

DIVISION 1
PROCEDURES

818-001-0082
Access to Public Records

- (1) Public records not exempt from disclosure may be inspected during office hours at the Board office upon reasonable notice.
- (2) Copies of public records not exempt from disclosure may be purchased upon receipt of a written request. The Board may withhold copies of public records until the requestor pays for the copies.
- (3) The Board establishes the following fees:
 - (a) \$25 per hour for the time required to locate and remove non-public records or for filling special requests;
 - (b) Up to ten (10) pages at no cost; more than 10 pages, \$0.50 for each page plus postage necessary to mail the copies;
 - (c) \$0.10 per name and address for computer-generated lists on paper or labels; \$0.20 per name and address for computer-generated lists on paper or labels sorted by specific zip code;
 - (d) Data files on diskette or CD:
 - (A) All Licensed Dentists -- \$50;
 - (B) All Licensed Dental Hygienists -- \$50;
 - (C) All Licensees -- \$100.
 - (e) \$60 per year for copies of minutes of all Board and committee meetings;
 - (f) Written verification of licensure -- \$2.50 per name; and
 - (g) Certificate of Standing -- \$20.

Stat. Auth.: ORS 183, 192, 670 & 679

Stats. Implemented: ORS 192.420, 192.430 & 192.440

Hist.: DE 11-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89; DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0080; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 1-1991(Temp), f. 8-5-91, cert. ef. 8-15-91; DE 2-1991, f. & cert. ef. 12-31-91; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99

818-001-0087

Fees

(1) The Board adopts the following fees:

(a) Biennial License Fees:

(A) Dental —\$390;

(B) Dental — retired — \$0;

(C) Dental Faculty — \$335;

(D) Volunteer Dentist — \$0;

(E) Dental Hygiene —\$230;

(F) Dental Hygiene — retired — \$0;

(G) Volunteer Dental Hygienist — \$0.

(b) Biennial Permits, Endorsements or Certificates:

(A) Nitrous Oxide Permit — \$40;

(B) Minimal Sedation Permit — \$75;

(C) Moderate Sedation Permit — \$75;

(D) Deep Sedation Permit — \$75;

(E) General Anesthesia Permit — \$140;

(F) Radiology — \$75;

(G) Expanded Function Dental Assistant — \$50;

(H) Expanded Function Orthodontic Assistant — \$50;

(I) Instructor Permits — \$40;

(J) Dental Hygiene Restorative Functions Endorsement — \$50;

(K) Restorative Functions Dental Assistant — \$50;

(L) Anesthesia Dental Assistant — \$50;

(M) Dental Hygiene, Expanded Practice Permit — \$75;

(N) Non-Resident Dental ~~Permit~~ [Background Check](#) - \$100.00;

(c) Applications for Licensure:

(A) Dental — General and Specialty — \$345;

(B) Dental Faculty — \$305;

(C) Dental Hygiene — \$180;

(D) Licensure Without Further Examination — Dental and Dental Hygiene — \$790.

(d) Examinations:

(A) Jurisprudence — \$0;

~~(B) Dental Specialty:~~

~~(i) If only one candidate applies for the exam, a fee of \$2,000.00 will be required at the time of application; and~~

~~(ii) If two candidates apply for the exam, a fee of \$1,000.00 will be required at the time of application; and~~

~~(iii) If three or more candidates apply for the exam, a fee of \$750.00 will be required at the time of application.~~

(e) Duplicate Wall Certificates — \$50.

(2) Fees must be paid at the time of application and are not refundable.

(3) The Board shall not refund moneys under \$5.01 received in excess of amounts due or to which the Board has no legal interest unless the person who made the payment or the person's legal representative requests a refund in writing within one year of payment to the Board.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 293.445, 679.060, 679.115, 679.120, 679.250, 680.050, 680.075, 680.200 & 680.205

Hist.: DE 6-1985(Temp), f. & ef. 9-20-85; DE 3-1986, f. & ef. 3-31-86; DE 1-1987, f. & ef. 10-7-

87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, corrected by DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0085; DE 2-1989(Temp), f. & cert. ef. 11-30-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 1-1991(Temp), f. 8-5-91, cert. ef. 8-15-91; DE 2-1991, f. & cert. ef. 12-31-91; DE 1-1992(Temp), f. & cert. ef. 6-24-92; DE 2-1993, f. & cert. ef. 7-13-93; OBD 1-1998, f. & cert. ef. 6-8-98; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction, 8-2-99; OBD 5-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 8-2001, f. & cert. ef. 1-8-01; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2009(Temp), f. 6-11-09, cert. e. 7-1-09 thru 11-1-09; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 3-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2012, f. & cert. ef. 1-27-12; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 2-2015(Temp), f. & cert. ef. 6-26-15 thru 12-22-15; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

DIVISION 5

CRIMINAL RECORDS CHECK AND FITNESS DETERMINATION RULES

818-005-0000

Definitions

As used in OAR Chapter 818, Division 005, unless the context of the rule requires otherwise, the following definitions apply:

~~(1) Conviction: A final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere (no contest); or any determination of guilt entered by a court of law against an employee applicant/employee in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.~~

~~(2) Criminal Offender Information: Records and related data as to physical description and vital statistics; fingerprints received and compiled by the Oregon State Police, Bureau of Criminal Identification, for purposes of identifying criminal offenders and alleged offenders; and records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole, and release.~~

~~(3) Crime Relevant to a Fitness Determination: A crime listed or described in OAR 818-005-0020.~~

~~(4) Criminal Records Check: One or more of the following processes used to check the criminal history of an employee applicant/employee:~~

~~(a) A name-based check of criminal offender information conducted through use of the Law Enforcement Data System (LEDS) maintained by the Oregon State Police, in accordance with the rules adopted and procedures established by the Oregon State Police (LEDS Criminal Records Check);~~

~~(b) A check of Oregon criminal offender information through fingerprint identification, conducted by the Oregon State Police at the Board's request (Oregon Criminal Records Check); or~~

~~(c) A nationwide check of federal criminal offender information through fingerprint identification, conducted by the Oregon State Police through the Federal Bureau of Investigation at the Board's request (Nationwide Criminal Records Check).~~

~~(5) Denied: A fitness determination by the Board pursuant to a final fitness determination under OAR 818-005-0025 that the subject individual is not fit to be an employee, volunteer, contractor, or vendor in a position covered by OAR 818-005-0025.~~

~~(6) False Statement: In association with an activity governed by these rules, an employee applicant/employee either:~~

~~(a) Provided the Board with materially false information about the employee applicant's/employee's criminal history, such as, but not limited to, materially false information about employee applicant/employee or conviction record; or~~

~~(b) Failed to provide to the Board information material to determining employee applicant's/employee's criminal history.~~

~~(7) Fitness Determination: A determination made by the Board pursuant to the process established in OAR 818-005-0025 that an employee applicant/employee is or is not fit to be a Board employee, volunteer, contractor, or vendor.~~

~~(8) Employee applicant/employee: An individual identified in OAR 818-005-0025 as someone from whom the Board may require a criminal records check.~~

Stat. Auth.: ORS 181.534, 676.303 & 679.253

Stats. Implemented: ORS 676.303 & 181.534

Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0005

Employee Applicant/Employee

The Board may require an Employee Applicant/Employee to complete a criminal records check pursuant to these rules if the person:

- (1)(a) Is employed by or applying for employment with the Board; or
- (b) Provides services or seeks to provide services to the Board as a volunteer, contractor, or vendor; and
- (2) Is, or will be, working or providing services in a position in which the person:
 - (a) Provides information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems; or
 - (b) Accesses information, that state or federal laws, rules or regulations prohibit disclosing or define as confidential.

