



Board of Direct Entry Midwifery

OREGON REVISED STATUTES
(UNOFFICIAL COPY)
CHAPTER 687.405 – 495
& 676.150 & 676.850 & 676.992
2023 EDITION



HEALTH LICENSING OFFICE

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DIRECT ENTRY MIDWIVES

(Generally)

687.405 “Direct entry midwifery” defined. As used in ORS 687.405 to 687.495, “direct entry midwifery” means providing the following services for compensation:

- (1) Supervision of the conduct of labor and childbirth;
- (2) Providing advice to a parent as to the progress of childbirth;
- (3) Rendering prenatal, intrapartum and postpartum care; and
- (4) Making newborn assessments. [1993 c.362 §1; 2011 c.650 §4; 2013 c.657 §12]

687.410 When use of title authorized. A person may not use the title “licensed direct entry midwife,” any abbreviation thereof or the initials “L.D.M.” unless the person possesses an active license issued under ORS 687.405 to 687.495. [1993 c.362 §16; 2013 c.314 §25]

687.415 Practice of direct entry midwifery without license prohibited; exceptions. (1) Except as provided in subsection (2) of this section, a person may not practice direct entry midwifery in this state unless the person holds a license to practice direct entry midwifery under ORS 687.405 to 687.495.

(2) A person may practice direct entry midwifery in this state without a license to practice direct entry midwifery if:

(a) The person is a licensed health care practitioner and the services described in ORS 687.405 are within the scope of the person’s license; or

(b)(A) The person is acting as a traditional midwife and does not use legend drugs or devices, the use of which requires a license under the laws of this state;

(B) The person does not advertise that the person is a midwife; and

(C) The person discloses to each client on a form adopted by the State Board of Direct Entry Midwifery by rule:

(i) That the person does not possess a professional license issued by the state;

(ii) That the person’s education and qualification have not been reviewed by the state;

(iii) That the person is not authorized to carry and administer potentially life saving medications;

(iv) That the risk of harm or death to a mother or newborn may increase as a result of the information described in sub-subparagraphs (i) and (ii) of this subparagraph;

(v) A plan for transporting the client to the nearest hospital, as defined in ORS 442.015, if a problem arises during labor or childbirth;

(vi) That the client will not have recourse through a complaint process; and

(vii) The types of midwives who are licensed by the state.

(3) If supervised by a person licensed to practice direct entry midwifery, a student midwife, birth assistant or other individual may assist the direct entry midwife in the provision of services described in ORS 687.405.

(4) A license to practice direct entry midwifery under ORS 687.405 to 687.495 is required for purposes of reimbursement under medical assistance programs. [1993 c.362 §11; 2013 c.657 §1]

(Licensing)

687.420 Standards for licensing; application; payment by medical assistance program for services provided by licensed midwife. (1) The State Board of Direct Entry Midwifery shall establish standards for qualifications for the licensure of direct entry midwives. Such standards shall:

- (a) Be consistent with the requirements for becoming a certified professional midwife as established by the North American Registry of Midwives;
- (b) Require the applicant to hold a Certified Professional Midwife credential established by the North American Registry of Midwives;
- (c) Require the applicant to successfully complete an examination approved by the board;
- (d) Require the applicant to be certified in cardiopulmonary resuscitation for infants and adults;
- (e) Require the applicant to submit a written plan for emergency transport of prospective patients;
- (f) Require the applicant to hold a high school diploma or a modified diploma or to successfully pass a high school equivalency course; and
- (g) Require that the applicant participate in at a minimum:
 - (A) 25 assisted deliveries;
 - (B) 25 deliveries for which the applicant was the primary care provider;
 - (C) 100 prenatal care visits;
 - (D) 25 newborn examinations; and
 - (E) 40 postnatal examinations.

(2) A person who desires to become licensed as a direct entry midwife shall submit an application to the Health Licensing Office stating the applicant's qualifications for licensure. If the applicant meets the standards established under subsection (1) of this section and the applicant is not disqualified from licensure under ORS 676.612, the office shall issue an annual license to the direct entry midwife. The office shall impose the applicable fees for application, licensure and examination established under ORS 676.576.

