

**Enrolled
Senate Bill 939**

Sponsored by Senator DEVLIN

CHAPTER

AN ACT

Relating to state financial administration; creating new provisions; amending ORS 171.305, 184.642, 284.126, 284.335, 377.838, 475.304, 676.150, 676.160, 676.410, 676.606, 676.610, 676.612, 676.613, 676.622, 676.625, 676.992, 691.405, 691.415, 691.435, 691.445, 691.465, 691.485, 701.005, 701.068, 701.088, 701.117, 701.133, 701.139, 701.140, 701.145, 701.146, 701.149, 701.150, 701.153, 701.180, 701.235, 835.020, 835.035, 835.100, 835.106 and 836.072 and sections 8b and 9e, chapter 877, Oregon Laws 2007, section 5, chapter 755, Oregon Laws 2009, sections 19 and 20, chapter 827, Oregon Laws 2009, and sections 9 and 10, chapter 93, Oregon Laws 2010; repealing ORS 87.058, 691.425, 691.455, 691.495, 691.505, 691.515, 691.535, 691.545, 691.555, 691.565, 691.575, 691.580, 691.585, 691.955 and 701.148 and section 5, chapter 93, Oregon Laws 2010, and section 6, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2049); and declaring an emergency.

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

SEMI-INDEPENDENT AGENCIES

SECTION 1. ORS 284.126 is amended to read:

284.126. (1) The Oregon Tourism Commission shall adopt budgets on a biennial basis using classifications of expenditures and revenue required by ORS 291.206 (1). That portion of the budget that is funded by appropriations from the General Fund or by allocations of lottery funds is subject to review and approval by the Legislative Assembly and to future modification by the Emergency Board or the Legislative Assembly. The remainder of the budget is subject to review and recommendation by the Legislative Assembly.

(2) The commission shall adopt or modify a budget only after a public hearing on the budget. At least 15 days prior to a public hearing, the commission shall give notice of the hearing to all persons known to be interested in the proceedings of the commission and to any person who has requested a notice. **The commission shall file a copy of the adopted or modified budget with the Legislative Fiscal Officer not later than five business days after the commission adopts or modifies a budget.**

(3) The commission shall follow generally accepted accounting principles and keep such financial and statistical information as is necessary to completely and accurately disclose the financial condition and financial operations of the commission as may be required by the Secretary of State.

(4) The commission shall prepare an annual financial statement of commission revenues and expenses and shall make the statement available for public review. **The commission shall file a copy of the annual financial statement with the Legislative Fiscal Officer not later than five business days after the statement is prepared or adopted by the commission.**

SECTION 2. ORS 284.335 is amended to read:

284.335. (1) Except as provided in subsection (2) of this section, when carrying out the duties, functions and powers of the Oregon Film and Video Office, the director of the office may contract with any state agency for the performance of such duties, functions and powers that the director considers appropriate.

(2) The director of the office *[shall]* may not, without the prior approval of the Film and Video Board:

- (a) Award any contract for goods or professional services in excess of \$25,000;
- (b) Authorize any expenditure of moneys in excess of \$25,000;
- (c) Sell or otherwise dispose of real or personal property valued in excess of \$25,000;
- (d) Commence a civil legal action or proceeding;
- (e) Sell, transfer and convey property to a buyer or lease property to a tenant;
- (f) Borrow money and give guarantees;
- (g) Finance, conduct or cooperate in the financing of facilities and projects to assist the film, video and emerging media industries; or
- (h) In accordance with ORS chapter 183, adopt rules necessary for the administration of laws that the office is charged with administering.

(3) The Film and Video Board shall approve the lease of property to a tenant only when the sale, transfer or conveyance of the property cannot be effected with reasonable promptness or at a reasonable price.

(4) The Film and Video Board *[shall]* may not allow the director to borrow money or give guarantees under subsection (2)(f) of this section unless the indebtedness or other obligations of the office are payable solely out of its own resources and do not constitute a pledge of the full faith and credit of the State of Oregon or any of the revenues of this state.

(5) The office shall file with the Governor, *[and]* the Legislative Assembly and the Legislative Fiscal Officer a biennial report of the activities and operations of the office. The report shall include a full and complete reporting of the financial activities and transactions of the office during the biennium, including at least the information required under ORS 284.365 (5).