Stat. Auth: ORS 181.534, 676.303 & 679.253

Stats. Implemented: ORS 676.303 & 181.534

Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0011

Criminal Records Check Required

The Board may conduct, or request the Oregon State Police to conduct, a criminal records check when:

- (1) An individual meets the definition of an employee applicant/employee; or
- (2) Required by federal law or regulation, by state or administrative rule, or by contract or written agreement with the Board.

Stat. Auth: ORS 181.534, 676.303 & 679.253

Stats. Implemented: ORS 676.303 & 181.534

Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0015

Criminal Records Check Process

(1) Disclosure of Information by employee applicant/employee.

(a) Preliminary to a criminal records check, an employee applicant/employee shall complete and sign the Oregon Board of Dentistry Criminal Records Request form and, if requested by the Board, a fingerprint card within three business days of having received the card. The Oregon Board of Dentistry Criminal Records Request form shall require the following information: name, birth date, Social Security Number, driver's license or identification card number, prior residency in other states, and any other identifying information deemed necessary by the Board. The Oregon Board of Dentistry Criminal Records Request form may also require details concerning any circumstance listed in OAR 818-005-0020(1).

Note: The Board may extend the deadline for good cause.

(b) The Board may require additional information from the employee applicant/employee as necessary to complete the criminal records check and fitness determination, such as, but not limited to, proof of identity; or additional criminal, judicial, or other background information.

(2) When the Board determines under OAR 818-005-0005 that a criminal records check is required, the Board may request or conduct a LEADS Criminal Records Check, an Oregon Criminal Records Check, a Nationwide Criminal Records Check, or any combination thereof.

Stat. Auth: ~~ORS 181.534, 676.303 & 679.253~~
Stats. Implemented: ~~ORS 676.303 & 181.534~~
Hist.: ~~OBD 4-2011, f & cert. ef. 11-15-11~~

~~818-005-0021~~ ~~Potentially Disqualifying Crimes~~

- ~~(1) Crimes Relevant to a Fitness Determination:~~
- ~~(a) All felonies;~~
 - ~~(b) All misdemeanors;~~
 - ~~(c) Any Federal crime, United States Military crime or international crime.~~
- ~~(2) Evaluation Based on Oregon and Other Laws. An authorized designee shall evaluate a crime on the basis of Oregon laws and, if applicable, Federal laws or the laws of any other jurisdiction in which a criminal records check indicates an employee applicant/employee may have committed a crime, as those laws are in effect at the time of the fitness determination.~~
- ~~(3) Expunged Juvenile Record. Under no circumstances shall an employee applicant/employee subject individual be denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.~~

Stat. Auth: ~~ORS 181.534, 676.303 & 679.253~~
Stats. Implemented: ~~ORS 676.303 & 181.534~~
Hist.: ~~OBD 4-2011, f & cert. ef. 11-15-11~~

~~818-005-0025~~ ~~Final Fitness Determination~~

- ~~(1) If the Board elects to conduct a criminal records check, the Board shall make a fitness determination about an employee applicant/employee based on information provided by the employee applicant/employee under OAR 818-005-0005, the criminal records check(s) conducted, and any materially false statements made by the employee applicant/employee.~~
- ~~(2) In making a fitness determination about an employee applicant/employee, the Board shall also consider the factors in subsections (a), (b), and (c) below in relation to information provided by the employee applicant/employee under OAR 818-005-0015, any LEDS report or criminal offender information obtained through a criminal records check, and other information known by the Board. To assist in considering these factors, the Board may obtain any other information deemed relevant, from the employee applicant/employee or any other credible source, including law enforcement and criminal justice agencies or courts within or outside of Oregon. To acquire other criminal offender information from the employee applicant/employee, the Board may request to meet with the employee applicant/employee and may request to receive written materials or authorization to obtain other relevant information, from employee applicant/employee. The employee applicant/employee shall meet with the Board when requested and provide additional information or authorization within a reasonable period of time, as arranged with the Board. The Board's final fitness determination regarding an employee applicant/employee will include considerations of:~~
- ~~(a) Potentially disqualifying crimes or conditions and any mitigating circumstances including, but not limited to:~~
 - ~~(A) False Statement. Any materially false statements made by the employee applicant/employee to the Board;~~
 - ~~(B) Sex Offender. The employee applicant/employee is registered, or is required to register, as a~~

~~sex offender in Oregon or any other jurisdiction;~~
~~(C) Warrants. An outstanding warrant against the employee applicant/employee for any crime in any jurisdiction;~~
~~(D) Deferred Sentence, Diversion Program, Parole or Probation. The employee applicant/employee has a deferred sentence, conditional discharge, is participating in a diversion program, or has not completed a required diversion program or any condition of post-prison supervision, parole or probation, for any potentially disqualifying crime;~~
~~(E) Parole or Probation Violation. A post-prison supervision, parole or probation violation for any potentially disqualifying crime; or~~
~~(F) Unresolved Arrests, Charges or Indictments. An unresolved arrest, charge, or a pending indictment, for a potentially disqualifying crime.~~
~~(b) Evaluating any potentially disqualifying crime or condition identified in this subsection (a), the department shall consider:~~
~~(A) The nature of the crime;~~
~~(B) The facts that support the conviction or pending indictment or that indicate the making of a false statement;~~
~~(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the employee applicant's/employee's present or proposed position, services, or employment.~~
~~(c) Intervening circumstances, when applicable, relevant to the responsibilities of the employment or services, including, but not limited to:~~
~~(A) The passage of time since the commission or alleged commission of a crime identified under subsection (a);~~
~~(B) The age of the employee applicant/employee at the time of the commission or alleged commission of a crime identified under subsection (a);~~
~~(C) The likelihood of a repetition of offenses or of the commission of another crime;~~
~~(D) The subsequent commission of another crime;~~
~~(E) Whether a conviction identified under subsection (a) has been set aside and the legal effect of setting aside the conviction; and~~
~~(F) A recommendation of an employer.~~
~~(3) If an employee applicant/employee refuses to consent to a criminal records check, including fingerprint identification, the Board shall deny the employment of the employee applicant/employee or deny any applicable position or authority to provide services. A person may not appeal any determination made based on a refusal to consent.~~
~~(4) If an employee applicant/employee is denied as not fit, the subject individual may not be employed by the Board, or provide services as a volunteer, contractor, or vendor.~~
~~(5) A final fitness determination is a final order of the Board unless the affected employee applicant/employee appeals by requesting either a contested case hearing as provided by OAR 818-005-0035.~~
~~(6) The Board shall inform the employee applicant/employee who has been determined not to be fit on the basis of a criminal records check, via courier, or registered or certified mail to the most current address provided by the employee applicant/employee, of such disqualification.~~

