

# Chapter 676

2019 EDITION

## Health Professions Generally

	<b>USE OF TITLES IMPORTING HEALTH CARE PROFESSION</b>		
676.108	Definition of “health professional regulatory board”	676.300	Authority of health care provider to notify law enforcement agency that patient who is under influence of intoxicants is about to drive vehicle; immunity
676.110	Use of title “doctor”		
676.115	Use of title “nurse”		
676.120	Use of deceased licensee’s name		
676.130	Enforcement of ORS 676.110, 676.115 and 676.120		
	<b>REPORTING OBLIGATIONS</b>		
676.150	Duty to report prohibited or unprofessional conduct, arrests and convictions; investigation; confidentiality; immunity from liability		
	<b>PROCESSING OF COMPLAINTS AGAINST HEALTH PROFESSIONALS</b>		
676.160	Definitions for ORS 676.165 to 676.180	676.303	Purposes of health professional regulatory boards; authority of boards to require fingerprints
676.165	Complaint investigation	676.306	Executive directors; reports; rules
676.170	Immunity of information providers	676.308	Authorization for military spouse or domestic partner to practice health profession; rules
676.175	Complaints and investigations confidential; exceptions; fees	676.310	Fees for laboratory testing; itemized billing; failure to comply considered unprofessional conduct
676.177	Disclosure of confidential information to another public entity; criteria	676.330	Approved osteopathic residency training and certification included as medical specialty certification
676.180	Notice prior to disclosure	676.340	Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability
	<b>IMPAIRED HEALTH PROFESSIONAL PROGRAM</b>	676.345	Registration program for health care professionals claiming liability limitation; program requirements
676.185	Definitions for ORS 676.185 to 676.200	676.350	Authority of health professional regulatory boards to adopt rules permitting expedited partner therapy
676.190	Establishment of program; reports of noncompliance; diversion agreements; audit; rules	676.360	Pelvic examinations
676.194	Impaired Health Professional Program Work Group	676.400	Racial and ethnic composition of regulated health professions; findings; duties of health professional regulatory boards
676.200	Board participation in program; rules	676.405	Release of personal information
	<b>EFFECT OF EXPIRATION, LAPSE, SURRENDER, SUSPENSION OR REVOCATION OF LICENSE</b>	676.410	Information required for renewal of certain licenses; confidentiality; data collection; fees; rules
676.205	Continuing jurisdiction of boards; effect of expiration, lapse, surrender, suspension or revocation of license	676.440	Duty of health professional regulatory boards to encourage multidisciplinary pain management services
676.210	Practice of health care profession after suspension or revocation of license prohibited	676.450	Health Care Provider Incentive Fund
676.220	Enjoining health care professional from practicing after suspension or revocation of license	676.454	Health care provider incentive program; rules
676.230	Injunction as cumulative remedy	676.459	Health care workforce needs; report to Legislative Assembly
	<b>HEALTH CARE FACILITY REPORTING OF BLOOD ALCOHOL LEVEL OR PRESENCE OF CONTROLLED SUBSTANCE</b>	676.463	Financial incentive program participation data; reporting
676.260	Health care facility notification of blood alcohol level or presence of cannabis or controlled substance in blood; content of notice	676.467	Allocation of moneys; administration by Oregon Health and Science University
676.280	Immunity of person providing notice to law enforcement of blood test results	676.551	Needlestick injury; blood draw of patient; test results; rules
		676.553	Prohibitions relating to provision of substance abuse, problem gambling or mental health services and support
			<b>HEALTH LICENSING OFFICE</b>
		676.560	Purpose of Health Licensing Office
		676.562	Definitions for ORS 676.560 to 676.625
		676.565	Oversight and centralized service by office
		676.568	Office responsibilities; enumeration of powers not exclusive; rules

## OCCUPATIONS AND PROFESSIONS

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676.572	Issuance of authorizations; renewal; activation	676.685	Discipline
676.576	Fees	676.689	Rules
676.579	Director; appointment and qualifications; responsibilities; duties		<b>APPLIED BEHAVIOR ANALYSIS</b>
676.585	Duty of director to keep records and prepare reports; peer review of office activities; rules	676.802	Definitions for ORS 676.802, 676.806 and 676.810 to 676.820
676.590	Disclosure of investigatory information, records	676.806	Behavior Analysis Regulatory Board
676.595	Disclosure of certain investigatory information; further disclosure; required disclosures; fees	676.810	Board duties; licensure of behavior analysts and assistant behavior analysts; rules
676.599	Disclosure of information to other public entity	676.815	Behavior analysis interventionists; rules
676.608	Investigative authority; conduct of investigation	676.820	Use of titles "licensed behavior analyst," "licensed assistant behavior analyst," "registered behavior analysis interventionist"
676.612	Disciplinary authority; authority of office to require fingerprints	676.825	Disciplinary authority over persons licensed or registered
676.613	Injunctions	676.830	Health benefit plan credentialing for applied behavior analysis providers
676.615	Rulemaking authority		<b>CULTURAL COMPETENCY CONTINUING EDUCATION</b>
676.616	Final order authority for contested cases related to practice of direct entry midwifery	676.850	Authority of regulatory boards to require cultural competency continuing education; documentation of participation; rules
676.618	Inspection of facilities	676.855	Authority of public universities and community colleges to require cultural competency continuing education
676.622	Exemption from certain requirements for original signatures		<b>SUICIDE RISK ASSESSMENT, TREATMENT AND MANAGEMENT CONTINUING EDUCATION</b>
676.625	Health Licensing Office Account; fees; record keeping; disposition of receipts	676.860	Requirement to complete suicide risk assessment, treatment and management continuing education; documentation and report; rules
	<b>CERTIFIED ADVANCED ESTHETICIANS</b>	676.863	Oregon Health Authority list of continuing education opportunities
676.630	Definitions for ORS 676.630 to 676.660		<b>SURGICAL TECHNOLOGY</b>
676.635	Prohibition on unauthorized practice of advanced nonablative esthetics procedures or unauthorized use of title	676.870	Definitions for ORS 676.870 to 676.890
676.640	Certification for practice of advanced nonablative esthetics procedures; rules	676.875	Requirements for practice of surgical technology in health care facilities; rules
676.645	Renewal of certificate; rules	676.880	Exemption
676.650	Board of Certified Advanced Estheticians	676.885	Practice of surgical technology in health care facility in rural or medically underserved community
676.655	Board powers; rules	676.890	Penalties; rules
676.660	Health Licensing Office authority to discipline persons certified to practice advanced nonablative esthetics procedures		<b>PENALTIES</b>
	<b>LACTATION CONSULTANTS</b>	676.990	Criminal penalties
676.665	Definitions for ORS 676.665 to 676.689	676.992	Civil penalties
676.669	Lactation consultant license; rules		
676.673	Continuing education; rules		
676.677	Standards of practice and professional responsibility		
676.681	Use of "lactation consultant" title; exemptions		

**676.010** [Amended by 1967 c.470 §64; repealed by 1973 c.31 §5]

**676.020** [Amended by 1953 c.203 §1; 1957 c.212 §1; repealed by 1973 c.31 §5]

**676.030** [Amended by 1957 c.212 §2; 1967 c.470 §65; repealed by 1973 c.31 §5]

**676.035** [1967 c.184 §1; 1971 c.15 §1; repealed by 1973 c.31 §5]

**676.040** [Amended by 1957 c.212 §3; repealed by 1973 c.31 §5]

**676.050** [Amended by 1953 c.203 §2; 1957 c.212 §4; repealed by 1973 c.31 §5]

**676.060** [Repealed by 1973 c.31 §5]

**676.070** [Repealed by 1973 c.31 §5]

**676.080** [Repealed by 1973 c.31 §5]

**676.090** [Repealed by 1973 c.31 §5]

**676.100** [Repealed by 2009 c.142 §6]

### USE OF TITLES IMPORTING HEALTH CARE PROFESSION

**676.108 Definition of “health professional regulatory board.”** For purposes of ORS 676.110, 676.115, 676.120 and 676.130, “health professional regulatory board” means a health professional regulatory board, as defined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board. [2017 c.101 §15; 2018 c.61 §18]

**676.110 Use of title “doctor.”** (1) An individual practicing a health care profession may not use the title “doctor” in connection with the profession, unless the individual:

(a) Has earned a doctoral degree in the individual’s field of practice; and

(b)(A) Is licensed by a health professional regulatory board to practice the particular health care profession in which the individual’s doctoral degree was earned; or

(B) Is working under a board-approved residency contract and is practicing under the license of a supervisor who is licensed by a health professional regulatory board to practice the particular health care profession in which the individual’s doctoral degree was earned.

(2) If an individual uses the title “doctor” in connection with a health care profession at any time, the individual must designate the health care profession in which the individual’s doctoral degree was earned on all written or printed matter, advertising, billboards, signs or professional notices used in connection with the health care profession, regardless of whether the individual’s name or the title “doctor” appears on the written or printed matter, advertising, billboard, sign or professional notice. The designation must be in letters or print at least one-fourth the size of the largest letters used on the written or printed matter, advertising, billboard, sign or professional no-

tice, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice.

(3) Subsection (1) of this section does not prohibit:

(a) A chiropractic physician licensed under ORS chapter 684 from using the title “chiropractic physician”;

(b) A naturopathic physician licensed under ORS chapter 685 from using the title “naturopathic physician”;

(c) A person licensed to practice optometry under ORS chapter 683 from using the title “doctor of optometry” or “optometric physician”; or

(d) A physician licensed under ORS 677.805 to 677.840 from using the title “podiatric physician.” [Amended by 1967 c.470 §66; 1983 c.169 §29; 1983 c.486 §1a; 1983 c.769 §1; 1991 c.314 §4; 1995 c.765 §1; 2007 c.418 §1; 2009 c.142 §1; 2011 c.108 §1; 2013 c.129 §35; 2017 c.101 §16]

**676.115 Use of title “nurse.”** An individual may not use the title “nurse” unless the individual:

(1) Has earned a nursing degree or a nursing certificate from a nursing education program that is:

(a) Approved by the Oregon State Board of Nursing; or

(b) Accredited or approved by another state or United States territory as described under ORS 678.040 and approved by the board; and

(2) Is licensed by a health professional regulatory board to practice the particular health care profession in which the individual’s nursing degree or nursing certificate was earned. [2015 c.345 §2; 2017 c.101 §17; 2019 c.358 §19]

**676.120 Use of deceased licensee’s name.** Notwithstanding ORS 676.110 or 676.115, upon the death of any person duly licensed by a health professional regulatory board, the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent’s name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner. [Amended by 1953 c.137 §2; 1983 c.769 §2; 1991 c.314 §5; 2009 c.142 §2; 2015 c.345 §3; 2017 c.101 §18]

**676.130 Enforcement of ORS 676.110, 676.115 and 676.120.** Each health professional regulatory board shall notify the appropriate district attorney of any violation of ORS 676.110, 676.115 and 676.120 that may be brought to the attention of the board. The district attorney of the county in which a

violation of ORS 676.110, 676.115 or 676.120 takes place shall prosecute the violation upon being informed of the violation by a person or by one of the boards. [Amended by 1983 c.769 §3; 2009 c.142 §3; 2015 c.345 §4; 2017 c.101 §19]

**676.140** [Repealed by 1967 c.470 §68]

### 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:

(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; or

(W) State Mortuary and Cemetery Board.