SECTION 3. ORS 377.838 is amended to read:

377.838. (1) Except as provided in subsection (2) of this section, in carrying out the duties, functions and powers of the Travel Information Council, the director of the Travel Information Council may contract with any state agency for the performance of such duties, functions and powers as the council considers appropriate.

(2) The director of the Travel Information Council *[shall]* may not, without the prior approval of the council:

- (a) Award any contract for goods or professional services in excess of \$25,000; or
- (b) Authorize any expenditure of moneys in excess of \$25,000.

(3) The council shall file with the Governor, *[and]* the Legislative Assembly and the Legislative Fiscal Officer an annual report of the activities and operations of the council.

OREGON HEALTH LICENSING AGENCY

SECTION 4. ORS 691.405 is amended to read:

691.405. As used in ORS 691.405 to 691.585:

[(1) "American Dietetic Association" means the national professional organization of dietitians that provides direction and leadership for quality dietetic practice, education and research.]

[(2) "Board" means the Board of Examiners of Licensed Dietitians established under ORS 691.485.]

[(3) "Commission on Dietetic Registration" means the commission on dietetic registration that is a member of the National Commission for Certifying Agencies.]

[(4)] (1) "Dietetics practice" means the integration and application of principles derived from the sciences of nutrition, biochemistry, food, management, physiology and behavioral and social sciences to achieve and maintain the health of people through:

- (a) Assessing the nutritional needs of clients;
- (b) Establishing priorities, goals and objectives that meet nutritional needs of clients;
- (c) Advising and assisting individuals or groups on appropriate nutritional intake by integrating information from a nutritional assessment with information on food and other sources of nutrients and meal preparation; and
- (d) Evaluating[,] and making changes in [and] food, diets and nutrition services, maintaining appropriate standards of nutritional quality in food and maintaining appropriate standards of nutrition services.

[(5)] (2) "Licensed dietitian" means a dietitian licensed as provided in ORS 691.435.

SECTION 5. ORS 691.415 is amended to read:

691.415. *[On or after the date stated in the administrative rules adopted by the Board of Examiners of Licensed Dietitians, no]* A person who is not licensed under ORS 691.435 *[shall]* may not practice or attempt to practice as a licensed dietitian using in connection with the name of the person the words or letters "L.D.," or "Licensed Dietitian."

SECTION 6. ORS 691.485 is amended to read:

691.485. (1) There is established [a], within the Oregon Health Licensing Agency, the Board *[of Examiners]* of Licensed Dietitians *[for the purpose of carrying out and enforcing the provisions of ORS 691.405 to 691.585]* to advise the agency with regard to the regulation of dietitians. The board consists of seven members appointed by the Governor *[and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565]*. All members of the board must be residents of this state. Of the members of the board:

(a) Two must be members of the general public who are not otherwise qualified for membership on the board and who are not a spouse, domestic partner, child, parent or sibling of a licensed dietitian;

(b) One must be a physician trained in clinical nutrition; and

(c) Four must be licensed dietitians who have been engaged in the practice of dietetics for *[no fewer than]* at least five years.

[(2)(a)] *Board members required to be licensed dietitians may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a professional organization representing dietitians.]*

[(b)] *In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:]*

[(A)] *Geographic areas of this state; and]*

[(B)] *Ethnic group.]*

[(3)] (2) The term of office of each member is *[three]* four years, but a member serves at the pleasure of the Governor. *[The terms must be staggered so that no more than three terms end each year.]* A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board. If there is a vacancy on the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor.

[(4)] (3) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The *[board]* agency may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

(4) The board shall meet at least once per year.

SECTION 7. ORS 691.435 is amended to read:

691.435. *[An applicant shall be granted a license as a dietitian if the person has:]* The Oregon Health Licensing Agency, in consultation with the Board of Licensed Dietitians, shall issue a dietitian license to an applicant who:

(1) *[Filed]* Files an application *[and paid the required application fee;]* as prescribed by the agency;

(2) Pays fees established by the agency; and

[(2)] (3) Demonstrates to the satisfaction of the agency that the applicant has:

(a) Received a baccalaureate or post-baccalaureate degree from a regionally accredited college or university in the United States with a major course of study in human nutrition, dietetics, foods and nutrition or food systems management approved by the board *[of Examiners of Licensed Dietitians]* as meeting the standards for approval of the course of study under ORS 691.405 to 691.585;

[(3)] Demonstrated knowledge of the Code of Ethics of the Dietetic Profession; and either]

[(4)] Satisfactorily completed continuing education requirements established by the board; or]

[(5)] (b) Completed a planned, continuous program of dietetic experience approved by the *[board]* agency of 900 hours under the supervision of a licensed dietitian; and

[(6)] (c) Passed an examination prescribed by the *[board]* agency.