~~Stat. Auth.: ORS 181.534, 676.303 & 679.253~~

~~Stats. Implemented: ORS 676.303 & 181.534~~

~~Hist.: OBD 4-2011, f & cert. ef. 11-15-11~~

818-005-0030

Incomplete Fitness Determination

~~(1) The Board will close a fitness determination as incomplete when:~~

~~(a) Circumstances change so that a person no longer meets the definition of an "employee~~

~~applicant/employee” under OAR 818-005-0005;~~
~~(b) The employee applicant/employee does not provide materials or information under OAR 818-015-0015(1)(a) within the time frames established under that rule;~~
~~(c) The Board cannot locate or contact the employee applicant/employee;~~
~~(d) The Board applicant/employee fails or refuses to cooperate with the Board's attempts to acquire other relevant information under OAR 818-005-0015(1)(b);~~
~~(e) The Board determines that the employee applicant/employee is not eligible or not qualified for the position for a reason unrelated to the fitness determination process; or~~
~~(f) The position is no longer open.~~
~~(2) An employee applicant/employee does not have a right to a contested case hearing under OAR 818-005-0035(2).~~

~~Stat. Auth: ORS 181.534, 676.303 & 679.253~~
~~Stats. Implemented: ORS 676.303 & 181.534~~
~~Hist.: OBD 4-2011, f & cert. ef. 11-15-11~~

818-005-0035

Contesting a Fitness Determination

- (1) This rule sets forth a contested case hearing process by which a subject individual may appeal a fitness determination made under OAR 818-005-00~~25~~50 that he or she is fit or not fit to be a Board employee, volunteer, contractor, or vendor.
- (2) The Attorney General's Model Rules of Procedure, OAR 137-003-0001 through 137-003-0092, apply unless the Board refers the matter to the Office of Administrative Hearings to assign an Administrative Law Judge. If the Board refers the matter to the Office of Administrative Hearings, 137-003-0501 through 137-003-0700 shall apply.
- (3) Process.
 - (a) To request a contested case hearing, the employee applicant/employee or the employee applicant/employee individual's legal representative must submit a written request to the Executive Director of the Board. To be timely, the request must be received by the Executive Director of the Board within 21 business days of the postmark of the fitness determination notification letter.
 - (b) A contested case hearing shall be conducted by an Administrative Law Judge appointed by the Office of Administrative Hearings once a timely request has been received by the Board as outlined in section (3)(a).
 - (4) The Administrative Law Judge will establish the time and place of the hearing. Notice of the hearing shall be served on the Board or designee and participants at least ten working days in advance of the hearing date.
 - (5) No Public Attendance. Contested case hearings on fitness determinations are closed to non-participants.
 - (6) A fitness determination made under OAR 818-005-00~~25~~50 becomes final when:
 - (a) A timely request for hearing is not filed; or
 - (b) A party withdraws a hearing request, notifies the Board or the Administrative Law Judge that the party will not appear, or fails to appear for the hearing.
 - (7) The Administrative Law Judge will issue a proposed order following a hearing. Exceptions, if any, must be received by the Board within 10 working days after the service of the proposed order.
 - (8) An employee applicant/employee currently employed by the Board who is denied as unfit pursuant to a final fitness determination may appeal the fitness determination either under the contested case process made available by this rule or through a process available under

applicable personnel rules, policies and collective bargaining agreements. An employee applicant's/employee's decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining agreements is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(9) The only remedy that may be awarded is a determination that the employee applicant/employee is fit or not fit. Under no circumstances shall the Board be required to place an employee applicant/employee in any position, nor shall the Board be required to accept services or enter into a contractual agreement with an employee applicant/employee.

(10) An employee applicant/employee may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon State Police or the Federal Bureau of Investigation. To challenge the accuracy or completeness of information identified in this section ~~(40)~~, an employee applicant/employee may use any process made available by the agency that provided the information.

(11) Appealing a fitness determination, challenging criminal offender information with the agency that provided the information, or requesting a new criminal records check and re-evaluation of the original fitness determination will not delay or postpone the Board's hiring process or employment decisions.

(12) Alternative Process. An employee currently employed by the Board may choose to appeal a fitness determination either under the process made available by this rule or through a process made available by applicable personnel rules, policies and collective bargaining provision. A subject individual's decision to appeal a fitness determination through applicable personnel rules, polices and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(13) The only remedy that may be awarded is a determination that the employee is fit or not fit. Under no circumstances shall the Board be required to place an employee in any position, or shall the Board be required to accept services or enter into a contractual agreement with an employee.

Stat. Auth: ORS 181.534, 676.303 & 679.253

Stats. Implemented: ORS 676.303 & 181.534

Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0045

Record Keeping, Confidentiality

~~Any information obtained in the criminal records check is confidential. The Board must restrict the dissemination of information obtained in the criminal records check. Only those persons, as identified by the Board, with a demonstrated and legitimate need to know the information, may have access to criminal records check records.~~

~~Stat. Auth.: ORS 181.534, 676.303 & 679.253~~

~~Stats. Implemented: ORS 676.303 & 181.534~~

~~Hist.: OBD 4-2011, f & cert. ef. 11-15-11~~

818-005-0050

Criminal Records Check for Employees, Volunteers and Applicants

(1) The Board may require a criminal records check and fitness determination for Board employees, volunteers or applicants for employment with the Board.

(2) Criminal records checks and fitness determinations are conducted pursuant to ORS 181A.170 to 181A.215 and OAR 125-007-0200 to 125-007-0310.

(a) To complete the criminal records check and fitness determination, the Board may require additional information from the employee, volunteer or applicant, such as, but not limited to, proof of identity or additional criminal, judicial or other background information.

(b) If the employee, volunteer or applicant has potentially disqualifying criminal offender information, the Board will consider factors listed in ORS 181A.195 before making a fitness determination.

(c) An approved fitness determination does not guarantee employment.

(d) An incomplete fitness determination does not entitle the employee, volunteer or applicant the right to appeal under OAR 125-007-0300.

(3) Pursuant to ORS 181A.195, ORS 676.175, and OAR 125-007-0310, information obtained in the criminal records check is confidential and will not be disseminated by the Board except to persons with a demonstrated and legitimate need to know the information.

(4) The Board may charge a fee to the employee, volunteer or applicant for the criminal records check. The fee will not exceed the fee charged the Board by the OSP and the FBI to obtain such information.

