOGY

Regulatory Operations Division Report

June 6, 2011

Between July 2009, and June 2011, 25 complaints have been filed with the agency. Of those 25 complaints, one remains open.

Case # 11-6290

Received: January 17, 2011

Alleges the respondent is performing and purporting Denture Technology without a Denture Technology License.

The investigation is complete was closed as unfounded.

Case # 11-6295

Opened: 2/9/2011

Alleges the respondent failed to deliver a set of dentures that fit properly.

The investigation is ongoing.

The current regulatory reporting period is February 8, 2011, through a May 31, 2011 (Case# 11-6295). The Agency received one complaint during this reporting period. That complaint remains open.

Policy, Legislation & Administrative Rules



Oregon Health Licensing Agency

MEMORANDUM

June 3, 2011

To: Board of Denture Technology

From: Samie Patnode, Policy Analyst

Subject: Temporary Administrative Rules

After a cursory review of the Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) by agency staff and legal counsel, it was determined that the agency has not been working within the statutory framework of the law.

Currently OAR 331-410-0000 regarding training does not align with the agency's statutory authority under ORS 680.515. It is necessary to adopt temporary administrative rules to streamline the training approval process for individuals coming through an associate degree program in denture technology as well as individuals who have attained education through multiple educational programs.

The temporary administrative rule will become effective on June 15, 2011 and will expire on November 9, 2011. The permanent rulemaking process will be done simultaneously to the temporary rulemaking process in order to make temporary administrative rules permanent.

Items for Board Action

Issue Statement

ISSUE:

The Board of Denture Technology's final practical examination.

DISCUSSION:

On June 6, 2010, the Board of Denture Technology voted to adopt the education and examination committee's recommended changes to the final practical examination which included integrating best examination practices by aligning Oregon standards with other states, and implementing consistent and standardized scoring criteria.

On February 14, 2011, the Board of Denture Technology reviewed a letter submitted by Ronald D. Farris regarding his observation of the new examination process. Mr. Farris stated there was a "missing link" in the examination process. Mr. Farris suggested that the process of taking intra oral records and transferring them correctly to the articulator should be assessed by proctors prior to the candidate proceeding to the "try in" phase of the examination. The Board voted to review Mr. Farris' proposal at the education and examination committee level.

On April 4, 2011, the education and examination committee met to review the practical examination and made changes to the practical examination which would fix the "missing link" in the examination process which was proposed by Mr. Farris.

Changes were made to the Phase 3.0; Trial Denture Section. The candidate will present the post-dam wax model on the articulator under section 3.1; the candidate will *now* be given three attempts to achieve centric relation and ridge crest relationship before moving to the vertical dimension section 3.2.

RECOMMENDATION:

- 1) Adopt the committee's changes to the Board of Denture Technology's final practical examination.

ISSUE:

Begin administrative rulemaking process for the Board of Denture Technology.

DISCUSSION:

Permanent Rulemaking

Oregon Health Licensing Agency (agency) has been engaging each program in administrative rulemaking. The Board of Denture Technology (board) has not had in-depth administrative rulemaking since 2004.

The board can expect to make significant changes in all areas of the rules to align with other agency programs as well as ensure that administrative rules fall within the statutory framework of the law. Revisions the board may consider are as follows:

- Training Requirements
- Temporary Licensure – HB2145
- Application Requirements
- Renewal Requirements
- Standards of Practice
 - Removable dental appliances
 - Informed consent

When beginning the rulemaking process it is important to consider, the time commitment required by the Legislation and Rules Committee members. The current Legislation and Rule Committee members are Cindy Cunningham, Ken Holder and Dave Dahl.

Please note that meetings related to ONLY administrative rules will begin at 9 am, due to the degree of detail required for rulemaking.