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

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

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

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

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

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

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

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

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

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

(7)(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]

### PROCESSING OF COMPLAINTS AGAINST HEALTH PROFESSIONALS

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

- (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- (2) State Board of Chiropractic Examiners;
- (3) State Board of Licensed Social Workers;
- (4) Oregon Board of Licensed Professional Counselors and Therapists;
- (5) Oregon Board of Dentistry;
- (6) State Board of Massage Therapists;
- (7) State Mortuary and Cemetery Board;
- (8) Oregon Board of Naturopathic Medicine;
- (9) Oregon State Board of Nursing;
- (10) Oregon Board of Optometry;
- (11) State Board of Pharmacy;
- (12) Oregon Medical Board;
- (13) Occupational Therapy Licensing Board;
- (14) Oregon Board of Physical Therapy;
- (15) Oregon Board of Psychology;
- (16) Board of Medical Imaging;
- (17) Oregon State Veterinary Medical Examining Board; and

(18) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers. [1997 c.791 §1; 1999 c.537 §4; 2001 c.274 §4; 2009 c.43 §9; 2009 c.442 §44; 2009 c.595 §1051; 2009 c.768 §33; 2009 c.833 §25; 2011 c.630 §22; 2011 c.703 §45; 2015 c.674 §7; 2017 c.6 §23; 2017 c.101 §8; 2019 c.43 §6]

**676.165 Complaint investigation.** (1) When a health professional regulatory board receives a complaint by any person against a licensee, applicant or other person alleged to be practicing in violation of law, the board shall assign one or more persons to act as investigator of the complaint.

(2) The investigator shall collect evidence and interview witnesses and shall make a report to the board. The investigator shall have all investigatory powers possessed by the board.

(3) The report to the board shall describe the evidence gathered, the results of witness interviews and any other information considered in preparing the report of the investigator. The investigator shall consider, and include in the report, any disciplinary history with the board of the licensee, applicant or other person alleged to be practicing in violation of law.

(4) The investigator shall make the report to the board not later than 120 days after the board receives the complaint. However, the board may extend the time for making the report by up to 30 days for just cause. The board may grant more than one extension of time.

(5) Investigatory information obtained by an investigator and the report issued by the investigator shall be exempt from public disclosure.

(6) When a health professional regulatory board reviews the investigatory information and report, the public members of the board must be actively involved. [1997 c.791 §5; 2009 c.756 §5; 2013 c.568 §18; 2017 c.101 §9]

**676.170 Immunity of information providers.** A person who reports or supplies information in good faith to a health professional regulatory board or to a committee reporting to a health professional regulatory board shall be immune from an action for civil damages as a result thereof. [1997 c.791 §4]

**676.175 Complaints and investigations confidential; exceptions; fees.** (1) A health professional regulatory board shall keep confidential and not disclose to the public any information obtained by the board as part of an investigation of a licensee or applicant, including complaints concerning licensee or applicant conduct and information permitting the identification of complainants, licensees or applicants. However, the board may disclose information obtained in the course of an investigation of a licensee or applicant to the extent necessary to conduct a full and proper investigation.

(2) Notwithstanding subsection (1) of this section, if a health professional regulatory

board votes not to issue a notice of intent to impose a disciplinary sanction:

(a) The board shall disclose information obtained as part of an investigation of an applicant or licensee if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.

(b) The board may disclose to a complainant a written summary of information obtained as part of an investigation of an applicant or licensee resulting from the complaint to the extent the board determines necessary to explain the reasons for the board's decision. An applicant or licensee may review and obtain a copy of any written summary of information disclosed to a complainant by the board after the board has deleted any information that could reasonably be used to identify the complainant.

(3) If a health professional regulatory board votes to issue a notice of intent to impose a disciplinary sanction, upon written request by the licensee or applicant, the board shall disclose to the licensee or applicant all information obtained by the board in the investigation of the allegations in the notice except:

(a) Information that is privileged or confidential under a law other than this section.

(b) Information that would permit the identification of any person who provided information that led to the filing of the notice and who will not provide testimony at a hearing arising out of the investigation.

(c) Information that would permit the identification of any person as a person who made a complaint to the board about a licensee or applicant.

(d) Reports of expert witnesses.

(4) Information disclosed to a licensee or applicant under subsection (3) of this section may be further disclosed by the licensee or applicant only to the extent necessary to prepare for a hearing on the notice of intent to impose a disciplinary sanction.

(5)(a) A health professional regulatory board shall disclose:

(A) A notice of intent to impose a disciplinary sanction against a licensee or applicant that has been issued by vote of the board;

(B) A final order that results from the board's notice of intent to impose a disciplinary sanction;

(C) An emergency suspension order;

(D) A consent order or stipulated agreement that involves licensee or applicant conduct; and

(E) Information to further an investigation into board conduct under ORS 192.685.

(b) A health professional regulatory board may make the information required to be disclosed under paragraph (a)(A) to (D) of this subsection available in electronic form, accessible by use of a personal computer or similar technology that provides direct electronic access to the information.

(6) If a notice of intent to impose a disciplinary sanction has been issued by vote of a health professional regulatory board, a final order that results from the board's notice of intent to impose a disciplinary sanction, an emergency suspension order or a consent order or stipulated agreement that involves licensee or applicant conduct shall summarize the factual basis for the board's disposition of the matter.

(7) A health professional regulatory board record or order, or any part thereof, obtained as part of or resulting from an investigation, contested case proceeding, consent order or stipulated agreement, is not admissible as evidence and may not preclude an issue or claim in any civil proceeding except in a proceeding between the board and the licensee or applicant as otherwise allowed by law.

(8)(a) Notwithstanding subsection (1) of this section, it is not disclosure to the public for a board to permit other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions shall not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, "public official" means a member or member-elect, or any member of the staff or an employee, of a public entity as defined by ORS 676.177.

(9) A health professional regulatory board may establish fees reasonably calculated to reimburse the actual cost of disclosing information to licensees or applicants as required by subsection (3) of this section. [1997 c.791 §2; 1999 c.751 §3; 2005 c.801 §1]

**676.177 Disclosure of confidential information to another public entity; criteria.** (1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforce-

ment function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, “public entity” means:

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

(c) The Department of Justice;

(d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or

(e) A law enforcement agency of this state, another state or the federal government.

(4) Notwithstanding subsections (1) to (3) of this section, the Oregon Board of Physical Therapy may disclose information described in subsection (1) of this section to the Physical Therapy Compact Commission established in ORS 688.240. [1999 c.751 §2; 2016 c.13 §3; 2019 c.43 §7]

**676.180 Notice prior to disclosure.** If a health professional regulatory board intends to disclose a record pursuant to ORS 676.175 (2), the board shall provide the licensee or applicant seven days’ prior written notice by first class mail. The notice shall describe the record that the board intends to disclose in sufficient detail to permit the licensee or applicant to know the contents of the record. In any subsequent action for injunctive or declaratory relief, the burden shall be on the person seeking disclosure to demonstrate by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. [1997 c.791 §3]

### IMPAIRED HEALTH PROFESSIONAL PROGRAM

**676.185 Definitions for ORS 676.185 to 676.200.** As used in ORS 676.185 to 676.200:

(1) “Direct supervisor” means the individual who is responsible for:

(a) Supervising a licensee enrolled in the impaired health professional program;

(b) Monitoring the licensee’s compliance with the requirements of the program; and

(c) Periodically reporting to the program on the licensee’s compliance with the requirements of the program.

(2) “Health profession licensing board” means:

(a) A health professional regulatory board as defined in ORS 676.160; or

(b) The Health Licensing Office for a board, council or program listed in ORS 676.565.

(3) “Impaired professional” means a licensee who is unable to practice with professional skill and safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability or by reason of a mental health disorder.

(4) “Licensee” means a health professional licensed or certified by or registered with a health profession licensing board.

(5) “Substantial noncompliance” includes the following:

(a) Criminal behavior;

(b) Conduct that causes injury, death or harm to the public, or a patient, including sexual impropriety with a patient;

(c) Impairment in a health care setting in the course of employment;

(d) A positive toxicology test result as determined by federal regulations pertaining to drug testing;

(e) Violation of a restriction on a licensee’s practice imposed by the impaired health professional program established under ORS 676.190 or the licensee’s health profession licensing board;

(f) Civil commitment for mental illness;

(g) Failure to participate in the program after entering into a diversion agreement under ORS 676.190; or

(h) Failure to enroll in the program after being referred to the program. [2009 c.697 §1; 2013 c.314 §6; 2013 c.367 §1; 2013 c.568 §19; 2017 c.155 §12a; 2017 c.499 §8]

**676.190 Establishment of program; reports of noncompliance; diversion agreements; audit; rules.** (1) The health profession licensing boards may establish or contract to establish an impaired health professional program.

(2) A program established or contracted for under this section must:

(a) Enroll licensees of participating health profession licensing boards who have been diagnosed with alcohol or substance abuse or a mental health disorder;

(b) Require that a licensee sign a written consent prior to enrollment in the program

allowing disclosure and exchange of information between the program, the licensee's board, the licensee's employer, evaluators and treatment entities in compliance with ORS 179.505 and 42 C.F.R. part 2;

(c) Enter into diversion agreements with enrolled licensees;

(d) If the enrolled licensee has a direct supervisor, assess the ability of the direct supervisor to supervise the licensee, including an assessment of any documentation of the direct supervisor's completion of specialized training;

(e) Report substantial noncompliance with a diversion agreement to a noncompliant licensee's board within one business day after the program learns of the substantial noncompliance; and

(f) At least weekly, submit to licensees' boards:

(A) A list of licensees who were referred to the program by a health profession licensing board and who are enrolled in the program; and

(B) A list of licensees who were referred to the program by a health profession licensing board and who successfully complete the program.

(3) The lists submitted under subsection (2)(f) of this section are exempt from disclosure as a public record under ORS 192.311 to 192.478.

(4) When the program reports substantial noncompliance under subsection (2)(e) of this section to a licensee's board, the report must include:

(a) A description of the substantial noncompliance;

(b) A copy of a report from the independent third party who diagnosed the licensee under ORS 676.200 (2)(a) or subsection (7)(a) of this section stating the licensee's diagnosis;

(c) A copy of the licensee's diversion agreement; and

(d) The licensee's employment status.

(5) The program may not diagnose or treat licensees enrolled in the program.

(6) The diversion agreement required by subsection (2) of this section must:

(a) Require the licensee to consent to disclosure and exchange of information between the program, the licensee's board, the licensee's employer, evaluators and treatment programs or providers, in compliance with ORS 179.505 and 42 C.F.R. part 2;

(b) Require that the licensee comply continuously with the agreement for at least two years to successfully complete the program;

(c) Require that the licensee abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless the drug is:

(A) Prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee; and

(B) Approved by the program if the licensee's board has granted the program that authority;

(d) Require the licensee to report use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours;

(e) Require the licensee to agree to participate in a recommended treatment plan;

(f) Contain limits on the licensee's practice of the licensee's health profession;

(g) Require the licensee to submit to random drug or alcohol testing in accordance with federal regulations, unless the licensee is diagnosed with solely a mental health disorder and the licensee's board does not otherwise require the licensee to submit to random drug or alcohol testing;

(h) Require the licensee to report to the program regarding the licensee's compliance with the agreement;

(i) Require the licensee to report any arrest for or conviction of a misdemeanor or felony crime to the program within three business days after the licensee is arrested or convicted;

(j) Require the licensee to report applications for licensure in other states, changes in employment and changes in practice setting; and

(k) Provide that the licensee is responsible for the cost of evaluations, toxicology testing and treatment.

(7)(a) A health profession licensing board may establish by rule an option to permit licensees of the health profession licensing board to self-refer to the program.

(b) The program shall require a licensee who self-refers to the program to attest that the licensee is not, to the best of the licensee's knowledge, under investigation by the licensee's board. The program shall enroll the licensee on the date on which the licensee attests that the licensee, to the best of the licensee's knowledge, is not under investigation by the licensee's board.

(c) When a licensee self-refers to the program, the program shall:

(A) Require that an independent third party approved by the licensee's board to evaluate alcohol or substance abuse or mental health disorders evaluate the licensee for alcohol or substance abuse or mental health disorders; and



(B) Investigate to determine whether the licensee's practice while impaired has presented or presents a danger to the public.

(d) When a licensee self-refers to the program, the program may not report the licensee's enrollment in or successful completion of the program to the licensee's board.