Stat. Auth.: ORS 181A.195, 676.303

Stats. Implemented: ORS 181A.170, 181A.195, 181A.215, 676.175, 676.303, 679.250

DIVISION 12

STANDARDS OF PRACTICE

818-012-0005

Scope of Practice

(1) No dentist may perform any of the procedures listed below:

- (a) Rhinoplasty;
- (b) Blepharoplasty;
- (c) Rhytidectomy;
- (d) Submental liposuction;
- (e) Laser resurfacing;
- (f) Browlift, either open or endoscopic technique;
- (g) Platysmal muscle plication;
- (h) Otoplasty;
- (i) Dermabrasion;
- ~~(j) Lip augmentation;~~
- ~~(i) (k)~~ Hair transplantation, not as an isolated procedure for male pattern baldness; and
- ~~(k) (j)~~ Harvesting bone extra orally for dental procedures, including oral and maxillofacial procedures.

(2) Unless the dentist:

- (a) Has successfully completed a residency in Oral and Maxillofacial Surgery accredited by the American Dental Association, Commission on Dental Accreditation (CODA), ~~and~~
- ~~(b) Has successfully completed a clinical fellowship, of at least one continuous year in duration, in esthetic (cosmetic) surgery recognized by the American Association of Oral and Maxillofacial Surgeons or by the American Dental Association Commission on Dental Accreditation,~~ or
- ~~(b) (c)~~ Holds privileges either:

(A) Issued by a credentialing committee of a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to perform these procedures in a hospital setting; or

(B) Issued by a credentialing committee for an ambulatory surgical center licensed by the State of Oregon and accredited by either the JCAHO or the Accreditation Association for Ambulatory Health Care (AAAHC).

(3) A dentist may utilize Botulinum Toxin Type A and dermal fillers to treat a condition that is within the scope of the practice of dentistry after completing a minimum of ~~16~~ 20 hours in a hands on clinical course(s), which includes both Botulinum Toxin Type A and dermal fillers, and in which the provider is approved by the Academy of General Dentistry Program Approval for Continuing Education (AGD PACE) or by the American Dental Association Continuing Education Recognition Program (ADA CERP).

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.010(2), 679.140(1)(c), 679.140(2), 679.170(6) & 680.100

Hist.: OBD 6-2001, f. & cert. ef. 1-8-01; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-2014

818-012-0010
Unacceptable Patient Care

The Board finds, using the criteria set forth in ORS 679. 140(4), that a licensee engages in or permits the performance of unacceptable patient care if the licensee does or permits any person to:

- (1) Provide treatment which exposes a patient to risk of harm when equivalent or better treatment with less risk to the patient is available.
- (2) Fail to seek consultation whenever the welfare of a patient would be safeguarded or advanced by having recourse to those who have special skills, knowledge and experience; provided, however, that it is not a violation of this section to omit to seek consultation if other competent licensees in the same locality and in similar circumstances would not have sought such consultation.
- (3) Fail to provide or arrange for emergency treatment for a patient currently receiving treatment.
- (4) Fail to exercise supervision required by the Dental Practice Act over any person or permit any person to perform duties for which the person is not licensed or certified.
- (5) Render services which the licensee is not licensed to provide.
- (6) Fail to comply with ORS 453.605 to 453.755 or rules adopted pursuant thereto relating to the use of x-ray machines.
- (7) Fail to maintain patient records in accordance with OAR 818-012-0070.
- (8) Fail to provide goods or services in a reasonable period of time which are due to a patient pursuant to a contract with the patient or a third party.
- (9) Attempt to perform procedures which the licensee is not capable of performing due to physical or mental disability.
- (10) Perform any procedure for which the patient or patient's guardian has not previously given informed consent provided, however, that in an emergency situation, if the patient is a minor whose guardian is unavailable or the patient is unable to respond, a licensee may render treatment in a reasonable manner according to community standards.
- (11) Use the behavior management technique of Hand Over Mouth (HOM) without first obtaining informed consent for the use of the technique.
- (12) Use the behavior management technique of Hand Over Mouth Airway Restriction (HOMAR) on any patient.
- (13) Fail to determine and document a dental justification prior to ordering a Cone Beam CT series with field greater than 10x10 cm for patients under 20 years of age where pathology, anatomical variation or potential treatment complications would not be otherwise visible with a Full Mouth Series, Panoramic or Cephalometric radiographs.**
- (14) Fail to advise a patient of any recognized treatment complications.**

Stat. Auth.: ORS 679 & ORS 680

Stats. Implemented: ORS 679.140(1)(e), ORS 679.140(4) & ORS 680.100

Hist.: DE 6, f. 8-9-63, ef. 9-11-63; DE 14, f. 1-20-72, ef. 2-10-72; DE 5-1980, f. & ef. 12-26-80; DE 2-1982, f. & ef. 3-19-82; DE 5-1982, f. & ef. 5-26-82; DE 9-1984, f. & ef. 5-17-84; Renumbered from 818-010-0080; DE 3-1986, f. & ef. 3-31-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0020; DE 2-1997, f. & cert. ef. 2-20-97; DE 3-1997, f. & cert. ef. 8-27-97; OBD 7-2001, f. & cert. ef. 1-8-01

818-012-0030
Unprofessional Conduct

~~The Board finds that in addition to the conduct set forth in ORS 679.140(2), a licensee engages in unprofessional conduct if the licensee does or permits any person to:~~ The Board finds that in addition to the conduct set forth in ORS 679.140(2), unprofessional conduct includes, but is not limited to, the following in which a licensee does or knowingly permits any person to:

- (1) Attempt to obtain a fee by fraud, or misrepresentation.
- (2) Obtain~~ing~~ a fee by fraud, or misrepresentation.
 - (a) A licensee obtains a fee by fraud if the licensee ~~obtains a fee by~~ knowingly making~~ing~~es, or permit~~ting~~s any person to make~~ing~~ a material, false statement intending that a recipient~~ing~~, who is unaware of the truth~~ing~~, rely upon the statement.
 - (b) A licensee obtains a fee by misrepresentation if the licensee obtains a fee through making or permitting any person to make a material, false statement.
 - (c) Giving cash discounts and not disclosing them to third party payers is not fraud or misrepresentation.
- (3) Offer rebates, split fees, or commissions for services rendered to a patient to any person other than a partner, employee, or employer.
- (4) Accept rebates, split fees, or commissions for services rendered to a patient from any person other than a partner, employee, or employer.
- (5) Initiate, or engage in, with a patient, any behavior with sexual connotations. The behavior can include but is not limited to, inappropriate physical touching; kissing of a sexual nature; gestures or expressions, any of which are sexualized or sexually demeaning to a patient; inappropriate procedures, including, but not limited to, disrobing and draping practices that reflect a lack of respect for the patient's privacy; or initiating inappropriate communication, verbal or written, including, but not limited to, references to a patient's body or clothing that are sexualized or sexually demeaning to a patient; and inappropriate comments or queries about the professional's or patient's sexual orientation, sexual performance, sexual fantasies, sexual problems, or sexual preferences.
- (6) Engage in an unlawful trade practice as defined in ORS 646.605 to 646.608.
- (7) Fail to present a treatment plan with estimated costs to a patient upon request of the patient or to a patient's guardian upon request of the patient's guardian.
- (8) Misrepresent any facts to a patient concerning treatment or fees.
- (9)(a) Fail to provide a patient or patient's guardian within 14 days of written request:
 - (A) Legible copies of records; and
 - (B) Duplicates of study models, ~~and~~ radiographs of the same quality as the originals, and photographs ~~or legible copies thereof~~ if they ~~radiographs, photographs or study models~~ have been paid for.
- (b) The licensee dentist may require the patient or guardian to pay in advance a fee reasonably calculated to cover the costs of making the copies or duplicates. The licensee dentist may charge a fee not to exceed \$30 for copying 10 or fewer pages of written material and no more than \$0.50 per page for pages 11 through 50 and no more than \$0.25 for each additional page (including records copied from microfilm), plus any postage costs to mail copies requested and actual costs of preparing an explanation or summary of information, if requested. The actual cost of duplicating ~~x-rays~~ radiographs may also be charged to the patient. Patient records or summaries may not be withheld from the patient because of any prior unpaid bills, except as provided in (9)(a)(B) of this rule.
- (10) Fail to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders services.
- (11) Use prescription forms pre-printed with any Drug Enforcement Administration number,

name of controlled substances, or facsimile of a signature.