RECOMMENDATION:

Recommend approval of the administrative rulemaking schedule for denturists. (See schedule attached)



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Board of Denture Technology

Athletic Trainers

Barbers

Body Piercing
Technicians

Denturists

Direct Entry
Midwives

Electrologists

Environmental
Health Specialists

Estheticians

Hair Designers

Hearing Aid
Specialists

Nail Technicians

Nursing Home
Administrators

Permanent Color
Technicians

Respiratory
Therapists

Sex Offender
Therapists

Tattoo Artists

Waste Water
Specialists

Board of Athletic
Trainers

Board of
Cosmetology

Board of Direct Entry
Midwifery

Board of Denture
Technology

Environmental
Health Registration
Board

Nursing Home
Administrators Board

Respiratory
Therapist Licensing
Board

Sex Offender
Treatment Board

Advisory Council on
Hearing Aids

Advisory Council for
Electrologists,
Permanent Color
Technicians & Tattoo
Artists

Administrative Rulemaking Schedule

June 6, 2011

Board Meeting 11 am Approve
Rulemaking Schedule

June 15, 2011

Temporary Rule Effective

June 20, 2011

Legislation & Rules Committee 9 am
Rules and Fiscal Impact

July 20, 2011

Legislation & Rules Committee 9 am
Rules and Fiscal Impact

August 1, 2011

Board Meeting 9 am Approve Proposed
Rules and Fiscal Impact

September 1, 2011

Notice of Proposed Rulemaking in
Oregon Bulletin

September 28, 2011

Last Day for Public Comment

October 17, 2011

Board Meeting 11 am Adopt Permanent
Administrative Rules

November 1, 2011

Permanent Rules effective

November 9, 2011

Temporary Rule Expires

Visit us on the Web at www.oregon.gov/OHLA

Public Comment

Executive Session

2011 COMMITTEES	
Legislation/Rules	Cindy Cunningham, David Dahl, Ken Holden
Education/Examination	John Cooper, Shawn Murray, Dr. Berg
Enforcement	Ken Holden, David Dahl, Shawn Murray
Public Safety and Professional Relations	Cindy Cunningham, Ivan Collver, John Cooper
Practice & Procedures Standards	Ken Holden, David Dahl, Shawn Murray
Customer Connection	Ivan Collver, Alternate: John Cooper

2011 COMMITTEE NOMINEES	
Legislation/Rules	Ken Holden Shawn Murray Cindy Cunningham
Education/Examination	
Enforcement	
Public Safety and Professional Relations	
Practice & Procedures Standards	
Customer Connection	

OREGON HEALTH LICENSING AGENCY



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OHLA Proposed Rules

Athletic Trainers
 Barbers
 Body Piercing Technicians
 Denturists
 Direct Entry Midwives
 Electrologists
 Environmental Health Specialists
 Estheticians
 Hair Designers
 Hearing Aid Specialists
 Nail Technicians
 Nursing Home Administrators
 Permanent Color Technicians
 Respiratory Therapists
 Sex Offender Therapists
 Tattoo Artists
 Waste Water Specialists

Board of Athletic Trainers
 Board of Cosmetology
 Board of Direct Entry Midwifery
 Board of Denture Technology
 Environmental Health Registration Board
 Nursing Home Administrators Board
 Respiratory Therapist Licensing Board
 Sex Offender Treatment Board
 Advisory Council on Hearing Aids
 Advisory Council for Electrologists, Permanent Color Technicians & Tattoo Artists

Date: May 16, 2011
To: Stakeholders & Interested Parties
From: Samantha Patnode, Policy Analyst
Subject: Proposed Administrative Rules

The Oregon Health Licensing Agency (agency) filed proposed administrative rules with the Secretary of State Office, which will be published in the June Oregon Bulletin. Public comment is being accepted through June 28 at 5 pm for proposed rules. Proposed rules include protocols for authorization holders who are in active military status, definition of "appearance", incompetence and negligence as used in the law.