(3) A direct entry midwife licensed under this section is entitled to payment under the rules of the medical assistance program for services provided to an eligible recipient of medical assistance. [1993 c.362 §3; 1997 c.690 §5; 2001 c.53 §1; 2003 c.547 §20; 2005 c.648 §33; 2013 c.314 §26; 2013 c.568 §53; 2013 c.657 §2; 2017 c.726 §14]

687.425 Renewal of license; effect of failure to renew. (1) The Health Licensing Office shall renew a direct entry midwife license upon:

- (a) The applicant's satisfaction of the requirements for renewal under ORS 676.572;
- (b) Receipt of proof of current cardiopulmonary resuscitation certification for infants and adults;
- (c) Receipt of the applicable renewal fee established under ORS 676.576; and
- (d) The applicant's satisfaction of the requirements for renewal prescribed by the State Board of Direct Entry Midwifery under subsections (2) and (3) of this section.

(2) The board shall prescribe requirements for license renewal including, but not limited to, continuing education that must include training in use of legend drugs and devices.

(3) The board shall require a midwife who has attended fewer than five births in the previous year to take an additional 10 hours of continuing education as prescribed by the board. [1993 c.362 §9; 2001 c.53 §5; 2001 c.274 §3; 2001 c.462 §4; 2003 c.547 §21; 2005 c.648 §34; 2009 c.701 §21; 2013 c.314 §27; 2013 c.568 §54]

687.430 Waiver of required written examination. A person licensed to practice direct entry midwifery under the laws of another state who demonstrates to the satisfaction of the Health

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Licensing Office that the person has passed a written examination at least equal to the written examination required of persons eligible for licensure under ORS 687.405 to 687.495 may have the written examination waived pursuant to standards of the State Board of Direct Entry Midwifery. [1993 c.362 §4; 2001 c.53 §2; 2005 c.648 §35; 2013 c.568 §55]

687.435 [1997 c.690 §4; 1999 c.885 §25; 1999 c.990 §3; 2003 c.547 §22; 2005 c.648 §36; 2009 c.701 §22; repealed by 2013 c.314 §65]

687.440 [1993 c.362 §19; 1999 c.885 §24; repealed by 2005 c.648 §121]

687.445 Discipline. In the manner prescribed in ORS chapter 183 for contested cases and in consultation with the Health Licensing Office, the State Board of Direct Entry Midwifery may impose a form of discipline specified in ORS 676.612 and 676.992 (1) and (2) against any person practicing direct entry midwifery for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 687.405 to 687.495 or the rules adopted under ORS 687.405 to 687.495. [2003 c.547 §28; 2005 c.648 §37; 2013 c.568 §57; 2013 c.657 §11]

687.450 [1993 c.362 §10; 2001 c.53 §6; repealed by 2003 c.547 §118]

687.455 [1993 c.362 §5; 2001 c.53 §3; 2003 c.547 §24; repealed by 2005 c.648 §121]

(Reporting Obligations)

687.460 Duty to report prohibited conduct. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensed direct entry midwife who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150. [2009 c.536 §28]

(State Board and Health Licensing Office)

687.470 State Board of Direct Entry Midwifery; establishment; appointment; confirmation; membership; compensation and expenses. (1) There is established within the Health Licensing Office the State Board of Direct Entry Midwifery. 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) Four must be licensed direct entry midwives.

(b) One must be a certified nurse midwife.

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

(d) One must be a member of the public.

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

(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.

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(3)(a) The term of office of each member is three 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. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least three years must elapse before the person is again eligible for appointment to serve on the board.

(b) A board member shall be removed immediately from the board if, during the member's term, the member:

(A) Is not a resident of this state;

(B) Has been absent from three consecutive board meetings, unless at least one absence is excused; or

(C) Is not a licensed direct entry midwife or a retired direct entry midwife who was a licensed direct entry midwife in good standing at the time of retirement, if the board member was appointed to serve on the board as a direct entry midwife.

(4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The office 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. [1993 c.362 §2; 1999 c.885 §23; 1999 c.990 §1; 2005 c.648 §38; 2009 c.535 §24; 2009 c.701 §23a; 2011 c.650 §6; 2013 c.568 §58]

687.475 Officers; meetings; quorum; rules. The State Board of Direct Entry Midwifery shall elect a chairperson. The board shall adopt rules to govern the proceedings of the board. The board shall hold meetings at such times and places as it determines. A majority of the members of the board shall constitute a quorum. [1993 c.362 §6; 2009 c.535 §25]

687.480 Rules; practice standards. (1) The State Board of Direct Entry Midwifery shall adopt rules for the administration of ORS 687.405 to 687.495.