(12) Use a rubber stamp or like device to reproduce a signature on a prescription form or sign a blank prescription form.

(13) Order drugs listed on Schedule II of the Drug Abuse Prevention and Control Act, 21 U.S.C. Sec. 812, for office use on a prescription form.

(14) Violate any Federal or State law regarding controlled substances.

(15) Becomes addicted to, or dependent upon, or abuses alcohol, illegal or controlled drugs, or mind altering substances, or practice with an untreated substance use disorder diagnosis that renders the licensee unable to safely conduct the practice of dentistry or dental hygiene.

(16) Practice dentistry or dental hygiene in a dental office or clinic not owned by an Oregon licensed dentist(s), except for an entity described under ORS 679.020(3) and dental hygienists practicing pursuant to ORS 680.205(1)(2).

(17) Make an agreement with a patient or person, or any person or entity representing patients or persons, or provide any form of consideration that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Oregon Board of Dentistry; to truthfully and fully answer any questions posed by an agent or representative of the Board; or to participate as a witness in a Board proceeding.

(18) Fail to maintain at a minimum a current BLS for Healthcare Providers certificate or its equivalent. (Effective January 2015).

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

(20) Knowingly deceiving or attempting to deceive the Board, an employee of the Board, or an agent of the Board in any application or renewal, or in reference to any matter under investigation by the Board. This includes but is not limited to the omission, alteration or destruction of any record in order to obstruct or delay an investigation by the Board, or to omit, alter or falsify any information in patient or business records.

(21) Knowingly practicing with a physical or mental impairment that renders the Licensee unable to safely conduct the practice of dentistry or dental hygiene.

(22) Take any action which could reasonably be interpreted to constitute harassment or retaliation towards a person whom the licensee believes to be a complainant or witness.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.140(1)(c), 679.140(2), 679.170(6) & 680.100

818-012-0032
Diagnostic Records

1) Licensees shall provide duplicates of physical diagnostic records that have been paid for to patient or patient's guardian within 14 calendar days of receipt of written request.

(A) Physical records include silver emulsion radiographs, physical study models, paper charting and chart notes.

(B) Licensees may require the patient or patient's guardian to pay in advance the fee reasonably calculated to cover costs of making the copies or duplicates.

(1) Licensee may charge a fee not to exceed \$30 for copying 10 or fewer pages of written material and no more than \$0.50 per page for 11-50 and no more than \$0.25 for each additional page, including cost of microfilm plus any postage costs to mail copies requested and actual costs of preparing an explanation or summary of information, if requested. The actual costs of duplicating radiographs may also be charged to the patient.

(2) Licensees shall provide duplicates of digital patient records within 14 calendar days of receipt of written request by the patient or patient's guardian.

(A) Digital records include any patient diagnostic image, study model, test result or chart record in digital form.

(B) Licensees may require the patient or patient's guardian to pay for the typical retail cost of the digital storage device, such as a CD, thumb drive, or DVD as well as associated postage.

(C) Licensees shall not charge any patient or patient's guardian to transmit requested digital records over email if total records do not exceed 25 Mb.

(D) A clinical day is defined as a day during which the dental clinic treated scheduled patients.

(E) Licensees may charge up to \$5 for duplication of digital records up to 25Mb and up to \$30 for more than 25Mb.

(F) Any transmission of patient records shall be in compliance with the Health Insurance Portability and Accountability Act (HIPAA Act) and the Health Information Technology for Economic and Clinical Health Act (HITECH Act).

(G) Duplicated digital records shall be of the same quality as the original digital file.

(3) If a records summary is requested by patient or patient's guardian, the actual cost of creating this summary and its transmittal may be billed to the patient or patient's guardian.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679

818-012-0040
Infection Control Guidelines

In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the Centers for Disease Control and Prevention and the American Dental Association.

(1) Additionally, licensees must comply with the following requirements:

(a) ~~(4)~~ Disposable gloves shall be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene shall be performed prior to gloving.

(b) ~~(2)~~ Masks and protective eyewear or chin-length shields shall be worn by licensees and other dental care workers when spattering of blood or other body fluids is likely.

(c) ~~(3)~~ Between each patient use, instruments or other equipment that come in contact with body fluids shall be sterilized.

(d) ~~(4)~~ Environmental surfaces that are contaminated by blood or saliva shall be disinfected with a chemical germicide which is mycobactericidal at use.

(e) ~~(5)~~ Impervious backed paper, aluminum foil, or plastic wrap may be used to cover surfaces that may be contaminated by blood or saliva and are difficult or impossible to disinfect. The cover shall be replaced between patients.

(f) ~~(6)~~ All contaminated wastes and sharps shall be disposed of according to any governmental requirements.

(2) Dentists must comply with the requirement that heat sterilizing devices shall be tested for proper function by means of a biological monitoring system that indicates micro-organisms kill each calendar week in which scheduled patients are treated. Testing results shall be retained by the dentist licensee for the current calendar year and the two preceding calendar years.

Stat. Auth.: ORS 679.120, 679.250(7), 679.535, 680.075 & 680.150
Stats. Implemented: ORS 679.140, 679.140(4) & 680.100

818-012-0060

Failure to Cooperate with Board

(1) No licensee shall:

(~~1~~a) Fail to report to the Board violations of the Dental Practice Act.

(~~2~~b) Use threats or harassment to delay or obstruct any person in providing evidence in any investigation, contested case, or other legal action instituted by the Board.

(~~3~~c) Discharge an employee based primarily on the employee's attempt to comply with or aid in the compliance with the Dental Practice Act.

(~~4~~d) Use threats or harassment to obstruct or delay the Board in carrying out its functions under the Dental Practice Act.

(~~5~~e) Deceive or attempt to deceive the Board with respect to any matter under investigation including altering or destroying any records.

(~~6~~f) Make an untrue statement on any document, letter, or application submitted to the Board.

(~~7~~g) Fail to temporarily surrender custody of original patient records to the Board when the Board makes a written request for the records. For purposes of this rule, the term records includes, but is not limited to, the jacket, treatment charts, models, radiographs, photographs, health histories, billing documents, correspondence and memoranda.