Proposed rule text can be located on the board Web site at http://www.oregon.gov/OHLA/Global/Laws_and_Rules.shtml. For alternative formats please contact (503)373-1917 or samie.patnode@state.or.us

Rulemaking Schedule

March 1, 2011	Temporary Administrative Rules effective
March 17, 2011	Re-file Temporary Administrative Rules
June 1, 2011	Notice of Proposed Rulemaking in Oregon Bulletin
June 28, 2011	Last day for public comment
August 15, 2011	Permanent Administrative rules effective
August 28, 2011	Temporary Rule Expires

Visit us on the Web at www.oregon.gov/OHLA

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Licensing Agency	OAR Chapter 331	
Agency and Division	Administrative Rules Chapter Number	
Samantha Patnode	700 Summer St NE, Suite 320, Salem, OR 97301-1287	(503)373-1917
Rules Coordinator	Address	Telephone

RULE CAPTION

Define terms used in ORS 676.612 and active military status protocols for authorization holders.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: 331-010-0050

AMEND: 331-020-0040, 331-020-0070

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 676.615

Other Auth.: ORS 408.450

Stats. Implemented: ORS 676.607, 676.608, 408.450

RULE SUMMARY

Proposed adoption of 331-010-0050 allows authorization holders in active military status waiver of renewal, fees and continuing education requirements, as well as protocols for restoration of former authorization status.

Proposed amendment clarifies what constitutes an appearance before the agency during investigations of alleged violations of statutes or rules under the authority of the agency, its boards or councils.

Proposed amendment defines the terms incompetence and negligence used in ORS 676.612 in relation to the boards or councils under the Oregon Health Licensing Agency.

June 28, 2011

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Signature	Printed name	Date
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*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Licensing Agency (OHLA)

OAR Chapter 331

Agency and Division

Administrative Rules Chapter Number

Define terms used in ORS 676.612 and active military status protocols for authorization holders.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of Adoption of: 331-010-0050

In the Matter of: Amendment to 331-020-0040, 331-020-0070

Statutory Authority: ORS 676.615

Other Authority: ORS 408.450

Stats. Implemented: ORS 676.607, 676.608, 408.450

Need for the Rule(s):

The proposed rule related to active military authorization holders is necessary to allow authorization holders in active military status waiver of renewal, fees and continuing education requirements, as well as protocols for restoration of former authorization status.

The proposed rule related to defining "appearance" is necessary to properly implement the agency's investigative protocols, used for regulatory investigations of matters related to all the professions under the authority of the agency.

A new investigative protocol was implemented on or about August 30, 2010, for all agency programs. All individuals who are subjects of a complaint made to the Oregon Health Licensing Agency, its boards, or its councils are subject to this protocol, which was designed to ensure efficiency, consistency and fairness in all agency investigations. However, to properly implement the steps of the investigatory protocol, the agency needs to clarify what constitutes an appearance before the agency. A rule clarifying what activity constitutes an "appearance" would provide staff clear guidelines regarding when to fulfill investigatory appearance requirements, and would inform the subjects of investigations when, within the protocol steps, their appearance rights are triggered.

The proposed rule related to defining "negligence" and "incompetence" used in ORS 676.612 is necessary to provide the agency with disciplinary guidance related to the professions under its jurisdiction.

Documents Relied Upon, and where they are available:

Oregon revised statutes.

All documents are available at the Oregon Health Licensing Agency 700 Summer Street NE, Suite 320, Salem, OR 97301-1287. To obtain information or copies of information please contact Samantha Patnode, Policy Analyst, at 503-373-1917, during normal business hours Monday Through Friday between 7:30am to 4:30pm. Email: samie.patnode@state.or.us

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The administrative rule change is a decrease for individuals who are in active military status. If an authorization holder who is in active military status is employed by a state agency or unit of local government and the cost of renewal may be a benefit of employment, if so the cost for state agencies, units of local government and the public would decrease.

The Oregon Health Licensing Agency (OHLA) may see a minimal impact to revenue since certain authorization holders will not be required to pay renewal while in active military status.