(8) The health profession licensing boards shall arrange for an independent third party to conduct an audit every four years of an impaired health professional program for the licensees of those health profession licensing boards to ensure compliance with program guidelines. The health profession licensing boards shall report the results of the audit to the Legislative Assembly in the manner provided by ORS 192.245 and to the Governor. The report may not contain individually identifiable information about licensees.

(9) The health profession licensing boards, in consultation with one another, may adopt rules to carry out this section. [2009 c.697 §1b; 2009 c.828 §73; 2012 c.2 §1; 2013 c.367 §2; 2016 c.5 §1]

**676.194 Impaired Health Professional Program Work Group.** (1) The Impaired Health Professional Program Work Group is established.

(2) The work group consists of the designees of any health profession licensing boards that elect to establish or contract for an impaired health professional program as described in ORS 676.190.

(3) The work group shall facilitate the establishment and continuation of the impaired health professional program described in ORS 676.190.

(4) A majority of the members of the work group constitutes a quorum for the transaction of business.

(5) Official action by the work group requires the approval of a majority of the members of the work group.

(6) The work group shall elect one of its members to serve as chairperson.

(7) The work group shall meet at times and places specified by the call of the chairperson or of a majority of the members of the work group.

(8) The work group may adopt rules necessary for the operation of the work group.

(9) The Oregon Medical Board shall provide staff support to the work group.

(10) Members of the work group are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid out

of funds appropriated to the health professional licensing board that the member represents for purposes of the work group.

(11) All agencies of state government, as defined in ORS 174.111, are directed to assist the work group in the performance of duties of the work group and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the work group consider necessary to perform their duties. [2016 c.5 §3]

**676.195** [2009 c.697 §1c; 2009 c.828 §74; repealed by 2012 c.2 §3]

**676.200 Board participation in program; rules.** (1)(a) A health profession licensing board that is authorized by law to take disciplinary action against licensees may adopt rules opting to participate in the impaired health professional program established under ORS 676.190 and may contract with or designate one or more programs to deliver therapeutic services to its licensees.

(b) A board may not establish the board's own impaired health professional program for the purpose of monitoring licensees of the board that have been referred to the program.

(c) A board may adopt rules establishing additional requirements for licensees referred to the impaired health professional program established under ORS 676.190 or a program with which the board has entered into a contract or designated to deliver therapeutic services under subsection (1) of this section.

(2) If a board participates in the impaired health professional program, the board shall establish by rule a procedure for referring licensees to the program. The procedure must provide that, before the board refers a licensee to the program, the board shall ensure that:

(a) An independent third party approved by the board to evaluate alcohol or substance abuse or mental health disorders has diagnosed the licensee with alcohol or substance abuse or a mental health disorder and provided the diagnosis and treatment options to the licensee and the board;

(b) The board has investigated to determine whether the licensee's professional practice while impaired has presented or presents a danger to the public; and

(c) The licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the board within three business days after the licensee is arrested or convicted.

(3) A board that participates in the impaired health professional program shall review reports received from the program. If the board finds that a licensee is substantially noncompliant with a diversion agree-

ment entered into under ORS 676.190, the board may suspend, restrict, modify or revoke the licensee's license or end the licensee's participation in the impaired health professional program.

(4) A board may not discipline a licensee solely because the licensee:

(a) Self-refers to or participates in the impaired health professional program;

(b) Has been diagnosed with alcohol or substance abuse or a mental health disorder; or

(c) Used controlled substances or cannabis before entry into the impaired health professional program, if the licensee did not practice while impaired. [2009 c.697 §1a; 2012 c.2 §2; 2013 c.367 §3; 2017 c.21 §66]

#### **EFFECT OF EXPIRATION, LAPSE, SURRENDER, SUSPENSION OR REVOCATION OF LICENSE**

**676.205 Continuing jurisdiction of boards; effect of expiration, lapse, surrender, suspension or revocation of license.** (1) As used in this section:

(a) "Health professional regulatory board" means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.560.

(b) "License" means a license, registration, certification or other authorization to engage in a profession.

(2) A health professional regulatory board continues to have jurisdiction for licensing, regulatory and disciplinary purposes related to acts and omissions that occur while a person is licensed or required to be licensed, regardless of any changes in the licensing status of the person.

(3) A person who obtains, but is not required to obtain, a license to engage in a profession regulated by a health professional regulatory board, and whose license expires, lapses or is voluntarily surrendered while the person is under investigation by the board, or whose license is suspended or revoked, may not engage in that profession unless the person again obtains a license from the relevant health professional regulatory board to engage in the profession.

(4) Nothing in this section limits the jurisdictional, investigatory or other authority otherwise provided by law to a health professional regulatory board. [2009 c.756 §2; 2013 c.568 §20]

**676.210 Practice of health care profession after suspension or revocation of license prohibited.** No person whose license has been revoked or suspended by any board authorized by the statutes of the State of Oregon to issue licenses to practice a health

care profession shall continue the practice of this profession after the order or decision of the board suspending or revoking the license of the person has been made. The license shall remain suspended or revoked until a final determination of an appeal from the decision or order of the board has been made by the court. [1953 c.592 §1; 1983 c.769 §4]

**676.220 Enjoining health care professional from practicing after suspension or revocation of license.** (1) If at any time the board suspending or revoking the license of any licensee of a health care profession determines that the licensee is continuing to practice the health care profession notwithstanding, the board shall in its own name bring an action to enjoin the licensee.

(2) If the court finds that the licensee has been or is continuing the practice of the health care profession for which the license has been revoked or suspended, the court shall issue an injunction restraining the licensee. The commission of a single act constituting the practice of the respective health care profession shall be prima facie evidence warranting the issuance of an injunction. [1953 c.592 §2; 1979 c.284 §191; 1983 c.769 §5; 2019 c.13 §64]

**676.230 Injunction as cumulative remedy.** The remedy herein provided is cumulative and shall be without prejudice to any other civil or criminal remedy. [1953 c.592 §3]

#### **HEALTH CARE FACILITY REPORTING OF BLOOD ALCOHOL LEVEL OR PRESENCE OF CONTROLLED SUBSTANCE**

**676.260 Health care facility notification of blood alcohol level or presence of cannabis or controlled substance in blood; content of notice.** (1) A health care facility that provides medical care immediately after a motor vehicle accident to a person reasonably believed to be the operator of a motor vehicle involved in the accident shall notify any law enforcement officer who is at the health care facility and is acting in an official capacity in relation to the motor vehicle accident if the health care facility becomes aware, as a result of any blood test performed in the course of that treatment, that:

(a) The person's blood alcohol level meets or exceeds the percent specified in ORS 813.010;

(b) The person's blood contains cannabis; or

(c) The person's blood contains a controlled substance, as defined in ORS 475.005.

(2) If a health care facility is required to notify a law enforcement officer of test results under subsection (1) of this section and

no law enforcement officer is present in an official capacity at the health care facility, the health care facility shall notify a law enforcement agency in the county in which the accident occurred, or an Oregon State Police dispatch center, as soon as possible but no more than 72 hours after becoming aware of the results of the blood test.

(3) A notice required under this section must consist of:

(a) The name of the person being treated;

(b) The blood alcohol level, the blood cannabis level and name and level of any controlled substance disclosed by the test; and

(c) The date and time of the administration of the test.

(4) ORS 40.225 to 40.295 do not affect the requirement to provide notice imposed by this section, and the health care facility shall not be considered to have breached any duty under ORS 40.225 to 40.295 owed to the person about whom the notice is made. [1995 c.546 §1; 2003 c.89 §2; 2007 c.662 §1; 2011 c.672 §1; 2017 c.21 §67]

**676.280 Immunity of person providing notice to law enforcement of blood test results.** No action or administrative proceeding shall be brought against anyone participating in good faith in providing notice pursuant to ORS 676.260 and any person participating in providing notice shall have immunity from any liability, civil or criminal, and from any professional disciplinary action, that might otherwise be incurred or imposed with respect to the notification or the content of the notice. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from the notice. [1995 c.546 §2; 2003 c.89 §3]

**676.300 Authority of health care provider to notify law enforcement agency that patient who is under influence of intoxicants is about to drive vehicle; immunity.** (1) If a health care provider who is providing emergency medical care in a health care facility to a person has reason to believe that the person is under the influence of intoxicants and is about to drive a motor vehicle on a highway as defined in ORS 801.305 or a premises open to the public as defined in ORS 801.400 and is a clear and present danger to society, the health care provider may notify as soon as reasonably possible the law enforcement agency which has jurisdiction over the health care facility site.

(2) The notice shall consist of the name and physical description of the person being treated and the fact that the health care provider believes the person is intoxicated

and is about to drive a motor vehicle as described in subsection (1) of this section.

(3) The health care provider may inform the person if the health care provider intends to notify the law enforcement agency described in subsection (1) of this section. The person's consent is not required.

(4) Anyone participating in good faith in the making of a report or not making a report pursuant to subsections (1) to (3) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or the content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [Formerly 441.827]

## MISCELLANEOUS

**676.303 Purposes of health professional regulatory boards; authority of boards to require fingerprints.** (1) As used in this section:

(a) "Health professional regulatory board" means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.560.

(b) "Impairment" means an inability to practice with reasonable competence and safety due to the habitual or excessive use of drugs or alcohol, other chemical dependency or a mental health condition.

(c) "License" means a license, registration, certification or other authorization to engage in a profession.

(d) "Licensee" means a person licensed, registered, certified or otherwise authorized by a health professional regulatory board to engage in a profession.

(2) All health professional regulatory boards shall operate with the primary purposes of promoting the quality of health services provided, protecting the public health, safety and welfare by ensuring that licensees practice with professional skill and safety and addressing impairment among licensees.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, a health professional regulatory board may require the fingerprints of a licensee seeking renewal of a license, an applicant for a license, a board employee or volunteer or an applicant for employment with the board. [2009 c.756 §1; 2013 c.568 §21]

**676.306 Executive directors; reports; rules.** (1) As used in this section, "health professional regulatory board" means a health professional regulatory board described in ORS 676.160 other than the Oregon Health Authority with regard to the

licensure of emergency medical services providers.

(2) Subject to applicable provisions of the State Personnel Relations Law and the approval of the Governor, notwithstanding ORS 182.468, each health professional regulatory board shall appoint an executive director and prescribe the duties and fix the compensation of the executive director. The executive director shall serve at the pleasure of the Governor under the direct supervision of the appointing board. The board may request that the Governor remove the executive director.

(3) In addition to any other duties imposed by law or otherwise required of state agencies, the executive director shall keep all records of the board and discharge all duties prescribed by the board.

(4) The executive director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the board. The executive director shall submit the reports to the board and the Governor. The Oregon Department of Administrative Services, in consultation with the board, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the department. The rules shall require each board to undergo a peer review of board activities by a team of executive directors of other health professional regulatory boards and at least one public member. The department may assess the board for the cost of the peer review. [2009 c.756 §4; 2011 c.703 §46; 2011 c.720 §214]

**676.308 Authorization for military spouse or domestic partner to practice health profession; rules.** (1) As used in this section:

(a) "Authorization" means a license, registration, certificate or other authorization to engage in a profession.

(b) "Board" means a health professional regulatory board, as defined in ORS 676.160, or a board, council or program listed in ORS 676.565.

(c) "Military spouse or domestic partner" means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) A board shall issue an authorization to a military spouse or domestic partner if the military spouse or domestic partner provides the board with:

(a) Evidence that the applicant is married to, or in a domestic partnership with, an active member of the Armed Forces of the

United States who is assigned to a duty station located in Oregon by official active duty military order;

(b) Evidence that the military spouse or domestic partner is authorized by another state or territory of the United States to provide services regulated by the board; and

(c) Evidence that the military spouse or domestic partner:

(A) Has provided services or taught the subject matter regulated by the board for at least one year during the three years immediately preceding the date on which the military spouse or domestic partner submits an application for an authorization; and

(B) Has demonstrated competency, as determined by the board by rule, over services regulated by the board.