SECTION 8. ORS 691.445 is amended to read:

691.445. The Oregon Health Licensing Agency, in consultation with the Board *[of Examiners]* of Licensed Dietitians, may waive the examination requirement and grant a dietitian license to an applicant *[for a license as a dietitian]* who:

(1) Files an application as prescribed by the agency;

(2) Pays fees established by the agency; and

[(1)] (3) Presents satisfactory evidence *[to the board]* of:

(a) Current registration as a dietitian with *[the Commission on Dietetic Registration;]* a credentialing body approved by the board; or

(b) Current licensure under the laws of any other state or territory in the United States, if the requirements for licensure of dietitians in the state or territory in which the applicant is licensed are not less than those required by ORS 691.405 to 691.585.

[(2)] Was a practicing dietitian before 1990 and has been employed in the practice of dietetics for at least three of the 10 years prior to October 3, 1989; or]

[(3)] At the time of application, received a doctorate degree in nutrition, dietetics or related physical sciences under a curriculum approved by the board and been involved in dietetics through practice, teaching or research related to nutrition care.]

SECTION 9. ORS 691.465 is amended to read:

691.465. *[(1)]* The Board of Examiners of Licensed Dietitians shall issue a license with a duration of not more than two years to each person approved to be licensed. The license shall be prima facie evidence of the right of the person to whom it is issued to represent the person as a licensed dietitian subject to the provisions of ORS 691.405 to 691.585.]

[(2)] Each licensed dietitian shall apply to the board for a renewal of the license at least 30 days before the expiration date. Licenses shall expire on October 31 of odd-numbered years or on such date as may be specified by board rule. Each applicant for renewal shall submit the required fee and present evidence of completion of at least 30 hours of continuing education or present evidence of the minimum continuing education requirements of the American Dietetic Association. Any license that is not renewed by the expiration date shall be automatically suspended. The board may reinstate a suspended license upon payment of a nonrefundable penalty fee and all past unpaid renewal fees.]

[(3)] The license fee for a license issued for a period of less than 24 months shall be prorated on a monthly basis to reflect the shorter licensing period.]

[(4)] A license that has been suspended by reason of nonpayment of fees for a period of two years or more shall be renewed upon reapplication and payment of all applicable fees.]

[(5)] Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section shall not exceed the cost of administering the regulatory program for which the fee or charge is established, as authorized by the Legislative Assembly within the board's budget to implement ORS 691.405 to 691.585, as the budget may be modified by the Emergency Board.]

(1) Except as provided in subsections (2) and (3) of this section, a license issued under ORS 691.405 to 691.585 expires one year from the date of issuance. To renew the license, the licensee must submit to the Oregon Health Licensing Agency:

- (a) A completed renewal application;
- (b) The required renewal fee; and
- (c) Satisfactory evidence of having completed any required continuing education credits on or before the expiration date of the license as specified by agency rule.

(2) The agency may vary the date of license renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(3) The agency shall adopt by rule requirements for late renewal of a license, reactivation of a dormant or expired license or reinstatement of a license that has been expired for more than three consecutive years.

SECTION 10. Sections 11 to 13 of this 2011 Act are added to and made a part of ORS 691.405 to 691.585.

SECTION 11. The Oregon Health Licensing Agency, in consultation with the Board of Licensed Dietitians, shall:

- (1) Adopt rules necessary for the administration of ORS 691.405 to 691.585;
- (2) Issue, deny, revoke, suspend and renew dietitian licenses;
- (3) Determine the qualifications, training, education and fitness of applicants for licenses, renewals of licenses and reciprocal licenses for dietitians;
- (4) Determine requirements for reciprocity and equivalency for licensed dietetics practice;
- (5) Establish a code of professional responsibility and standards of practice for licensed dietitians;
- (6) Develop, approve or recognize examinations to test an applicant's knowledge relating to dietitian techniques and methods and any other subjects the board may determine to be necessary to assess an applicant's fitness to practice as a licensed dietitian;
- (7) Provide for waivers of examinations; and
- (8) Establish continuing education requirements for renewal of a dietitian license.