There may be a minimal increase cost to the Oregon Health Licensing Agency to review authorization holders who require continuing education, since it will be on a case by case basis.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Small businesses that may employ active military individuals that may see a cost decrease if the small business pays the renewal for the active military individual.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

It is estimated to be a minimal fiscal impact for reporting, recordkeeping and other administrative activities in order to comply with the changes to the administrative rule.

c. Equipment, supplies, labor and increased administration required for compliance:

It is estimated to be a minimal fiscal impact for equipment, supplies, labor and increased administration required for compliance for the rule change.

How were small businesses involved in the development of this rule?

Small businesses were not involved in the development of this rule. Temporary rules were posed to the agency Web site and sent correspondence to the agency mailing list.

Administrative Rule Advisory Committee consulted?: No

If not, why?: A Rules Advisory Committee Meeting was not warranted since the agency has rulemaking authority.

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

OREGON HEALTH LICENSING AGENCY
DIVISION 10
AGENCY GENERAL ADMINISTRATION RULES

331-010-0050

Authorization Holders; Military Leave

- (1) A practitioner authorized to practice under a program listed in ORS 676.606 is not required to renew the authorization or pay renewal fees while in active military service unless required by the authorization holders branch of the military.**
- (2) To be restored to former authorization status the authorization holder must notify the agency in writing within 60 days of being honorably discharged.**
- (3) No fees will be due until the following renewal period.**
- (4) Requirements for completing continuing education hours during an authorization holder's active duty period shall be evaluated on a case by case basis.**

DIVISION 20

AGENCY REGULATORY OPERATIONS RULES

331-020-0040

Complaint Processing and Investigation

Pursuant to ORS 676.608, complaints filed with the Oregon Health Licensing Agency will be handled as follows:

(1) The agency will determine if the complaint is related to a profession or occupation regulated and administered by the agency and the complaint falls within authority delegated to the agency by statute.

(2) The agency investigator(s):

(a) Will review the information and as applicable, interview parties and witnesses, and examine physical evidence relating to the complaint;

(b) Will advise on whether an authorization holder or other individual practiced within the acceptable standards of the particular program;

~~(c) May attempt to informally resolve the matter;~~

~~(d) (c) Will make recommendations for agency action.~~

(3) After receiving advice from the investigator(s), the agency will determine what action will be taken in accordance with ORS 676.608.

(4) As used in ORS 676.608(8), to "appear before the agency" includes: an investigative interview conducted under oath, under subpoena or otherwise compelled; an interview or hearing before a board, council, or subcommittee of a board or council; any depositions authorized by the agency; pre-hearing conferences; and contested case hearings. It does not include interrogatories, written admissions, other written communications, or voluntary communications.

Stat. Auth.: ORS 183, 676.605, 676.608, 676.615
Stats. Implemented: ORS 183, 676.605, 676.608, 676.615
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-020-0070

Discipline

(1) The Oregon Health Licensing Agency may discipline authorization holders for violations of laws and rules, in accordance with ORS 676.612 and 676.992.

(2) Failure to cooperate with the agency or its agent is unprofessional conduct and is subject to disciplinary sanctions, which may include suspension or revocation and refuse to issue or renew or place on probation and assessment of civil penalties. Failure to cooperate with the agency or its agent includes, but is not limited to, the following:

(a) Failing to provide information within the specified time allotted and as requested by the agency;

(b) Failing to temporarily surrender custody of original client records to the agency upon request, which includes treatment charts, models, health histories, billing documents, correspondence and memoranda;

(c) Interference, use of threats or harassment which delays or obstructs any person in providing evidence in any investigation, contested case, or other legal action instituted by the agency;

(d) Interference, use of threats or harassment which delays or obstructs the agency in carrying out its functions under individual programs administered and regulated by the agency as listed in ORS 676.606 and rules adopted thereunder;
or

(e) Deceiving or attempting to deceive the agency regarding any matter under investigation including altering or destroying any records.