(3) A board may issue a temporary authorization to an applicant who applies for an authorization under subsection (2) of this section before the board receives the evidence required by subsection (2) of this section if the military spouse or domestic partner affirms on the application that the military spouse or domestic partner:

(a) Has requested evidence of authorization from the state or territory in which the military spouse or domestic partner is authorized; and

(b) Is not subject to disciplinary action in that state or territory for a matter related to services regulated by the board. [2013 c.351 §1; 2017 c.499 §9]

**676.310 Fees for laboratory testing; itemized billing; failure to comply considered unprofessional conduct.** (1) Any person authorized by law to order laboratory testing may charge a reasonable fee for all laboratory and other specialized testing performed by the practitioner or by a person in the practitioner's employ. In addition, the practitioner is entitled to charge a reasonable fee for collecting and preparing specimens to be sent to independent persons or laboratories for testing, and for the preparation of the billing to the patient for the test. However, a practitioner shall not mark up, or charge a commission or make a profit on services rendered by an independent person or laboratory.

(2) A practitioner shall prepare an itemized billing, indicating the charges for each service rendered to the patient. Any services rendered to the patient that were performed by persons other than those in the direct employ of the practitioner and the charges therefor shall be indicated separately on the patient's bill.

(3) Failure to comply with the requirements of this section shall be considered to

be unprofessional conduct and may be subject to disciplinary action by the appropriate licensing board.

(4) As used in this section, “practitioner” means a person licensed to practice medicine, dentistry, naturopathic medicine or chiropractic or to be a nurse practitioner. [1979 c.428 §1]

**676.330 Approved osteopathic residency training and certification included as medical specialty certification.** Any health care entity, hospital, hospital medical staff, health care service contractor, independent practice association, health insurance company or any other entity that requires physicians to be certified or eligible for certification in a medical specialty shall include residency training and certification approved by the American Osteopathic Association and the American Board of Medical Specialties. [1995 c.627 §1]

**676.340 Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability.** (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient’s informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

(a) A physician licensed under ORS chapter 677;

(b) A nurse licensed under ORS 678.040 to 678.101;

(c) A nurse practitioner licensed under ORS 678.375 to 678.390;

(d) A clinical nurse specialist licensed under ORS 678.370 and 678.372;

(e) A physician assistant licensed under ORS 677.505 to 677.525;

(f) A dental hygienist licensed under ORS 680.010 to 680.205;

(g) A dentist licensed under ORS 679.060 to 679.180;

(h) A pharmacist licensed under ORS chapter 689;

(i) An optometrist licensed under ORS chapter 683;

(j) A naturopathic physician licensed under ORS chapter 685; and

(k) An acupuncturist licensed under ORS 677.757 to 677.770. [1999 c.771 §1; 1999 c.771 §3; 2005 c.462 §2; 2012 c.41 §3; 2017 c.356 §84; 2019 c.227 §1; 2019 c.358 §20]

**676.345 Registration program for health care professionals claiming liability limitation; program requirements.** (1)

A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

(a) By a physician, physician assistant or acupuncturist, with the Oregon Medical Board;

(b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of Nursing;

(c) By a dentist or dental hygienist, with the Oregon Board of Dentistry;

(d) By a pharmacist, with the State Board of Pharmacy;

(e) By an optometrist, with the Oregon Board of Optometry; and

(f) By a naturopathic physician, with the Oregon Board of Naturopathic Medicine.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

(a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;

(b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and

(c) A statement that the health practitioner will only provide health care services without compensation that are within the scope of the health practitioner's license.

(3) Registration under this section must be made biennially. The health professional regulatory boards listed in subsection (1) of this section may not charge a fee for registration under this section. [1999 c.771 §2; 1999 c.771 §4; 2005 c.462 §3; 2012 c.41 §4; 2017 c.356 §85; 2019 c.227 §2]

**676.350 Authority of health professional regulatory boards to adopt rules permitting expedited partner therapy.** (1) As used in this section:

(a) "Expedited partner therapy" means the practice of prescribing or dispensing antibiotic drugs for the treatment of a sexually transmitted infection to the partner of a patient without first examining the partner of the patient.

(b) "Partner of a patient" means a person whom a patient diagnosed with a sexually transmitted infection identifies as a sexual partner of the patient.

(c) "Practitioner" has the meaning given that term in ORS 475.005.

(2) A health professional regulatory board, as defined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board may adopt rules permitting practitioners to practice expedited partner therapy. If a board adopts rules permitting practitioners to practice expedited partner therapy, the board shall consult with the Oregon Health Authority to determine

which sexually transmitted infections are appropriately addressed with expedited partner therapy.

(3) A prescription issued in the practice of expedited partner therapy authorized by the rules of a board is valid even if the name of the patient for whom the prescription is intended is not on the prescription.

(4) The authority shall make available informational material about expedited partner therapy that a practitioner may distribute to patients. [2009 c.522 §1; 2011 c.720 §215; 2017 c.101 §20; 2018 c.61 §20; 2019 c.280 §13]

**676.360 Pelvic examinations.** (1) A person may not knowingly perform a pelvic examination on a woman who is anesthetized or unconscious in a hospital or medical clinic unless:

(a) The woman or a person authorized to make health care decisions for the woman has given specific informed consent to the examination;

(b) The examination is necessary for diagnostic or treatment purposes; or

(c) A court orders the performance of the examination for the collection of evidence.

(2) A person who violates subsection (1) of this section is subject to discipline by any licensing board that licenses the person. [2011 c.200 §1]

**676.400 Racial and ethnic composition of regulated health professions; findings; duties of health professional regulatory boards.** (1) It is the intention of the Legislative Assembly to achieve the goal of universal access to adequate levels of high quality health care at an affordable cost for all Oregonians, regardless of ethnic or cultural background.

(2) The Legislative Assembly finds that:

(a) Access to health care is of value when it leads to treatment that substantially improves health outcomes;

(b) Health care is most effective when it accounts for the contribution of culture to health status and health outcomes;

(c) Ethnic and racial minorities experience more than their statistically fair share of undesirable health outcomes;

(d) The lack of licensed health care professionals from ethnic and racial minorities or who are bilingual contributes to the inadequacy of health outcomes in communities of color in this state; and

(e) The development of a partnership between health professional regulatory boards and communities of color to increase the representation of people of color and bilingual people in health care professions has significant potential to improve the health

outcomes of people of color and bilingual citizens of this state.

(3) Health professional regulatory boards shall establish programs to increase the representation of people of color and bilingual people on the boards and in the professions that they regulate. Such programs must include activities to promote the education, recruitment and professional practice of members of these targeted populations in Oregon.

(4) Each health professional regulatory board shall maintain records of the racial and ethnic makeup of applicants and professionals regulated by the board. Such information shall be requested from applicants and the professionals regulated who shall be informed in writing that the provision of such information is voluntary and not required.

(5) Each health professional regulatory board shall report biennially to the Legislative Assembly in the manner required by ORS 192.245. The report shall contain:

(a) Data detailing the efforts of the board to comply with the requirements of subsection (3) of this section; and

(b) Data collected under subsection (4) of this section documenting the ethnic and racial makeup of the applicants and of the professionals regulated by the board.

(6) For purposes of this section, "health professional regulatory board" means a health professional regulatory board, as defined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board. [2001 c.973 §1; 2017 c.101 §21; 2018 c.61 §21]

**676.405 Release of personal information.** (1) As used in this section, "health professional regulatory board" means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.560.

(2) Notwithstanding ORS 192.311 to 192.478, a health professional regulatory board may, at its discretion, release or withhold the personal electronic mail address, home address and personal telephone number for a person licensed, registered or certified by the board. If the personal electronic mail address, home address or personal telephone number is requested for a public health or state health planning purpose, the board shall release the information. [2009 c.756 §3; 2013 c.568 §22]

**676.410 Information required for renewal of certain licenses; confidentiality; data collection; fees; rules.** (1) As used in this section, "health care workforce regulatory 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) Respiratory Therapist and Polysomnographic Technologist Licensing 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; and

(q) Board of Medical Imaging.

(2) An individual applying to renew a license with a health care workforce regulatory board must provide the information prescribed by the Oregon Health Authority pursuant to subsection (3) of this section to the health care workforce regulatory board. Except as provided in subsection (4) of this section, a health care workforce regulatory board may not approve an application to renew a license until the applicant provides the information.

(3) The authority shall collaborate with each health care workforce regulatory board to adopt rules establishing:

(a) The information that must be provided to a health care workforce regulatory board under subsection (2) of this section, which may include:

(A) Demographics, including race and ethnicity.

(B) Education and training information.

(C) License information.

(D) Employment information.

(E) Primary and secondary practice information.

(F) Anticipated changes in the practice.

(G) Languages spoken.

(b) The manner and form of providing information under subsection (2) of this section.

(4)(a) Subject to paragraph (b) of this subsection, a health care workforce regula-

tory board shall report health care workforce information collected under subsection (2) of this section to the authority.

(b) Except as provided in paragraph (c) of this subsection, personally identifiable information collected under subsection (2) of this section is confidential and a health care workforce regulatory board and the authority may not release such information.

(c) A health care workforce regulatory board may release personally identifiable information collected under subsection (2) of this section to a law enforcement agency for investigative purposes or to the authority for state health planning purposes.

(5) A health care workforce regulatory board may adopt rules to perform the board's duties under this section.

(6) In addition to renewal fees that may be imposed by a health care workforce regulatory board, the authority shall establish fees to be paid by individuals applying to renew a license with a health care workforce regulatory board. The amount of fees established under this subsection must be reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section.

(7) Using information collected under subsection (2) of this section, the authority shall create and maintain a health care workforce database. The authority shall provide data from the health care workforce database and may provide data from other relevant sources, including data related to the diversity of this state's health care workforce, upon request to state agencies and to the Legislative Assembly. The authority may contract with a private or public entity to establish and maintain the database and to perform data analysis. [2009 c.595 §1175; 2011 c.630 §23; 2013 c.14 §9; 2015 c.318 §40; 2015 c.380 §1; 2017 c.6 §24; 2019 c.3 §3; 2019 c.43 §8]

**Note:** Section 3, chapter 380, Oregon Laws 2015, provides:

**Sec. 3.** (1) For individuals applying to renew a license to practice a regulated profession with the Oregon Board of Dentistry, Board of Licensed Dietitians, Oregon State Board of Nursing, State Board of Pharmacy, Oregon Medical Board, Occupational Therapy Licensing Board and Physical Therapist Licensing Board, the amendments to ORS 676.410 by section 1, chapter 380, Oregon Laws 2015, apply to applications to renew a license to practice a regulated profession that are submitted on or after January 1, 2016.

(2) For individuals applying to renew a license to practice a regulated profession with the State Board of Examiners for Speech-Language Pathology and Audiology, State Board of Chiropractic Examiners, State Board of Licensed Social Workers, Oregon Board of Licensed Professional Counselors and Therapists, State Board of Massage Therapists, Oregon Board of Naturopathic Medicine, Respiratory Therapist and Polysomnographic Technologist Licensing Board, Oregon Board of Optometry, Oregon Board of Psychology and Board of Medical Imaging, the amendments to ORS 676.410 by section 1, chapter 380, Oregon Laws 2015, apply to ap-

plications to renew a license to practice a regulated profession that are submitted on or after the date on which rules are adopted for health care workers regulated by a health care workforce regulatory board pursuant to ORS 676.410 (3). [2015 c.380 §3; 2017 c.6 §25]

**676.440 Duty of health professional regulatory boards to encourage multidisciplinary pain management services.** (1) Health professional regulatory boards shall encourage the development of state-of-the-art multidisciplinary pain management services and the availability of these services to the public.