SECTION 12. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees and charges for the following related to licensed dietitians:

- (a) Application;
- (b) Original license;
- (c) License renewal;
- (d) Temporary practice registration;
- (e) Examinations;
- (f) License reactivation;
- (g) Late renewal;
- (h) Replacement or duplicate license;
- (i) Reciprocity; and
- (j) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the documents or records.

(2) All moneys received by the agency under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account.

SECTION 13. In the manner prescribed in ORS chapter 183 for contested cases and in consultation with the Board of Licensed Dietitians, the Oregon Health Licensing Agency may impose a form of discipline listed in ORS 676.612 against any person practicing dietetics for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 691.405 to 691.585, or the rules adopted under ORS 691.405 to 691.585.

SECTION 14. ORS 676.606 is amended to read:

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

- (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;
- (2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;
- (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;
- (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;
- (5) Respiratory Therapist 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;
- (9) Body piercing technician registration program and body piercing facility licensing program, as provided in ORS 690.500 to 690.570;
- (10) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410; [and]
- (11) Nursing Home Administrators Board, as provided in ORS 678.710 to 678.820; and
- (12) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.585.

SECTION 15. ORS 676.610 is amended to read:

676.610. (1)(a) The 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 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 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 Oregon Health Licensing Agency shall be in the unclassified service.

(2) The Director of the Oregon Health Licensing Agency shall provide the boards, councils and programs administered by the agency with such services and employees as the agency requires to carry out the agency's 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) The Director of the Oregon Health Licensing Agency shall be responsible for carrying out the duties, functions and powers under ORS 675.360 to 675.410, 676.605 to 676.625, 676.992, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570, 691.405 to 691.585 and 694.015 to 694.185 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the Oregon Health Licensing Agency by other statutes.

SECTION 16. 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 675.385, 678.780, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111 and section 13 of this 2011 Act, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit a certificate, license, permit or registration to practice issued by the agency or may discipline or place on probation a holder of a certificate, license, permit or registration for commission of the prohibited acts listed in subsection (2) of this section.

(2) A person subject to the authority of a board, council or program listed in ORS 676.606 commits a prohibited act if the person engages in:

(a) Fraud, misrepresentation, concealment of material facts or deception in applying for or obtaining an authorization to practice in this state, or in any written or oral communication to the 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, license, permit 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, license, permit or registration holder.

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

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

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

(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 676.606.

(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 676.606.

(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, license, permit 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 676.606.

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

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

(p) Selling or fraudulently obtaining or furnishing any certificate, license, permit or registration to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606, or aiding or abetting such an act.

(q) Selling or fraudulently obtaining or furnishing any record related to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606, or aiding or abetting such an act.

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

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the agency may require the fingerprints of a person who is:

(a) Applying for a certificate, license, permit or registration that is issued by the agency;

(b) Applying for renewal of a certificate, license, permit or registration that is issued by the agency; or

(c) Under investigation by the agency.

(4) If the agency places a holder of a certificate, license, permit 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.

(5) If a certificate, license, permit or registration is suspended, the holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the certificate, license, permit 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 17. ORS 676.613 is amended to read:

676.613. (1) In addition to all other remedies, when it appears to the 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 ORS 675.360 to 675.410, 676.617, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570, 691.405 to 691.585 or 694.015 to 694.185 or ORS chapter 700, 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 18. ORS 676.622 is amended to read:

676.622. (1) A transaction conducted through a state or local system or network that provides electronic access to the Oregon Health Licensing Agency information and services is exempt from any requirement under ORS 675.360 to 675.410, 676.605 to 676.625, 676.992, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570, 691.405 to 691.585 and 694.015 to 694.185 and ORS chapter 700, and rules adopted thereunder, requiring an original signature or the submission of handwritten materials.

(2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are acceptable and have the same force as original signatures.

SECTION 19. ORS 676.625 is amended to read:

676.625. (1) The Oregon Health Licensing Agency shall establish by rule and shall collect fees and charges to carry out the agency's responsibilities under ORS 676.605 to 676.625 and 676.992 and any responsibility imposed on the agency pertaining to the boards, councils and programs administered and regulated by the agency pursuant to ORS 676.606.