(2) The board shall adopt practice standards that include:

(a) Maintenance of records of care, including patient charts;

(b) Participation in peer review;

(c) Development of a written plan for emergency transport of patients;

(d) Guidelines for equipment; and

(e) Maintenance of patient disclosure forms, which must include information regarding whether the midwife has malpractice insurance. [1993 c.362 §8; 2001 c.53 §4a; 2013 c.657 §3]

687.482 Peer review. (1) Peer review of a licensed direct entry midwife conducted under ORS 687.480 is subject to the provisions of ORS 41.675. Charts and records created during or for the purpose of the practice of direct entry midwifery are not data under ORS 41.675.

(2) Peer review that is conducted outside of the Health Licensing Office may not be used to replace office regulatory investigations of complaints against licensed direct entry midwives. [2011 c.650 §2; 2013 c.568 §59]

687.485 Authority of Health Licensing Office; rules. In addition to the powers otherwise granted by ORS 687.405 to 687.495, the Health Licensing Office, in consultation with the State Board of Direct Entry Midwifery, may:

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

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

(3) Accept and expend donations, contributions and grant funds for the purposes of ORS 687.405 to 687.495. [1993 c.362 §7; 1999 c.990 §2; 2001 c.53 §4; 2001 c.462 §3; 2003 c.547 §25; 2005 c.648 §39; 2013 c.568 §60; 2013 c.657 §4]

687.490 Protection for person providing information to board or office. A person who in good faith provides information to the State Board of Direct Entry Midwifery or the Health Licensing Office for purposes related to an investigation conducted under ORS 676.560 to 676.625, if the investigation is related to the regulation of direct entry midwifery, or ORS 687.405 to 687.495 is not subject to an action for civil damages as a result of providing the information. [1993 c.362 §17; 2001 c.53 §7; 2003 c.547 §26; 2005 c.648 §40; 2013 c.568 §61; 2017 c.101 §7]

(Miscellaneous)

687.493 Authority to purchase and administer certain legend drugs and devices. (1) A direct entry midwife licensed under ORS 687.405 to 687.495 may purchase and administer authorized scheduled legend drugs and devices that are used in pregnancy, birth, postpartum care, newborn care or resuscitation and that are deemed integral to providing safe care to the public by the State Board of Direct Entry Midwifery by rule.

(2) Legend drugs authorized under subsection (1) of this section are limited:

(a) For neonatal use to prophylactic ophthalmic medications, vitamin K and oxygen; and

(b) For maternal use to antibiotics for Group B Streptococcal antibiotic prophylaxis, postpartum antihemorrhagics, Rh_o(D) immune globulin, epinephrine, intravenous fluids, local anesthetic and oxygen.

(3) Legend devices authorized under subsection (1) of this section are limited to devices for injection of medications, for the administration of intravenous fluids, for adult and infant resuscitation and for rupturing the amniotic membranes.

(4) A pharmacist who dispenses drugs and devices to a licensed midwife as authorized by this section and in conformity with the provisions of ORS chapter 689 is not liable for any adverse reactions caused by administration of the legend drugs and devices by the midwife. [2001 c.462 §2; 2013 c.657 §13]

687.495 Collection of data on birth and fetal death outcomes. (1) The Center for Health Statistics established under ORS 432.010 shall collect and report data on birth and fetal death outcomes occurring in this state, including intrapartum and neonatal transfers to hospital care from another birthing facility, hospital or other location. The center shall report the data by attendant type. The report shall distinguish outcomes between licensed direct entry midwives and direct entry midwives who are not licensed under ORS 687.405 to 687.495.

(2) The Oregon Health Authority may accept gifts, grants and contributions from any public or private source for the purpose of carrying out the provisions of this section. [1993 c.362 §15; 2005 c.648 §41; 2011 c.650 §5]

REPORTING OBLIGATIONS

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

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

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- (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)(a) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175.
- (b) A board may disclose a report as provided in ORS 676.177.
- (c) If the Health Licensing Office receives a report described in this subsection, the report is confidential and the office may only disclose the report pursuant to ORS 676.595 and 676.599.
- (8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.
- (9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.
- (10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.
- (11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section. [2009 c.536 §1; 2011 c.630 §21; 2011 c.703 §44; 2011 c.715 §19; 2011 c.720 §213; 2017 c.6 §22; 2018 c.61 §19; 2019 c.43 §5; 2019 c.456 §13; 2023 c.500 §11]