(2) As used in subsection (1) of this section, "health professional regulatory boards" means the:

- (a) Oregon Medical Board;
- (b) Oregon Board of Naturopathic Medicine;
- (c) Oregon Board of Dentistry;
- (d) Oregon State Board of Nursing;
- (e) Oregon Board of Physical Therapy;
- (f) State Board of Chiropractic Examiners;
- (g) State Board of Pharmacy; and
- (h) Oregon Board of Psychology. [2003 c.325 §1; 2009 c.43 §10; 2017 c.6 §26; 2019 c.43 §9]

**676.450 Health Care Provider Incentive Fund.** The Health Care Provider Incentive Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Health Care Provider Incentive Fund shall be credited to the fund. The fund consists of moneys appropriated to the fund by the Legislative Assembly and gifts, grants or other moneys contributed to the fund by any source, whether public or private. Moneys in the fund are continuously appropriated to the Oregon Health Authority to carry out ORS 676.454 and 676.467. [2015 c.829 §1; 2017 c.718 §13]

**676.454 Health care provider incentive program; rules.** (1) There is created in the Oregon Health Authority a health care provider incentive program for the purpose of assisting qualified health care providers who commit to serving medical assistance and Medicare enrollees in rural or medically underserved areas of this state. The authority shall prescribe by rule:

(a) Participant eligibility criteria, including the types of qualified health care providers who may participate in the program;

(b) The terms and conditions of participation in the program, including the duration of the term of any service agreement, which must be at least 12 months;

(c) The types of incentives that may be provided, including but not limited to:

- (A) Loan repayment subsidies;



- (B) Stipends;
- (C) Medical malpractice insurance premium subsidies;
- (D) Scholarships for students in health professional training programs at the Oregon Health and Science University;
- (E) Scholarships for students at institutions of higher education based in this state who are enrolled in health professional training programs leading to a doctor of osteopathic medicine or doctor of dentistry or a license as a nurse practitioner, physician assistant or certified registered nurse anesthetist, if:
  - (i) The scholarship funds are distributed equitably among schools offering the training programs, based on the percentage of Oregon students attending those schools; and
  - (ii) The maximum scholarship for each student does not exceed the highest resident tuition rate at the publicly funded health professional training programs in this state; and
- (F) Paying the moving expenses of providers not located in rural or medically underserved areas who commit to relocate to such areas;
  - (d) If the funds allocated to the program from the Health Care Provider Incentive Fund established under ORS 676.450 are insufficient to provide assistance to all of the applicants who are eligible to participate in the program, the priority for the distribution of funds; and
  - (e) The financial penalties imposed on an individual who fails to comply with terms and conditions of participation.
- (2) Eligibility requirements adopted for the program:
  - (a) Must allow providers to qualify for multiple health care provider incentives, to the extent permitted by federal law.
  - (b) Must allow providers to qualify for an incentive for multiyear periods.
  - (c) Must give preference to applicants willing to:
    - (A) Commit to extended periods of service in rural or medically underserved areas; or
    - (B) Serve patients enrolled in Medicare and the state medical assistance program in at least the same proportion to the provider's total number of patients as the Medicare and medical assistance patient populations represent in relation to the total number of persons determined by the Office of Rural Health to be in need of health care in the area served by the practice.
- (3) The authority may use funds allocated to the program from the Health Care Pro-

vider Incentive Fund to administer or provide funding to a locum tenens program for health care providers practicing in rural areas of this state.

(4) The authority may enter into contracts with one or more public or private entities to administer the health care provider incentive program or parts of the program.

(5) The authority shall decide no later than September 1 of each academic year the distribution of funds for scholarships that will be provided in the next academic year.

(6) The authority may receive gifts, grants or contributions from any source, whether public or private, to carry out the provisions of this section. Moneys received under this subsection shall be deposited in the Health Care Provider Incentive Fund established under ORS 676.450. [Formerly 676.460]

**676.459 Health care workforce needs; report to Legislative Assembly.** (1) The Oregon Health Policy Board, in consultation with the Oregon Health and Science University and the Office of Rural Health, shall conduct an assessment of the health care workforce needs in this state, including but not limited to the health care workforce needed to address:

(a) The continuing expansion in commercial and publicly funded health care coverage;

(b) Health disparities among medically underserved populations; and

(c) The need for health care providers in rural communities.

(2) The board shall report to the Legislative Assembly no later than February 1 in each odd-numbered year on the health care workforce needs in this state and proposals for addressing those needs with programs funded by the Health Care Provider Incentive Fund established under ORS 676.450. [2017 c.718 §1]

**676.460** [2015 c.829 §2; 2017 c.718 §5; renumbered 676.454 in 2017]

**676.463 Financial incentive program participation data; reporting.** (1) As used in this section, "financial incentive programs" includes but is not limited to the:

(a) Rural health care provider tax credit available under ORS 315.613;

(b) Scholars for a Healthy Oregon Initiative created by ORS 348.303; and

(c) Incentives provided by the health care provider incentive program created by ORS 676.454.

(2) In order to evaluate the effectiveness of state financial incentive programs in recruiting health care providers to practice in

rural and medically underserved areas and retaining health care providers in rural and medically underserved areas, the Oregon Health Policy Board shall collect information about financial incentive program participants, which may include:

(a) The month and year of entry into the program;

(b) The locations of service and duration of service in each location;

(c) The main services provided, discipline, specialty and hours of direct patient care;

(d) The percentage of services provided through telemedicine; and

(e) Other demographic information that the board and the Office of Rural Health determine to be useful in the evaluation.

(3) To collect the data described in subsection (2) of this section, the board shall use unique provider identifiers and link the identifiers to the provider data reported under ORS 442.373.

(4) The board shall compile and analyze the data collected under this section and report its findings and analysis to the interim committees of the Legislative Assembly related to health every two years. [2017 c.718 §2; 2017 c.718 §17]

**676.467 Allocation of moneys; administration by Oregon Health and Science University.** (1) On the basis of the assessment and the evaluation conducted under ORS 676.459 and 676.463, the Oregon Health Policy Board shall determine the best allocation of moneys in the Health Care Provider Incentive Fund established under ORS 676.450 toward providing:

(a) Incentives through the health care provider incentive program created by ORS 676.454.

(b) Loans or grants to support communities' plans for addressing the unmet health care workforce needs in each community, including but not limited to:

(A) Funding start-up costs for new health care professional training programs that:

(i) Are designed to expand the racial and ethnic diversity of Oregon's health care workforce;

(ii) Are designed to expand the health care workforce in medically underserved areas;

(iii) Provide financial incentives to faculty members in health care professional training programs and clinical preceptors;

(iv) Ensure that individuals enrolled in the programs are adequately compensated; and

(v) Include technical assistance; and

(B) Supplementing Medicare funding paid to hospitals for graduate medical education.

(2) With respect to the loans and grants provided under subsection (1)(b) of this section, the board shall:

(a) Prescribe the process and procedures for communities to apply for loans or grants and for the board to award loans and grants.

(b) Establish criteria to ensure that the moneys support community plans that:

(A) Include a substantial financial investment by the community, as determined by the board, and may include financial or in-kind support;

(B) Are designed to improve the access to health care by medical assistance recipients and Medicare enrollees to the same extent that each plan improves access to health care by the general population of the community; and

(C) Are sustainable over the long term.

(c) Conduct outreach to communities to solicit ideas and applications for new training programs and other incentive programs.

(d) Collaborate with community colleges and public universities in this state.

(3) The board shall enter into an agreement with the Oregon Health and Science University to administer this section under the board's direction. [2017 c.718 §3]

**676.550** [2011 c.560 §1; repealed by 2015 c.829 §9 and 2017 c.718 §15]

**676.551 Needlestick injury; blood draw of patient; test results; rules.** (1) As used in this section:

(a) "Health care practitioner" means a person who provides medical care in an emergency setting and who is:

(A) An emergency medical services provider licensed under ORS chapter 682;

(B) A physician licensed under ORS chapter 677; or

(C) A nurse licensed under ORS 678.010 to 678.410.

(b) "Needlestick injury" means a wound caused by a needle puncturing the skin.

(2) Notwithstanding ORS 431A.570, a health care practitioner who receives a needlestick injury during the treatment of a patient who is unconscious or otherwise unable to consent may, in compliance with this section, perform a blood draw on the patient for the purpose of testing the blood to determine whether the health care practitioner needs to begin immediate post-exposure prophylactic treatment that may include the administration of medications to the health care practitioner.

(3) A blood draw described in subsection (2) of this section may be performed if:

(a) The patient is not expected to regain consciousness or the ability to consent in the amount of time necessary for the health care practitioner to receive appropriate medical treatment;

(b) There is no other person immediately available who is able to consent on behalf of the patient; and

(c) The health care practitioner will benefit medically from knowing the results of a test described under subsection (2) of this section.

(4) A test performed under this section must be anonymous.

(5) The patient, or patient's legal guardian, must be informed of the blood draw and the test results.

(6) The results of a test described in subsection (2) of this section may not be:

(a) Made available to law enforcement agencies;

(b) Made available to any person other than the health care practitioner, the individual who performs the test and the patient or the patient's legal guardian; or

(c) Included in the medical record of the health care practitioner or the patient.

(7) The patient, or the patient's health insurer, may not be charged for the cost of performing a test under this section.

(8) The Oregon Health Authority may adopt rules to carry out this section. [2019 c.476 §1]

**676.552** [2011 c.560 §2; repealed by 2015 c.829 §9 and 2017 c.718 §15]

**676.553 Prohibitions relating to provision of substance abuse, problem gambling or mental health services and support.** (1) As used in this section:

(a) "Advertisement" means a public notice, announcement or communication in any form or by means of any media that describes a mental health or substance abuse treatment service or facility for the purpose of promoting, soliciting the purchase of or selling substance abuse, problem gambling or mental health services and support that a person provides to residents of this state.

(b)(A) "Person" means a natural person, a partnership, a limited partnership, a limited liability partnership, a corporation, a professional corporation, a nonprofit corporation, a limited liability company, a business trust or another business entity.

(B) "Person" does not include a public body, as defined in ORS 174.109, or the Oregon Health and Science University.

(c) "Substance abuse, problem gambling or mental health services and support" means all services and supports necessary to treat substance abuse, problem gambling or other mental health issues, such as outpatient behavioral health services and supports for children and adults, intensive treatment services for children, outpatient and residential substance use disorders treatment services and outpatient and residential problem gambling treatment services.

(2) A person that provides substance abuse, problem gambling or mental health services and support may not:

(a) Accept from another person, or pay to another person, a fee, commission, bonus, rebate or other compensation for a referral of, or to refer, a resident of this state for substance abuse, problem gambling or mental health services and support.

(b) Issue, engage, pay for, disseminate or otherwise make available an advertisement that intentionally falsely states or misrepresents the need for a resident of this state to obtain substance abuse, problem gambling or mental health services and support outside this state or at a facility that is located outside this state.

(c) Intentionally misrepresent or falsely state in an advertisement a resident of this state's eligibility to participate in a medical assistance program. [2019 c.363 §1]

**676.554** [2011 c.560 §6; repealed by 2015 c.829 §9 and 2017 c.718 §15]

**676.556** [2011 c.560 §3; repealed by 2015 c.829 §9 and 2017 c.718 §15]

## HEALTH LICENSING OFFICE

**676.560 Purpose of Health Licensing Office.** (1) To provide for the more effective coordination of administrative and regulatory functions of certain health boards, councils and programs involved in protecting the public through the licensing and regulation of health-related professions and occupations practiced in this state under a uniform mission and uniform goals, the Health Licensing Office is created within the Oregon Health Authority.

(2) The mission of the office is to serve the public by providing a uniform structure and accountability for the boards, councils and programs under its administration to protect the public from harm. The office's focus is to:

(a) Promote effective health policy that protects the public from incompetent or unauthorized individuals and allows consumers to select a provider from a range of safe options.

(b) Provide outreach and training to stakeholders to improve compliance with

public health and safety standards, and to involve stakeholders in the regulation of the various disciplines and fields of practice.

(c) Form partnerships and work in collaboration with each constituency, local and state governmental agencies, educators, organizations and other affected entities to encourage diverse opinions and perspectives.