(3) The agency, at its discretion, may require supplemental training in an appropriate area of study as determined by the agency, board or council, as a disciplinary sanction. Supplemental training may be in addition to assessment of a monetary penalty or the agency, board or council may waive or reduce a penalty, in cases requiring supplemental training.

(4) As used in ORS 676.612(2)(j) incompetence means engaging in conduct which evidences a lack of ability or fitness to perform the holder's professional functions.

(5) As used in ORS 676.612(2)(j) negligence means engaging in conduct detrimental to the client.

Stat. Auth.: ORS 676.607, 676.612, 676.992
Stats. Implemented: ORS 676.607, 676.612, 676.992
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

Enrolled
House Bill 2145

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon Health Licensing Agency)

CHAPTER

AN ACT

Relating to denture technology; amending ORS 680.500, 680.510 and 680.515.

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

SECTION 1. ORS 680.500 is amended to read:

680.500. As used in ORS 680.500 to 680.565, *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)] (1) "Denture" means any removable full *[and/or]* or partial upper or lower prosthetic dental appliance to be worn in the human mouth to replace any missing natural teeth.

[(3)] (2) "Denturist" means a person licensed under ORS 680.500 to 680.565 to engage in the practice of denture technology and who is authorized within *[their]* the person's scope of practice to provide to the public full or partial upper or lower dentures or other removable **nonorthodontic dental appliances intended to be worn in the human mouth.**

[(4)] (3) "Practice of denture technology" means:

(a) Constructing, repairing, relining, reproducing, duplicating, supplying, fitting or altering *[any]* a denture or other removable nonorthodontic dental appliance intended to be worn in the human mouth in respect of which a service is performed under paragraph (b) of this subsection; and

(b) **The following services when performed for a purpose listed in paragraph (a) of this subsection:**

[(b)] (A) The taking of impressions[.];

(B) **The taking of bite registrations[.];**

(C) Try-ins[.] of dentures or other removable nonorthodontic dental appliances intended to be worn in the human mouth; and

(D) Insertions of *[or in any part of the human oral cavity for any of the purposes listed in paragraph (a) of this subsection]* dentures or other removable nonorthodontic dental appliances intended to be worn in the human mouth.

SECTION 2. ORS 680.515 is amended to read:

680.515. (1) Subject to the provisions of ORS 676.612, upon application accompanied by payment of required fees, the Oregon Health Licensing Agency shall issue a license to practice denture technology to any applicant who submits proof satisfactory to the agency that the applicant has completed all requirements for licensure, which include, but are not limited to:

(a) Providing to the agency official transcripts verifying completion of an associate degree program in denture technology, or the equivalent in formal, post-secondary education, approved by the

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) Providing to the agency documentation of 1,000 hours of supervised clinical practice in denture technology, completed while enrolled in or after having completed a course of study offered in a post-secondary educational institution, or through equivalent supervised experience, as determined by the agency in consultation with the Oregon Student Assistance Commission and the Department of Education; and

(c) Passing a written and a practical examination prescribed, recognized or approved by the State Board of Denture Technology. An applicant who fails the practical examination must complete additional 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 agency determines that the educational program in the other state or country meets the educational standards prescribed under this section.

(3) Notwithstanding subsection (1)(c) of this section, the agency may adopt rules providing for waiver of the practical examination requirement.

(4) The agency may adopt rules allowing for issuance of a temporary license to practice denture technology.

SECTION 3. ORS 680.510 is amended to read:

680.510. The prohibitions of ORS 680.500 to 680.565 do not apply to:

(1) Any activity described in ORS 680.500 [(4)(a)] (3)(a) by a person acting under the supervision of a dentist.

(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 dentist or a licensed dentist in pursuit of practical clinical experience as required for licensure by ORS 680.515.

Passed by House March 10, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 5, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

.....
Kate Brown, Secretary of State