(2) The Oregon Health Licensing Agency Account is established in the General Fund of the State Treasury. The account shall consist of the moneys credited to the account by the Legislative Assembly. All moneys in the account are appropriated continuously to and shall be used by the Oregon Health Licensing Agency for payment of expenses of the agency in carrying out the duties, functions and obligations of the agency, and for payment of the expenses of the boards, councils and programs administered and regulated by the agency pursuant to ORS 676.606. The agency shall keep a record of all moneys credited to the account and report the source from which the moneys are derived and the activity of each board, council or program that generated the moneys.

(3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting fees and charges credited to the account, the fees and charges may not exceed the cost of administering the agency and the boards, councils and programs

within the agency, as authorized by the Legislative Assembly within the agency's budget, as the budget may be modified by the Emergency Board.

(4) All moneys credited to the account pursuant to ORS 675.405, 676.617, 680.525, 687.435, 688.728, 688.834, 690.235, 690.415, 690.550, 694.185 and 700.080 and section 12 of this 2011 Act, and moneys credited to the account from other agency and program fees established by the agency by rule, are continuously appropriated to the agency for carrying out the duties, functions and powers of the agency under ORS 676.605 to 676.625 and 676.992.

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

SECTION 20. 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 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) ORS 688.701 to 688.734 (athletic training);
- (b) ORS 690.500 to 690.570 (body piercing);
- (c) ORS 690.005 to 690.235 (cosmetology);
- (d) ORS 680.500 to 680.565 (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);
- (i) ORS chapter 700 (environmental sanitation);
- (j) ORS 676.617 (single facility licensure);
- (k) ORS 675.360 to 675.410 (sex offender treatment);
- (L) ORS 678.710 to 678.820 (nursing home administrators); [and]
- (m) ORS 691.405 to 691.585 (dietitians); and
- [(m)] (n) ORS 676.612 (prohibited acts).

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

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

(4) In imposing a civil penalty pursuant to this section, the 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 Oregon Health Licensing Agency Account established under ORS 676.625. Such moneys are continuously appropriated to the 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 21. ORS 676.150 is amended to read:

676.150. (1) As used in this section:

- (a) "Board" means the:
 - (A) State Board of Examiners for Speech-Language Pathology and Audiology;

- (B) State Board of Chiropractic Examiners;
- (C) State Board of Licensed Social Workers;
- (D) Oregon Board of Licensed Professional Counselors and Therapists;
- (E) Oregon Board of Dentistry;
- (F) Board [of *Examiners*] of Licensed Dietitians;
- (G) State Board of Massage Therapists;
- (H) Oregon Board of Naturopathic Medicine;
- (I) Oregon State Board of Nursing;
- (J) Nursing Home Administrators Board;
- (K) Oregon Board of Optometry;
- (L) State Board of Pharmacy;
- (M) Oregon Medical Board;
- (N) Occupational Therapy Licensing Board;
- (O) Physical Therapist Licensing Board;
- (P) State Board of Psychologist Examiners;
- (Q) Board of Radiologic Technology;
- (R) State Board of Direct Entry Midwifery;
- (S) State Board of Denture Technology;
- (T) Respiratory Therapist Licensing Board;
- (U) Department of Human Services, to the extent that the department certifies emergency medical technicians;
- (V) Oregon State Veterinary Medical Examining Board; or
- (W) State Mortuary and Cemetery Board.

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

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

(A) Constitutes a criminal act against a patient or client; or

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

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

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

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

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

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

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

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

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

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

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

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section.

SECTION 22. ORS 676.160 is amended to read:

676.160. As used in ORS 676.165 to 676.180, "health professional regulatory board" means the:

- (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- (2) State Board of Chiropractic Examiners;
- (3) State Board of Licensed Social Workers;
- (4) Oregon Board of Licensed Professional Counselors and Therapists;
- (5) Oregon Board of Dentistry;
- (6) Board [of Examiners] of Licensed Dietitians;
- (7) State Board of Massage Therapists;
- (8) State Mortuary and Cemetery Board;
- (9) Oregon Board of Naturopathic Medicine;
- (10) Oregon State Board of Nursing;
- (11) Nursing Home Administrators Board;
- (12) Oregon Board of Optometry;
- (13) State Board of Pharmacy;
- (14) Oregon Medical Board;
- (15) Occupational Therapy Licensing Board;
- (16) Physical Therapist Licensing Board;
- (17) State Board of Psychologist Examiners;
- (18) Board of Medical Imaging;
- (19) Oregon State Veterinary Medical Examining Board; and
- (20) Oregon Health Authority to the extent that the authority certifies emergency medical technicians.