(d) Provide the boards, councils and programs with a standardized administrative forum and procedures for operation, fiscal services, licensing, enforcement and complaint resolution.

(e) Resolve disputes between regulatory entities regarding the scope of practice of persons with authorization by those entities in the professions and occupations overseen by those boards, councils and programs. [Formerly 676.575; 2019 c.456 §14]

**676.562 Definitions for ORS 676.560 to 676.625.** As used in ORS 676.560 to 676.625:

(1) “Active authorization” means an authorization that is current and not suspended.

(2) “Authorization” means a certificate, license, permit or registration issued by the Health Licensing Office that allows a person to practice:

(a) One of the occupations or professions or maintain a facility subject to the authority of the boards, councils and programs listed in ORS 676.565; or

(b) A profession or occupation subject to direct oversight by the office.

(3) “Expired authorization” means an authorization that has been not current for more than three years.

(4) “Inactive authorization” means an authorization that has been not current for three years or less. [Formerly 676.580]

**676.565 Oversight and centralized service by office.** Pursuant to ORS 676.568, the Health Licensing Office shall provide administrative and regulatory oversight and centralized service for the following boards, councils and programs:

(1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

(2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;

(3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;

(4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

(5) Respiratory Therapist and Polysomnographic Technologist Licensing Board, as provided in ORS 688.800 to 688.840;

(6) Environmental Health Registration Board, as provided in ORS chapter 700;

(7) Board of Electrologists and Body Art Practitioners, as provided in ORS 690.350 to 690.410;

(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;

(9) Sexual Offense Treatment Board, as provided in ORS 675.365 to 675.410;

(10) Long Term Care Administrators Board, as provided in ORS 678.710 to 678.820;

(11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;

(12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;

(13) Board of Certified Advanced Estheticians, as provided in ORS 676.630 to 676.660;

(14) Art therapy, as provided in ORS 681.740 to 681.758;

(15) Lactation consultation, as provided in ORS 676.665 to 676.689; and

(16) Music therapy, as provided in ORS 681.700 to 681.730. [Formerly 676.583; 2018 c.61 §22; 2019 c.68 §14; 2019 c.456 §15]

**676.568 Office responsibilities; enumeration of powers not exclusive; rules.**

(1) The Health Licensing Office is responsible for the administration and regulatory oversight of the boards, councils and programs listed in ORS 676.565. The responsibilities of the office include, but are not limited to:

(a) Budgeting;

(b) Record keeping;

(c) Staffing;

(d) Contracting;

(e) Consumer protection and investigating complaints;

(f) Establishing and collecting fees;

(g) Establishing and administering uniform application processes for the issuance of authorizations;

(h) Issuing and renewing authorizations;

(i) Subject to ORS 676.616 and 687.445, conditioning, limiting, suspending, revoking or refusing to issue or renew an authorization or otherwise disciplining applicants and authorization holders;

(j) Sanctioning any examination service provider, interpreter or proctor who is under contract or agreement with the office and who compromises the security, confidentiality or integrity of examinations developed or conducted pursuant to the statutory authority of the boards, councils and programs listed in ORS 676.565;

(k) Enforcing all administrative rules adopted under any statute the office is charged with enforcing, including board,

council and program administrative rules establishing professional code of conduct and practice standards, the scope of professional practice and requirements for obtaining informed consent before providing certain services or performing any procedure on clients;

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

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

(n) Preparing and circulating printed and electronic materials for educating or otherwise assisting applicants, authorization holders and the public;

(o) Adopting rules for the issuance of waivers or provisional authorizations to practice, and establishing special conditions of practice, during a state of emergency declared by the Governor under ORS 401.165;

(p) Referring impaired practitioners to a diversion program approved or recognized by the office and establishing criteria by rule for monitoring the impaired practitioner's progress and successful completion of the program;

(q) Establishing requirements for additional education, training or supervised experience to achieve compliance with the laws and rules governing professional practice;

(r) Establishing by rule continuing education requirements for renewal of an authorization if the office determines that continuing education is appropriate for renewal of the authorization;

(s) Exempting from authorization requirements a person who provides services at charitable or fund raising events, after the office has considered and evaluated the written request for an exemption on an individual basis; and

(t) Establishing requirements by rule for the issuance of a provisional authorization for purposes related to education or training.

(2) The enumeration of duties, functions and powers in subsection (1) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office by other statutes. [Formerly 676.586]

**676.572 Issuance of authorizations; renewal; activation.** (1) Except as provided in subsection (2) or (7) of this section, an authorization issued by the Health Licensing Office becomes not current on the last day of the month, one year from the date of issuance.

(2) A certificate issued under ORS 690.005 to 690.225 becomes not current on the last day of the month, two years from the date of issuance.

(3) In order to renew an authorization, the holder of the authorization shall submit to the office on or before the date on which the authorization becomes not current:

(a) A renewal application;

(b) Fees established by the office under ORS 676.576; and

(c) Any other information required by the office by rule.

(4) In order to activate an inactive authorization, the holder of the authorization shall submit to the office within three years after the authorization becomes not current:

(a) An activation application;

(b) Fees established by the office under ORS 676.576; and

(c) Any other information required by the office by rule.

(5) In order to obtain a new authorization, the holder of an expired authorization shall submit a new application, pay fees established by the office under ORS 676.576 and meet all requirements for a new authorization.

(6) If an authorization has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the office may not issue or renew the authorization for at least one year after the denial, suspension or revocation.

(7) The office may vary the date on which an authorization becomes not current by providing the holder of the authorization with written notice of the new date and prorating the renewal fee accordingly.

(8)(a) An authorization must be posted at all times in public view at the location where services are rendered, in accordance with rules adopted by the office.

(b) A facility authorization must be posted at all times in public view at the facility address on file with the office.

(9) This section does not apply to temporary authorizations or authorizations related to demonstration permits. [Formerly 676.589]

**676.575** [Formerly 676.605; renumbered 676.560 in 2017]

**676.576 Fees.** (1) The Health Licensing Office shall establish by rule and collect fees for:

(a) Application for authorization;

(b) Original authorization;

(c) Renewal of authorization;

(d) Examinations and reexaminations;

(e) Authorizations related to demonstration permits;

(f) Temporary or provisional authorization;

- (g) Replacement authorization;
- (h) Late renewal of authorization;
- (i) Reciprocity;
- (j) Authorizations related to freelance licenses and independent contractor registrations;
- (k) Authorizations related to facilities;
- (L) Renewal of dormant authorization;
- (m) Activation of inactive authorization;
- (n) Verification of authorization;
- (o) Duplicate authorization;
- (p) Education or training provided by the office; and
- (q) Providing copies of official documentation or records and for recovering administrative costs associated with compiling, photocopying, preparing and delivering the documentation or records.

(2) All moneys collected by the office under this section shall be paid into the General Fund of the State Treasury and credited to the Health Licensing Office Account established under ORS 676.625. Fees established under this section may not exceed the cost of administering the office and the boards and councils within the office, and are subject to ORS 676.625 (3). [Formerly 676.592]

**676.579 Director; appointment and qualifications; responsibilities; duties.**

(1)(a) The Health Licensing Office is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers and for the organization of the office.

(b) The Director of the Oregon Health Authority shall establish the qualifications for and appoint the Director of the Health Licensing Office, who holds office at the pleasure of the Director of the Oregon Health Authority.

(c) The Director of the Health Licensing Office shall receive a salary as provided by law or, if not so provided, as prescribed by the Director of the Oregon Health Authority.

(d) The Director of the Health Licensing Office is in the unclassified service.

(2) The Director of the Health Licensing Office shall provide the boards, councils and programs administered by the office with any services and employees as the office requires to carry out the office's duties. Subject to any applicable provisions of the State Personnel Relations Law, the Director of the Health Licensing Office shall appoint all subordinate officers and employees of the office, prescribe their duties and fix their compensation.

(3) The Director of the Health Licensing Office is responsible for carrying out the duties, functions and powers under ORS 675.365 to 675.410, 676.560 to 676.625, 676.665 to 676.689, 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office by other statutes. [Formerly 676.610; 2019 c.456 §16]

**676.580** [2013 c.314 §2; 2015 c.632 §5; 2017 c.155 §12b; renumbered 676.562 in 2017]

**676.583** [Formerly 676.606; 2015 c.56 §3; 2015 c.674 §8; 2015 c.722 §10; 2017 c.155 §8; 2017 c.499 §10; renumbered 676.565 in 2017]

**676.585 Duty of director to keep records and prepare reports; peer review of office activities; rules.** (1) In addition to any other duties imposed by law or otherwise required of state agencies, the Director of the Health Licensing Office shall keep all records of the Health Licensing Office and discharge all duties prescribed by the office.

(2) The director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the office. The director shall submit the reports to the Governor. The Oregon Health Authority, in consultation with the office, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the authority. The rules shall require the office to undergo a peer review of office activities by a team of executive directors of health professional regulatory boards, as defined in ORS 676.160, and at least one public member of a health professional regulatory board. The authority may assess the office for the cost of the peer review. [Formerly 676.611]

**676.586** [Formerly 676.607; 2017 c.155 §12c; 2017 c.499 §11; renumbered 676.568 in 2017]

**676.589** [2013 c.314 §3; renumbered 676.572 in 2017]

**676.590 Disclosure of investigatory information, records.** (1) Information obtained by the Health Licensing Office as part of an investigation conducted under the following laws and any reports issued by an investigator are exempt from public disclosure:

(a) ORS 676.630 to 676.660, 676.665 to 676.689, 681.700 to 681.730, 681.740 to 681.758, 690.005 to 690.225, 690.350 to 690.410 or 694.015 to 694.170.

(b) ORS 676.560 to 676.625 if the investigation is related to the regulation of:

(A) Advanced nonablative esthetics under ORS 676.630 to 676.660;

(B) Lactation consultation under ORS 676.665 to 676.689;

(C) Music therapy under ORS 681.700 to 681.730;

(D) Art therapy under ORS 681.740 to 681.758;

(E) Barbering, hair design, esthetics, nail technology or natural hair care under ORS 690.005 to 690.225;

(F) Electrologists and body art practitioners under ORS 690.350 to 690.410; or

(G) Dealing in hearing aids under ORS 694.015 to 694.170.

(2) The office shall disclose information obtained as part of an investigation described in subsection (1) of this section to a person who demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

(3) A complaint that forms the basis for an investigation described in subsection (1) of this section shall not be considered information obtained as part of an investigation and is not exempt from public disclosure.

(4) Upon request, the office shall disclose to a person against whom disciplinary action is sought any information obtained as part of an investigation described in section (1) of this section, if the information is not otherwise privileged or confidential under state or federal law. [Formerly 676.609; 2019 c.456 §17]

**676.592** [2013 c.314 §4; renumbered 676.576 in 2017]

**676.595 Disclosure of certain investigatory information; further disclosure; required disclosures; fees.** (1) As used in this section, “board” means the:

(a) Sexual Offense Treatment Board established under ORS 675.395.

(b) Behavior Analysis Regulatory Board created under ORS 676.806.

(c) Long Term Care Administrators Board established under ORS 678.800.

(d) State Board of Denture Technology established under ORS 680.556.

(e) State Board of Direct Entry Midwifery established under ORS 687.470.

(f) Board of Athletic Trainers established under ORS 688.705.

(g) Respiratory Therapist and Polysomnographic Technologist Licensing Board established under ORS 688.820.

(h) Board of Licensed Dietitians established under ORS 691.485.

(i) Environmental Health Registration Board established under ORS 700.210.

(2) Except to the extent that disclosure is necessary to conduct a full and proper investigation, the Health Licensing Office may not disclose information, including complaints and information identifying complainants, obtained by the office as part of an investigation conducted under:

(a) ORS 675.365 to 675.410, 676.810 to 676.820, 676.825, 676.830, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840 or 691.405 to 691.485 or ORS chapter 700.