CULTURAL COMPETENCY CONTINUING EDUCATION

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

- (a) State Board of Examiners for Speech-Language Pathology and Audiology;
- (b) State Board of Chiropractic Examiners;
- (c) State Board of Licensed Social Workers;
- (d) Oregon Board of Licensed Professional Counselors and Therapists;
- (e) Oregon Board of Dentistry;
- (f) Board of Licensed Dietitians;
- (g) State Board of Massage Therapists;
- (h) Oregon Board of Naturopathic Medicine;
- (i) Oregon State Board of Nursing;
- (j) Long Term Care Administrators Board;
- (k) Oregon Board of Optometry;
- (L) State Board of Pharmacy;
- (m) Oregon Medical Board;
- (n) Occupational Therapy Licensing Board;
- (o) Oregon Board of Physical Therapy;
- (p) Oregon Board of Psychology;
- (q) Board of Medical Imaging;
- (r) State Board of Direct Entry Midwifery;
- (s) State Board of Denture Technology;
- (t) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
- (u) Home Care Commission;

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- (v) Oregon Health Authority, to the extent that the authority licenses emergency medical service providers; and
- (w) Health Licensing Office, to the extent that the office licenses lactation consultants.
- (2)(a) A board shall adopt rules to require a person authorized to practice the profession regulated by the board to complete cultural competency continuing education. Completion of the continuing education described in this subsection shall be a condition of renewal of an authorization to practice the profession regulated by the board every other time that the person's authorization is subject to renewal.
- (b) Cultural competency continuing education courses may be taken in addition to or, if a board determines that the cultural competency continuing education fulfills existing continuing education requirements, instead of any other continuing education requirement imposed by the board.
- (c) A board shall consider the availability of the continuing education described in this subsection when adopting rules regarding the required number of credits of continuing education.
- (d) A board shall encourage, but may not require, the completion of continuing education approved by the Oregon Health Authority under ORS 413.450. A board shall accept as meeting the requirements of this subsection continuing education that meets the skills requirements established by the authority by rule.
- (3) The requirements of subsection (2) of this section do not apply to a person authorized to practice a profession regulated by a board if the person is:
- (a) Retired and not practicing the profession in any state;
 - (b) Not practicing the profession in this state; or
 - (c) Residing in this state but not practicing the profession in any state. [2013 c.240 §1; 2017 c.6 §28; 2017 c.499 §19; 2018 c.61 §24; 2019 c.43 §11; 2019 c.186 §1]

PENALTIES

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

- (a) ORS 688.701 to 688.734 (athletic training);
- (b) ORS 690.005 to 690.225 (cosmetology);
- (c) ORS 680.500 to 680.565 (denture technology);
- (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);
- (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal implanting and scarification);
- (f) ORS 694.015 to 694.170 (dealing in hearing aids);
- (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);
- (h) ORS chapter 700 (environmental sanitation);
- (i) ORS 675.365 to 675.410 (sexual abuse specific treatment);
- (j) ORS 678.710 to 678.820 (nursing home administrators and residential care facility administrators);
- (k) ORS 691.405 to 691.485 (dietitians);
- (L) ORS 676.612 (prohibited acts);
- (m) ORS 676.802 to 676.830 (applied behavior analysis);
- (n) ORS 681.700 to 681.730 (music therapy);
- (o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure);

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- (p) ORS 681.740 to 681.758 (art therapy);
- (q) ORS 676.665 to 676.689 (lactation consultation);
- (r) ORS 676.730 to 676.748 (genetic counseling); and
- (s) ORS 676.750 to 676.789 (signed language interpretation).

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

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

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

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

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

(6) The moneys received by the office from civil penalties under this section shall be deposited in the Health Licensing Office Account and are continuously appropriated to the office for the administration and enforcement of the laws the office is charged with administering and enforcing that govern the person against whom the penalty was imposed. [2003 c.547 §4; 2005 c.648 §14; 2007 c.841 §17; 2009 c.701 §17; 2009 c.768 §31; 2011 c.346 §31; 2011 c.630 §20; 2011 c.715 §21; 2013 c.82 §5; 2013 c.314 §17; 2013 c.568 §33; 2013 c.657 §10; 2013 c.771 §17; 2015 c.632 §6; 2015 c.674 §16; 2015 c.722 §11; 2017 c.155 §13; 2017 c.421 §9; 2017 c.499 §20; 2018 c.61 §25; 2021 c.231 §14; 2023 c.414 §26; 2023 c.500 §5]