SECTION 23. ORS 676.410 is amended to read:

676.410. (1) As used in this section, "healthcare workforce regulatory board" means the:

- (a) Occupational Therapy Licensing Board;
- (b) Oregon Medical Board;
- (c) Oregon State Board of Nursing;
- (d) Oregon Board of Dentistry;
- (e) Physical Therapist Licensing Board;
- (f) State Board of Pharmacy; and
- (g) Board [of Examiners] of Licensed Dietitians.

(2)(a) An applicant for a license from a healthcare workforce regulatory board or renewal of a license by a healthcare workforce regulatory board shall provide the information prescribed by the Office for Oregon Health Policy and Research pursuant to subsection (3) of this section.

(b) Except as provided in subsection (4) of this section, a healthcare workforce regulatory board may not approve a subsequent application for a license or renewal of a license until the applicant provides the information.

(3) The Administrator for the Office for Oregon Health Policy and Research shall collaborate with the healthcare workforce regulatory boards to adopt rules for the manner, form and content for reporting, and the information that must be provided to a healthcare workforce regulatory board under subsection (2) of this section, which may include:

- (a) Demographics, including race and ethnicity.
- (b) Education information.
- (c) License information.
- (d) Employment information.
- (e) Primary and secondary practice information.
- (f) Anticipated changes in the practice.
- (g) Languages spoken.

(4)(a) A healthcare workforce regulatory board shall report healthcare workforce information collected under subsection (2) of this section to the Office for Oregon Health Policy and Research.

(b) A healthcare workforce regulatory board shall keep confidential and not release personally identifiable data collected under this section for a person licensed, registered or certified by a board. This paragraph does not apply to the release of information to a law enforcement agency for investigative purposes or to the release to the Office for Oregon Health Policy and Research for state health planning purposes.

(5) The requirements of subsection (2) of this section apply to an applicant for issuance or renewal of a license who is or who is applying to become:

(a) An occupational therapist or certified occupational therapy assistant as defined in ORS 675.210;

(b) A physician as defined in ORS 677.010;

(c) A physician assistant as defined in ORS 677.495;

(d) A nurse or nursing assistant licensed or certified under ORS 678.010 to 678.410;

(e) A dentist or dental hygienist as defined in ORS 679.010;

(f) A physical therapist or physical therapist assistant as defined in ORS 688.010;

(g) A pharmacist or pharmacy technician as defined in ORS 689.005; or

(h) A licensed dietitian, as defined in ORS 691.405.

(6) A healthcare workforce regulatory board may adopt rules as necessary to perform the board's duties under this section.

(7) In addition to licensing fees that may be imposed by a healthcare workforce regulatory board, the Oregon Health Policy Board shall establish fees to be paid by applicants for issuance or renewal of licenses reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section.

SECTION 24. ORS 691.425, 691.455, 691.495, 691.505, 691.515, 691.535, 691.545, 691.555, 691.565, 691.575, 691.580, 691.585 and 691.955 are repealed.

SECTION 25. The unexpended balance of the Board of Examiners of Licensed Dietitians Account established in ORS 691.565 is transferred to the Oregon Health Licensing Agency Account established in ORS 676.625 for expenditure by the agency for the biennium beginning July 1, 2011, as provided in ORS 676.625.

SECTION 26. (1) The repeal of ORS 691.505, 691.535, 691.545, 691.555 and 691.995 by section 24 of this 2011 Act does not affect any proceeding under ORS 691.505, 691.535, 691.545, 691.555 or 691.995 begun before and pending on the effective date of this 2011 Act, except that the Oregon Health Licensing Agency is substituted for the Board of Examiners of Licensed Dietitians in the proceeding.

(2) The amendments to ORS 691.485 by section 6 of this 2011 Act are intended to change the name of the Board of Examiners of Licensed Dietitians to the Board of Licensed Dietitians.

(3) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the Board of Examiners of Licensed Dietitians, wherever they occur in statutory law, other words designating the Board of Licensed Dietitians.

SECRETARY OF STATE