(b) ORS 676.560 to 676.625 if the investigation is related to the regulation of:

(A) Sexual abuse specific treatment under ORS 675.365 to 675.410;

(B) Applied behavior analysis under ORS 676.810 to 676.820, 676.825 and 676.830;

(C) Nursing home administration and residential care facility administration under ORS 678.710 to 678.820;

(D) The practice of denture technology under ORS 680.500 to 680.565;

(E) Direct entry midwifery under ORS 687.405 to 687.495;

(F) Athletic training under ORS 688.701 to 688.734;

(G) Respiratory care and polysomnography under ORS 688.800 to 688.840;

(H) Dietetics under ORS 691.405 to 691.485; or

(I) Environmental or waste water sanitation under ORS chapter 700.

(3) Notwithstanding subsection (2) of this section, if the office or board decides not to impose a disciplinary sanction after conducting an investigation described in subsection (2) of this section:

(a) The office shall disclose information obtained as part of the investigation if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

(b) The office may disclose to a complainant who made a complaint related to the investigation a written summary of information obtained as part of the investigation to the extent that disclosure is necessary to explain the office’s or board’s decision. The person who is the subject of the investigation may review and obtain a copy of a written summary disclosed under this paragraph af-

ter the office has redacted any information identifying the complainant.

(4) Notwithstanding subsection (2) of this section, if a decision is made to impose a disciplinary sanction and to issue a notice of intent to impose a disciplinary sanction after conducting an investigation described in subsection (2) of this section, upon written request by the person who is the subject of the investigation, the office shall disclose to the person all information obtained by the office or board during the investigation, except that the office may not disclose:

(a) Information that is otherwise privileged or confidential under state or federal law.

(b) Information identifying a person who provided information that led to the investigation, unless the person will provide testimony at a hearing arising out of the investigation.

(c) Information identifying a complainant.

(d) Reports of expert witnesses.

(5) Information disclosed to a person under subsection (4) of this section may be further disclosed by the person only to the extent that disclosure is necessary to prepare for a hearing arising out of the investigation.

(6) The office shall disclose:

(a) Any notice related to the imposition of a disciplinary sanction.

(b) A final order related to the imposition of a disciplinary sanction.

(c) An emergency suspension order.

(d) A consent order or stipulated agreement that involves the conduct of a person against whom discipline is sought.

(e) Information to further an investigation into board conduct under ORS 192.685.

(7) The office or board must summarize the factual basis for the office's or board's disposition of:

(a) A final order related to the imposition of a disciplinary sanction;

(b) An emergency suspension order; or

(c) A consent order or stipulated agreement that involves the conduct of a person against whom discipline is sought.

(8)(a) An office or board record or order, or any part of an office or board record or order, that is obtained during an investigation described in subsection (2) of this section, during a contested case proceeding or as a result of entering into a consent order or stipulated agreement is not admissible as evidence and may not preclude an issue or claim in a civil proceeding.

(b) This subsection does not apply to a proceeding between the office or board and a person against whom discipline is sought as otherwise authorized by law.

(9)(a) Notwithstanding subsection (2) of this section, the office is not publicly disclosing information when the office permits other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions may not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, "public official" means a member, member-elect or employee of a public entity as defined in ORS 676.177.

(10) The office may establish fees reasonably calculated to reimburse the actual cost of disclosing information to a person against whom discipline is sought as required by subsection (4) of this section. [2017 c.101 §2; 2018 c.61 §23; 2019 c.68 §15; 2019 c.456 §18]

**676.599 Disclosure of information to other public entity.** (1) Notwithstanding ORS 676.595, the Health Licensing Office, upon a determination by the office that it possesses information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose information to the other public entity.

(2) A public entity that receives information pursuant to subsection (1) of this section must agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, "public entity" has the meaning given that term in ORS 676.177. [2017 c.101 §3]

**676.600** [1999 c.885 §1; repealed by 2005 c.648 §121]

**676.605** [1999 c.885 §2; 2001 c.54 §1; 2005 c.648 §1; 2013 c.314 §7; 2013 c.568 §1; renumbered 676.575 in 2013]

**676.606** [2003 c.547 §6; 2005 c.648 §2; 2007 c.841 §13; 2009 c.701 §8; 2009 c.768 §27; 2011 c.346 §24; 2011 c.630 §14; 2011 c.715 §20; 2013 c.314 §8; 2013 c.568 §23; renumbered 676.583 in 2013]

**676.607** [1999 c.885 §3; 2005 c.648 §3; 2009 c.701 §9; 2013 c.314 §9; 2013 c.568 §24; 2013 c.657 §8; renumbered 676.586 in 2013]

**676.608 Investigative authority; conduct of investigation.** (1) As used in this section, "public entity" has the meaning given that term in ORS 676.177.

(2)(a) The Health Licensing Office shall carry out the investigatory duties necessary to enforce the provisions of ORS 676.560 to 676.625 and 676.992.



(b) Subject to subsection (12) of this section, the office, upon its own motion, may initiate and conduct investigations of matters relating to the practice of occupations or professions subject to the authority of the boards, councils and programs listed in ORS 676.565.

(c) Subject to subsection (12) of this section, the office shall investigate all complaints received by the office relating to the practice of occupations or professions subject to the authority of the boards, councils and programs listed in ORS 676.565.

(3) While conducting an investigation authorized under subsection (2) of this section or a hearing related to an investigation, the office may:

(a) Take evidence;

(b) Administer oaths;

(c) Take the depositions of witnesses, including the person charged;

(d) Compel the appearance of witnesses, including the person charged;

(e) Require answers to interrogatories;

(f) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation; and

(g) Conduct criminal and civil background checks to determine conviction of a crime that bears a demonstrable relationship to the field of practice.

(4) In exercising its authority under this section, the office may issue subpoenas over the signature of the Director of the Health Licensing Office or designated employee of the director and in the name of the State of Oregon.

(5) If a person fails to comply with a subpoena issued under this section, the judge of the Circuit Court for Marion County may compel obedience by initiating proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court.

(6) If necessary, the director, or an employee designated by the director, may appear before a magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer, to enter the described property, to remove any person or obstacle, to defend any threatened violence to the director or a designee of the director or an officer, upon entering private property, or to assist the director in enforcing the office's authority in any way.

(7) In all investigations and hearings, the office and any person affected by the investi-

gation or hearing may have the benefit of counsel.

(8) If an authorization holder who is the subject of a complaint or an investigation is to appear before the office, the office shall provide the authorization holder with a current summary of the complaint or the matter being investigated not less than 10 days before the date that the authorization holder is to appear. At the time the summary of the complaint or the matter being investigated is provided, the office shall provide the authorization holder with a current summary of documents or alleged facts that the office has acquired as a result of the investigation. The name of the complainant may be withheld from the authorization holder.

(9) An authorization holder who is the subject of an investigation, and any person acting on behalf of the authorization holder, may not contact the complainant until the authorization holder has requested a contested case hearing and the office has authorized the taking of the complainant's deposition pursuant to ORS 183.425.

(10) Except in an investigation or proceeding conducted by the office or another public entity, or in an action, suit or proceeding in which a public entity is a party, an authorization holder may not be questioned or examined regarding any communication with the office made in an appearance before the office as part of an investigation.

(11) This section does not prohibit examination or questioning of an authorization holder regarding records about the authorization holder's care and treatment of a patient or affect the admissibility of those records.

(12) In conducting an investigation related to the practice of direct entry midwifery, as defined in ORS 687.405, the office shall:

(a) Allow the State Board of Direct Entry Midwifery to review the motion or complaint before beginning the investigation;

(b) Allow the board to prioritize the investigation with respect to other investigations related to the practice of direct entry midwifery; and

(c) Consult with the board during and after the investigation for the purpose of determining whether to pursue disciplinary action. [2003 c.547 §1; 2005 c.648 §4; 2009 c.701 §10; 2009 c.756 §§5a,92; 2013 c.314 §10; 2013 c.568 §25; 2013 c.657 §5; 2017 c.101 §22; 2017 c.155 §12d; 2017 c.499 §12; 2019 c.456 §19]

**676.609** [2009 c.701 §2; 2013 c.568 §26; 2017 c.101 §5; renumbered 676.590 in 2017]

**676.610** [1999 c.885 §6; 2001 c.324 §1; 2005 c.648 §5; 2007 c.841 §14; 2009 c.701 §11; 2009 c.768 §28; 2011 c.346 §25; 2011 c.630 §15; 2013 c.314 §11; 2013 c.568 §2; 2013

c.771 §12; 2015 c.674 §12; 2017 c.155 §9; 2017 c.499 §13; renumbered 676.579 in 2017]

**676.611** [2009 c.756 §5c; 2013 c.568 §4; renumbered 676.585 in 2017]

**676.612 Disciplinary authority; authority of office to require fingerprints.**

(1) Subject to ORS 676.616 and 687.445, and in the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 676.685, 676.825, 678.780, 680.535, 681.733, 681.755, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111, the Health Licensing Office may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit an authorization or may discipline or place on probation an authorization holder for commission of the prohibited acts listed in subsection (2) of this section.

(2) A person subject to the authority of a board, council or program listed in ORS 676.565 commits a prohibited act if the person engages in:

(a) Fraud, misrepresentation, concealment of material facts or deception in applying for or obtaining an authorization to practice in this state, or in any written or oral communication to the office concerning the issuance or retention of the authorization.

(b) Using, causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive.

(c) Making a representation that the authorization holder knew or should have known is false or misleading regarding skill or the efficacy or value of treatment or remedy administered by the authorization holder.

(d) Practicing under a false, misleading or deceptive name, or impersonating another authorization holder.

(e) Permitting a person other than the authorization holder to use the authorization.

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

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

(h) Failing to properly and reasonably accept responsibility for the actions of employees.

(i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered person to practice a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565.

(j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards, councils and programs listed under ORS 676.565.

(k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of the conviction. A plea of no contest or an admission of guilt is a conviction for purposes of this paragraph.

(L) Failing to report any adverse action, as required by statute or rule, taken against the authorization holder by another regulatory jurisdiction or any peer review body, health care institution, professional association, governmental agency, law enforcement agency or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in this section.

(m) Violation of a statute regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565.

(n) Violation of any rule regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565.

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

(p) Selling or fraudulently obtaining or furnishing an authorization to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565, or aiding or abetting such an act.

(q) Selling or fraudulently obtaining or furnishing any record related to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565, or aiding or abetting such an act.

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

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the office may require the fingerprints of a person who is:

- (a) Applying for an authorization;
  - (b) Applying for renewal of an authorization; or
  - (c) Under investigation by the office.
- (4) If the office places an authorization holder on probation under subsection (1) of this section, the office, in consultation with the appropriate board, council or program, may determine and at any time modify the conditions of the probation.

(5) If an authorization is suspended, the authorization holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the authorization may be reinstated by the office if the conditions of suspension no longer exist and the authorization holder has satisfied all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement. [2003 c.547 §3; 2005 c.648 §6; 2005 c.730 §66; 2007 c.841 §15; 2009 c.701 §12; 2009 c.768 §29; 2011 c.346 §26; 2011 c.630 §16; 2013 c.314 §12; 2013 c.568 §27; 2013 c.657 §9; 2013 c.771 §13; 2017 c.21 §68; 2017 c.155 §10; 2017 c.499 §14; 2019 c.456 §20]

**676.613 Injunctions.** (1) In addition to all other remedies, when it appears to the Health Licensing Office that a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that violates any provision of ORS 675.365 to 675.410, 676.665 to 676.689, 676.810, 676.815, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 or 694.015 to 694.170 or ORS chapter 700, the office may, through the Attorney General or the district attorney of the county in which the act, practice or transaction occurs or will occur, apply to the court for an injunction restraining the person from the act, practice or transaction.