(h) Fail to cooperate with the Board during the course of an investigative.

(2) No ~~person~~ **applicant** shall:

(~~8~~a) Deceive or attempt to deceive the Board with respect to any matter under investigation including altering or destroying any records.

(~~9~~b) Make an untrue statement on any document, letter, or application submitted to the Board.

(c) Fail to cooperate with the Board during the course of an investigation.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.060(4), 679.170(5), 679.250(8), 679.290, 679.310(1), 680.050(4) & 680.100

818-012-0070

Patient Records

(1) Each licensee shall have prepared and maintained an accurate record for each person receiving dental services, regardless of whether any fee is charged. The record shall contain the name of the licensee rendering the service and include:

(a) Name and address and, if a minor, name of guardian;

(b) Date description of examination and diagnosis;

(c) An entry that informed consent has been obtained and the date the informed consent was obtained. Documentation may be in the form of an acronym such as "PARQ" (Procedure, Alternatives, Risks and Questions) or "SOAP" (Subjective Objective Assessment Plan) or their equivalent.

(d) Date and description of treatment or services rendered;

(e) Date ~~and~~, description **and documentation of informing the patient** of **any recognized** treatment complications;

(f) Date and description of all radiographs, study models, and periodontal charting;

(g) Health history; and

(h) Date, name of, quantity of, and strength of all drugs dispensed, administered, or prescribed.

(2) Each ~~dentist~~ **licensee** shall have prepared and maintained an accurate record of all charges and payments for services including source of payments.

(3) Each ~~dentist~~ **licensee** shall maintain patient records and radiographs for at least seven years from the date of last entry unless:

- (a) The patient requests the records, radiographs, and models be transferred to another **dentist licensee** who shall maintain the records and radiographs;
- (b) The **dentist licensee** gives the records, radiographs, or models to the patient; or
- (c) The **dentist licensee** transfers the **dentist's licensee's** practice to another **dentist licensee** who shall maintain the records and radiographs.

(4) When changing practice locations, closing a practice location or retiring, each licensee must retain patient records for the required amount of time or transfer the custody of patient records to another licensee licensed and practicing dentistry in Oregon. Transfer of patient records pursuant to this section of this rule must be reported to the Board in writing within 14 days of transfer, but not later than the effective date of the change in practice location, closure of the practice location or retirement. Failure to transfer the custody of patient records as required in this rule is unprofessional conduct.

(5) Upon the death or permanent disability of a licensee, the administrator, executor, personal representative, guardian, conservator or receiver of the former licensee must notify the Board in writing of the management arrangement for the custody and transfer of patient records. This individual must ensure the security of and access to patient records by the patient or other authorized party, and must report arrangements for permanent custody of patient records to the Board in writing within 90 days of the death of the licensee.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.140(1)(e) & ORS 679.140(4)

Hist.: DE 9-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-90, cert. ef. 2-1-90; Renumbered from 818-011-0060; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 7-2001, f. & cert. ef. 1-8-01; OBD

DIVISION 21

EXAMINATION AND LICENSING

818-021-0011

Application for License to Practice Dentistry Without Further Examination

(1) The Oregon Board of Dentistry may grant a license without further examination to a dentist who holds a license to practice dentistry in another state or states if the dentist meets the requirements set forth in ORS 679.060 and 679.065 and submits to the Board satisfactory evidence of:

(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental school located outside the United States or Canada, completion of a predoctoral dental education program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or completion of a postdoctoral General Dentistry Residency program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Having passed the dental clinical examination conducted by a regional testing agency or by a state dental licensing authority; and

(d) Holding an active license to practice dentistry, without restrictions, in any state; including documentation from the state dental board(s) or equivalent authority, that the applicant was issued a license to practice dentistry, without restrictions, and whether or not the licensee is, or has been, the subject of any final or pending disciplinary action; and

(e) Having conducted licensed clinical practice in Oregon, other states or in the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for a minimum of 3,500 hours in the five years immediately ~~prior~~ **preceding to** application. Having conducted licensed clinical practice in Oregon for a minimum of 3,500 hours in the five years immediately prior to application for licensed dentists employed by a dental education program, CODA accredited dental school, with documentation from the dean or appropriate administration of the institution regarding length and terms of employment, the applicant's duties and responsibilities, the actual hours involved in teaching clinical dentistry, and any adverse actions or restrictions; and

(f) Having completed 40 hours of continuing education in accordance with the Board's continuing education requirements contained in these rules within the two years immediately preceding application.

(2) Applicants must pass the Board's Jurisprudence Examination.

(3) A dental license granted under this rule will be the same as the license held in another state; i.e., if the dentist holds a general dentistry license, the Oregon Board will issue a general (unlimited) dentistry license. If the dentist holds a license limited to the practice of a specialty, the Oregon Board will issue a license limited to the practice of that specialty. If the dentist holds more than one license, the Oregon Board will issue a dental license which is least restrictive.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.060, 679.065, 679.070, 679.080 & 679.090

Hist.: OBD 4-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 12-2001(Temp), f. & cert. ef. 1-9-01 thru 7-7-01; OBD 14-2001(Temp), f. 8-2-01, cert. ef. 8-15-01 thru 2-10-02; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2002(Temp), f. & cert. ef. 7-17-02 thru 1-12-03; Administrative correction 4-16-03; OBD 1-2003, f. & cert. ef. 4-18-03; OBD 1-

2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06

818-021-0025

Application for License to Practice Dental Hygiene Without Further Examination

(1) The Oregon Board of Dentistry may grant a license without further examination to a dental hygienist who holds a license to practice dental hygiene in another state or states if the dental hygienist meets the requirements set forth in ORS 680.040 and 680.050 and submits to the Board satisfactory evidence of:

(a) Having graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental hygiene program located outside the United States or Canada, completion of not less than one year in a program accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) ~~Evidence of having~~ **Having** passed the clinical dental hygiene examination conducted by a regional testing agency or by a state dental or dental hygiene licensing authority; and

(d) Holding an active license to practice dental hygiene, without restrictions, in any state; including documentation from the state dental board(s) or equivalent authority, that the applicant was issued a license to practice dental hygiene, without restrictions, and whether or not the licensee is, or has been, the subject of any final or pending disciplinary action; and

(e) Having conducted licensed clinical practice in Oregon, in other states or in the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, ~~or teaching all disciplines of clinical dental hygiene at a dental hygiene education program accredited by the Commission on Dental Accreditation of the American Dental Association~~ for a minimum of 3,500 hours in the five years immediately preceding application. **Having conducted licensed clinical practice in Oregon for a minimum of 3,500 hours in the five years immediately prior to application, f**

For licensed dental hygienists employed by a dental hygiene program, **CODA accredited, with** documentation from the dean or appropriate administration of the institution regarding length and terms of employment, the applicant's duties and responsibilities, the actual hours involved in teaching ~~all disciplines of~~ clinical dental hygiene, and any adverse actions or restrictions; and

(f) Having completed 24 hours of continuing education in accordance with the Board's continuing education requirements contained in these rules within the two years immediately preceding application.

(2) Applicants must pass the Board's Jurisprudence Examination.

Stat. Auth.: ORS 680

Stats. Implemented: ORS 680.040, 680.050, 680.060, 680.070 & 680.072

Hist.: OBD 4-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 12-2001(Temp), f. & cert. ef. 1-9-01 thru 7-7-01; OBD 14-2001(Temp), f. 8-2-01, cert. ef. 8-15-01 thru 2-10-02; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2002(Temp), f. & cert. ef. 7-17-02 thru 1-12-03; Administrative correction 4-16-03; OBD 1-2003, f. & cert. ef. 4-18-03; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 4-2011, f. & cert. ef. 11-15-11

818-021-0026

State and Nationwide Criminal Background Checks, Fitness Determinations

(1) The Board requires fingerprints of all applicants for a dental or dental hygiene license to determine the fitness of an applicant. The purpose of this rule is to provide for the reasonable screening of dental and dental hygiene applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or hold a license that is issued by the Board. ~~These will be provided on prescribed forms provided by the Board. Fingerprints may be obtained at a law enforcement office or at a private service. The Board will submit fingerprints to the Oregon State Police for checks against state and national data sources. Any original fingerprint cards will subsequently be destroyed by the Oregon State Police.~~

~~(2)~~ (2) These rules are to be applied when evaluating the criminal history of all licensees and applicants for a dental or dental hygiene license and for conducting fitness determinations consistent with the outcomes provided in OAR 125-007-0260.

~~based upon such history. The fact that the applicant has cleared the criminal history check does not guarantee the granting of a license.~~

~~(3) Except as otherwise provided in section (1) in making the fitness determination the Board shall consider:~~

~~(3) Criminal records checks and fitness determinations are conducted according to ORS 181A.170 to 181A.215, ORS 670.280 and OAR 125-007-0200 to 127-007-0310.~~

~~(a) The Board will request the Oregon Department of State Police to conduct a state and nationwide criminal records check. Any original fingerprint cards will subsequently destroyed.~~

~~(b) All background checks must include available state and national data, unless obtaining one or the other is an acceptable alternative.~~

~~(c) The applicant or licensee must disclose all arrests, charges, and convictions regardless of the outcome or date of occurrence. Disclosure includes but is not limited to military, dismissed or set aside criminal records.~~

~~(4) If the applicant or licensee has potentially disqualifying criminal offender information, the Board will consider the following factors in making a fitness determination:~~

~~(a) The nature of the crime;~~

~~(b) The facts that support the conviction or pending indictment or that indicates the making of the false statement;~~

~~(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, or permit; and~~

~~(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, or permit. Intervening circumstances include but are not limited to:~~

~~(A) The passage of time since the commission of the crime;~~

~~(B) The age of the subject individual at the time of the crime;~~

~~(C) The likelihood of a repetition of offenses or of the commission of another crime;~~

~~(D) The subsequent commission of another relevant crime;~~

~~(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and~~

~~(F) A recommendation of an employer.~~

~~(e) Any false statements or omissions made by the applicant or licensee; and~~

~~(f) Any other pertinent information obtained as part of an investigation.~~

~~(5) The Board will make a fitness determination consistent with the outcomes provided in OAR 125-007-0260.~~

~~(a) A fitness determination approval does not guarantee the granting or renewal of a license.~~

~~(b) An incomplete fitness determination results if the applicant or licensee refuses to consent to the criminal history check, refuses to be fingerprinted or respond to written~~

correspondence, or discontinues the criminal records process for any reason. Incomplete fitness determinations may not be appealed.

~~(6)(4)~~ The Board may require fingerprints of any licensed Oregon dentist or dental hygienist, who is the subject of a complaint or investigation for the purpose of requesting a state or nationwide criminal records background check.

~~(7)(5)~~ All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.

~~(8)(6)~~ Additional information required. In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee/applicant as necessary, such but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

~~(9)(7)~~ Criminal offender information is confidential. Dissemination of information received ~~under HB 2157~~ **may be disseminated** is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

~~(10)(8)~~ The Board will permit the individual for whom a fingerprint-based criminal records check was conducted, to inspect the individual's own state and national criminal offender records and, if requested by the individual, provide the individual with a copy of the individual's own state and national criminal offender records.

~~(11)(9)~~ The Board shall determine whether an individual is fit to be granted a license or permit, based on **fitness determinations**~~the criminal records background check~~, on any false statements made by the individual regarding criminal history of the individual, or any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as a part of an investigation. If an individual is determined to be unfit, then the individual may not be granted a license or permit. The Board may make fitness determinations conditional upon applicant's acceptance of probation, conditions, or limitations, or other restrictions upon licensure.

~~(10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records that may be indicative of a person's inability to perform as a licensee with care and safety to the public.~~

~~(12)(11) If an An applicant or licensee **may appeal a final fitness determination pursuant to OAR 125-007-0300**, is determined not to be fit for a license or permit, they are entitled to a contested case process pursuant to ORS 183.414-183.470. Challenges to the accuracy of completeness of **criminal history** information **must be made in accordance with OAR 125-007-0030(7)**, provided by the Oregon State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.~~

~~(12) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, then the application is considered incomplete.~~

Stat. Auth.: ORS 679 & 680, 181A.195, 181A.215, 676.303

Stats. Implemented: ORS 181A.195, 181A.215, 676.303, 183, 670.280, 679.060, 679.115, 679.140, 679.160, 680.050, 680.082 & 680.100

Hist.: OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 4-2011, f & cert. ef. 11-15-11

DIVISION 35
DENTAL HYGIENE

818-035-0040
Expanded Functions of Dental Hygienists

(1) Upon completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, a dental hygienist who completes a Board approved application shall be issued an endorsement to administer local anesthetic agents and local anesthetic reversal agents under the general supervision of a licensed dentist. Local anesthetic reversal agents shall not be used on children less than 6 years of age or weighing less than 33 pounds.

(2) Upon completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, a dental hygienist may administer nitrous oxide under the indirect supervision of a licensed dentist in accordance with the Board's rules regarding anesthesia.

(3) Upon completion of a course of instruction approved by the Oregon Health Authority, Public Health Division, a dental hygienist may purchase Epinephrine and administer Epinephrine in an emergency.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)

Hist.: DE 5-1984, f. & ef. 5-17-84; DE 3-1986, f. & ef. 3-31-86; DE 2-1992, f. & cert. ef. 6-24-92; OBD 3-1998, f. & cert. ef. 7-13-98; OBD 7-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 8-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14

DIVISION 42

DENTAL ASSISTING

818-042-0020

Dentist and Dental Hygienist Responsibility

(1) A dentist is responsible for assuring that a dental assistant has been properly trained, has demonstrated proficiency, and is supervised in all the duties the assistant performs in the dental office. Unless otherwise specified, dental assistants shall work under indirect supervision in the dental office.

(2) A dental hygienist who works under general supervision may supervise ~~a~~ dental assistants in the dental office if the dental assistants ~~is~~ are rendering assistance to the dental hygienist in providing dental hygiene services and the dentist is not in the office to provide indirect supervision. A dental hygienist with an Expanded Practice Permit may hire and supervise ~~a~~ dental assistants who will render assistance to the dental hygienist in providing dental hygiene services.

(3) The supervising dentist or dental hygienist is responsible for assuring that all required licenses, permits or certificates are current and posted in a conspicuous place.

(4) Dental assistants who are in compliance with written training and screening protocols adopted by the Board may perform oral health screenings under general supervision.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)

Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

818-042-0050

Taking of X-Rays — Exposing of Radiographs

(1) A dentist may authorize the following persons to place films, adjust equipment preparatory to exposing films, and expose the films under general supervision:

(a) A dental assistant certified by the Board in radiologic proficiency; or

(b) A radiologic technologist licensed by the Oregon Board of Medical Imaging and certified by the Oregon Board of Dentistry (OBD) who has completed ten (10) clock hours in a Board approved dental radiology course and submitted a satisfactory full mouth series of radiographs to the OBD.

(2) A dentist or dental hygienist may authorize a dental assistant who has completed a course of instruction approved by the Oregon Board of Dentistry, and who has passed the written Dental Radiation Health and Safety Examination administered by the Dental Assisting National Board, or comparable exam administered by any other testing entity authorized by the Board, or other comparable requirements approved by the Oregon Board of Dentistry to place films, adjust equipment preparatory to exposing films, and expose the films under the indirect supervision of a dentist, dental hygienist, or dental assistant who holds an Oregon Radiologic Proficiency Certificate. The dental assistant must successfully complete the clinical examination within six months of the dentist [or dental hygienist](#) authorizing the assistant to take radiographs.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)

Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f.11-23-04 cert. ef. 12-1-04; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

818-042-0070

Expanded Function Dental Assistants (EFDA)

The following duties are considered Expanded Function Duties and may be performed only after the dental assistant complies with the requirements of 818-042-0080:

- (1) Polish the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis to remove stains providing the patient is checked by a dentist or dental hygienist after the procedure is performed, prior to discharge;
- (2) Remove temporary crowns for final cementation and clean teeth for final cementation;
- (3) Preliminarily fit crowns to check contacts or to adjust occlusion outside the mouth;
- (4) Place temporary restorative material (i.e., zinc oxide eugenol based material) in teeth providing that the patient is checked by a dentist before and after the procedure is performed;
- (5) Place and remove matrix retainers for alloy and composite restorations;
- (6) Polish amalgam or composite surfaces with a slow speed hand piece;
- (7) Remove excess supragingival cement from crowns, bridges, bands or brackets with hand instruments providing that the patient is checked by a dentist after the procedure is performed;
- (8) Fabricate temporary crowns, and temporarily cement the temporary crown. The cemented crown must be examined and approved by the dentist prior to the patient being released;
- (9) Under general supervision, when the dentist is not available and the patient is in discomfort, an EFDA may recement a temporary crown or recement a permanent crown with temporary cement for a patient of record providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate; and
- (10) Perform all aspects of teeth whitening procedures.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.020, 679.025 & 679.250

Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

818-042-0112

Expanded Function Preventive Dental Assistants (EFPDA)

The following duties are considered Expanded Function Preventive Duties and may be performed only after the dental assistant complies with the requirements of 818-042-0113:

(1) Polish the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis to remove stains providing the patient is checked by a dentist or dental hygienist after the procedure is performed, prior to discharge.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679

818-042-0113

Certification — Expanded Function Preventive Dental Assistants (EFPDA)

The Board may certify a dental assistant as an expanded function preventive dental assistant:

(1) By credential in accordance with OAR 818-042-0120, or

(2) If the assistant submits a completed application, pays the fee and provides evidence of;

(a) Certification of Radiologic Proficiency (OAR 818-042-0060); and satisfactory completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Certification of Radiologic Proficiency (OAR 818-042-0060); and passage of the Oregon Basic or Certified Preventive Functions Dental Assistant (CPFDA) examination, and the Expanded Function Dental Assistant examination, or equivalent successor examinations, administered by the Dental Assisting National Board, Inc. (DANB), or any other testing entity authorized by the Board; and certification by an Oregon licensed dentist that the applicant has successfully polished the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis to remove stains on six patients.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679

818-042-0115

Expanded Functions — Certified Anesthesia Dental Assistant

(1) A dentist holding the appropriate anesthesia permit may verbally authorize a Certified Anesthesia Dental Assistant, [who possesses a Certified Anesthesia Dental Assistant certificate from the Oregon Board of Dentistry](#) to:

(a) Administer medications into an existing intravenous (IV) line of a patient under sedation or anesthesia under direct visual supervision.

(b) Administer emergency medications to a patient in order to assist the licensee in an emergent situation under direct visual supervision.

(2) A dentist holding the appropriate anesthesia permit may verbally authorize a Certified Anesthesia Dental Assistant to dispense to a patient, oral medications that have been prepared by the dentist and given to the anesthesia dental assistant by the supervising dentist for oral administration to a patient under Indirect Supervision.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.020(1), 679.025(1) & 679.250(7)

Hist.: OBD 1-2001, f. & cert. ef. 1-8-01; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06

818-042-0120

Certification by Credential

(1) Dental Assistants who wish to be certified by the Board in Radiologic Proficiency or as Expanded Function Dental Assistants, ~~or as~~ Expanded Function Orthodontic Dental Assistants, or as Expanded Function Preventive Dental Assistants shall:

(a) Be certified by another state in the functions for which application is made. The training and certification requirements of the state in which the dental assistant is certified must be substantially similar to Oregon's requirements; or

(b) Have worked for at least 1,000 hours in the past two years in a dental office where such employment involved to a significant extent the functions for which certification is sought; and

(c) Shall be evaluated by a licensed dentist, using a Board approved checklist, to assure that the assistant is competent in the expanded functions.

(2) Applicants applying for certification by credential in Radiologic Proficiency must obtain certification from the Oregon Health Authority, Center for Health Protection, Radiation Protection Services, of having successfully completed training equivalent to that required by OAR 333-106-0055 or approved by the Oregon Board of Dentistry.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.020, 679.025 & 679.250

Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14

818-042-0130

Application for Certification by Credential

An applicant for certification by credential shall submit to the Board:

- (1) An application form approved by the Board, with the appropriate fee;
- (2) Proof of certification by another state and any other recognized certifications (such as CDA or COA certification) and a description of the examination and training required by the state in which the assistant is certified submitted from the state directly to the Board; or
- (3) Certification that the assistant has been employed for at least 1,000 hours in the past two years as a dental assistant performing the functions for which certification is being sought.
- (4) If applying for certification by credential as an EFDA, ~~or~~ EFODA or EFPDA, certification by a licensed dentist that the applicant is competent to perform the functions for which certification is sought; and
- (5) If applying for certification by credential in Radiologic Proficiency, certification from the Oregon Health Authority, Center for Health Protection, Radiation Protection Services, or the Oregon Board of Dentistry, that the applicant has met that agency's training requirements for x-ray machine operators, or other comparable requirements approved by the Oregon Board of Dentistry.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.020, 679.025 & 679.250

Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14