(2) A court may issue an injunction under this section without proof of actual damages. An injunction issued under this section does not relieve a person from any other prosecution or enforcement action taken for violation of statutes listed in subsection (1) of this section. [2003 c.547 §5; 2005 c.648 §7; 2007 c.841 §16; 2009 c.768 §30; 2011 c.346 §27; 2011 c.630 §17; 2013 c.314 §13; 2013 c.568 §28; 2013 c.771 §14; 2015 c.674 §13; 2017 c.155 §11; 2017 c.499 §15; 2019 c.456 §21]

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

(2) In accordance with applicable provisions of ORS chapter 183, the director may adopt rules necessary for the administration of ORS 676.560 to 676.625 and 676.992.

(3) The office may adopt rules establishing requirements for placement of an authorization issued by the office in a dormant status upon application by the authorization holder and establishing conditions for reactivation of the authorization.

(4) Pursuant to ORS 676.560 and 676.568, the office may adopt rules to recognize specialties within a regulated field of practice subject to the authority of the boards, councils and programs listed in ORS 676.565 and may establish requirements for education, experience, examinations and supervision as necessary to ensure public safety and competency within the specialty. [1999 c.885 §7; 2005 c.648 §8; 2009 c.701 §13; 2013 c.314 §14; 2013 c.568 §29; 2017 c.155 §12e; 2017 c.499 §16]

**676.616 Final order authority for contested cases related to practice of direct entry midwifery.** The Health Licensing Office shall delegate the authority to enter a final order for all contested cases related to the practice of direct entry midwifery, as defined in ORS 687.405, to the State Board of Direct Entry Midwifery. Notwithstanding ORS 183.411, the delegation of authority does not need to be made in writing before the issuance of an order. [2013 c.657 §7]

**676.617** [2005 c.648 §10; 2009 c.701 §14; 2011 c.346 §28; repealed by 2013 c.314 §65]

**676.618 Inspection of facilities.** (1) Upon its own motion or upon any complaint, the Health Licensing Office may conduct an inspection to determine whether a facility or a part of the facility that is the subject of the inspection complies with the authorization, safety, infection control and sterilization requirements imposed by statute or rule of the office or the boards and councils administered by the office.

(2) The office shall provide for the periodic inspection of facilities, business premises or other locations where services are performed by the practitioners of the occupations or professions subject to the authority of the boards and councils that are administered and regulated by the office pursuant to ORS 676.565. [2003 c.547 §2; 2005 c.648 §11; 2013 c.314 §15; 2013 c.568 §31]

**676.620** [1999 c.885 §13; 2001 c.104 §259; 2005 c.648 §12; 2009 c.701 §15; repealed by 2013 c.568 §139]

**676.622 Exemption from certain requirements for original signatures.** (1) A transaction conducted through a state or local system or network that provides electronic access to the Health Licensing Office information and services is exempt from any requirement under ORS 675.365 to 675.410, 676.560 to 676.625, 676.665 to 676.689, 676.810,

676.815, 676.992, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700, and rules adopted thereunder, requiring an original signature or the submission of handwritten materials.

(2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are acceptable and have the same force as original signatures. [2009 c.701 §3; 2011 c.346 §29; 2011 c.630 §18; 2013 c.568 §32; 2013 c.771 §15; 2015 c.674 §14; 2017 c.155 §12; 2017 c.499 §17; 2019 c.456 §22]

**676.625 Health Licensing Office Account; fees; record keeping; disposition of receipts.** (1) The Health Licensing Office shall establish by rule and shall collect fees and charges to carry out the office's responsibilities under ORS 676.560 to 676.625, 676.850 and 676.992 and any responsibility imposed on the office pertaining to the boards, councils and programs administered and regulated by the office pursuant to ORS 676.565.

(2) The Health Licensing Office Account is established separate and distinct from the General Fund. The account shall consist of the moneys credited to the account by the Legislative Assembly. All moneys in the account are continuously appropriated to and shall be used by the office for payment of expenses of the office in carrying out the duties, functions and obligations of the office, and for payment of the expenses of the boards, councils and programs administered and regulated by the office pursuant to ORS 676.565. The office shall keep a record of all moneys credited to the account and report the source from which the moneys are derived and the activity of each board, council or program that generated the moneys.

(3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to establishing fees and charges credited to the account, the fees and charges may not exceed the cost of administering the office and the boards, councils and programs within the office, as authorized by the Legislative Assembly within the office's budget, as the budget may be modified by the Emergency Board.

(4) All moneys credited to the account pursuant to ORS 676.576 and 676.806, and moneys credited to the account from other office and program fees established by the office by rule, are continuously appropriated to the office for carrying out the duties, functions and powers of the office under ORS 676.560 to 676.625, 676.806, 676.850 and 676.992.

(5) The moneys received from civil penalties assessed under ORS 676.992 shall be deposited and accounted for as are other moneys received by the office and shall be for the administration and enforcement of the statutes governing the boards, councils and programs administered by the office. [1999 c.885 §14; 2005 c.648 §13; 2009 c.701 §16; 2011 c.346 §30; 2011 c.630 §19; 2013 c.240 §7; 2013 c.314 §16; 2013 c.568 §6; 2013 c.771 §16; 2017 c.155 §12f; 2017 c.499 §18]

### CERTIFIED ADVANCED ESTHETICIANS

**676.630 Definitions for ORS 676.630 to 676.660.** As used in ORS 676.630 to 676.660:

(1) "Advanced nonablative esthetics procedure" means a procedure that uses a laser or other device registered with the United States Food and Drug Administration for nonablative procedures performed on the skin or hair, including, but not limited to, procedures performed in conjunction with one of the following modalities:

- (a) Skin rejuvenation;
- (b) Photo rejuvenation;
- (c) Body contouring;
- (d) Dyschromia reduction;
- (e) Cellulite reduction;
- (f) Hair removal or reduction; and
- (g) Nonablative tattoo removal.

(2) "Certified advanced esthetician" means a person certified to practice advanced nonablative esthetics procedures under ORS 676.630 to 676.660.

(3) "Esthetician" means a person certified to practice esthetics under ORS 690.005 to 690.225.

(4) "Nonablative" means involving an action performed on the skin or hair of a person that does not result in the wounding of skin or underlying tissue. [2015 c.722 §1]

**676.635 Prohibition on unauthorized practice of advanced nonablative esthetics procedures or unauthorized use of title.** (1) A person may not practice advanced nonablative esthetics procedures or use a title, word or abbreviation, including the designation certified advanced esthetician, that indicates that the person is authorized to practice advanced nonablative esthetics procedures unless the person is certified by the Board of Certified Advanced Estheticians under ORS 676.640.

(2) Notwithstanding ORS 677.080, a certified advanced esthetician may practice advanced nonablative esthetics procedures.

(3) This section does not apply to:

(a) A person who is a licensed health care professional if the person's scope of

practice includes the practice of advanced nonablative esthetics procedures; or

(b) A student enrolled in an advanced nonablative esthetics education program or training program or in an advanced nonablative esthetics program that combines education and training. [2015 c.722 §2]

**676.640 Certification for practice of advanced nonablative esthetics procedures; rules.** (1) Except as provided in subsection (3) of this section, the Health Licensing Office shall issue a certificate to practice advanced nonablative esthetics procedures to an applicant who:

(a) Is at least 18 years of age;

(b) Is an esthetician in good standing with the Board of Cosmetology;

(c) Successfully completes:

(A) Subject to subsection (2) of this section, an advanced nonablative esthetics education program or training program, or an advanced nonablative esthetics program that combines education and training, that is approved by the Board of Certified Advanced Estheticians; or

(B) A nationally recognized program that is approved by the Board of Certified Advanced Estheticians and through which individuals are certified to use lasers or other devices for purposes related to practicing advanced nonablative esthetics procedures;

(d) Passes an examination adopted by the Board of Certified Advanced Estheticians by rule; and

(e) Pays the applicable fees established under ORS 676.576.

(2) An education program described in subsection (1)(c)(A) of this section must be:

(a) If the program is located in this state, licensed through the Higher Education Coordinating Commission; or

(b) If the program is not located in this state, substantially equivalent to a program licensed through the Higher Education Coordinating Commission.

(3) The office shall issue a certificate to practice advanced nonablative esthetics procedures to an applicant who:

(a) Is an esthetician in good standing with the Board of Cosmetology;

(b) Is authorized and in good standing to practice advanced nonablative esthetics procedures in a state where the requirements to practice nonablative esthetics procedures are substantially similar to the requirements to practice advanced nonablative esthetics procedures in this state; and

(c) Pays the applicable fee established under ORS 676.576.

(4) The office shall issue a temporary certificate to perform advanced nonablative esthetics procedures to an applicant who:

(a) Is an esthetician in good standing with the Board of Cosmetology;

(b) Meets any qualifications prescribed by the office by rule; and

(c) Pays the applicable fee established under ORS 676.576. [2015 c.722 §3]

**676.645 Renewal of certificate; rules.**

(1) A certificate issued under ORS 676.640 (1) or (3) must be renewed annually. To renew a certificate under this section, a certified advanced esthetician must submit to the Health Licensing Office:

(a) A renewal application;

(b) Proof that the certified advanced esthetician has completed any continuing education requirements established by the Board of Certified Advanced Estheticians by rule; and

(c) The applicable renewal fee established under ORS 676.576.

(2) A temporary certificate issued under ORS 676.640 (4) expires as prescribed by the office by rule. [2015 c.722 §4]

**676.650 Board of Certified Advanced Estheticians.** (1) There is established the Board of Certified Advanced Estheticians within the Health Licensing Office, consisting of:

(a) Nine members appointed by the Governor; and

(b) The section manager of the Radiation Protection Services Section of the Oregon Health Authority, or the section manager's designee.

(2) Of the nine members appointed by the Governor:

(a) Five must be certified advanced estheticians;

(b) Two must be physicians or physician assistants licensed under ORS chapter 677 or nurse practitioners licensed under ORS 678.375 to 678.390; and

(c) Two must be public members who are residents of this state.

(3) The board member described in subsection (1)(b) of this section is a nonvoting ex officio member of the board.

(4) The term of office of each appointed member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor

shall make an appointment to become immediately effective for the unexpired term.

(5) The voting members of the board shall select one of the voting members as chairperson and another voting member as vice chairperson. The board shall establish the terms of service for the chairperson and the vice chairperson and the duties and powers of the chairperson and the vice chairperson.

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

(7) Official action by the board requires the approval of a majority of the voting members of the board.

(8) The board shall meet at a place, day and hour determined by the board. The board also may meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the board. [2015 c.722 §5]

**676.655 Board powers; rules.** (1) In addition to the powers granted to the Board of Certified Advanced Estheticians by ORS 676.630 to 676.660, the board shall have the power to:

(a) Adopt rules and take actions necessary to carry out the duties of the board under ORS 676.630 to 676.660.

(b) Adopt rules establishing sanitation and safety requirements for advanced nonablative esthetics procedures.

(c) Adopt rules establishing a professional code of conduct for certified advanced estheticians.

(d) Adopt any other rule necessary to regulate certified advanced estheticians.

(e) Provide advice to the Health Licensing Office on issues related to advanced nonablative esthetics procedures.

(f) Compile information related to advanced nonablative esthetics procedures and direct the office to disseminate the information to certified advanced estheticians.

(2) In adopting rules under subsection (1)(b) of this section, the board shall adopt rules:

(a) Requiring a certified advanced esthetician to conduct all advanced nonablative esthetics procedures in a facility for which a license has been issued under ORS 690.055;

(b) Requiring a certified advanced esthetician to maintain client disclosure forms that include, at a minimum, disclosure of the existence of professional liability insurance; and

(c) Requiring a certified advanced esthetician to enter into an agreement with:

(A) A physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS 678.375 to 678.390; or

(B) A licensed health care professional who works at the same location as the certified advanced esthetician and who has the authority to prescribe drugs listed in Schedule III, IV or V.

(3) The purpose of an agreement described in subsection (2)(c) of this section is to provide a certified advanced esthetician with a licensed health care professional to whom the certified advanced esthetician may refer a client of the certified advanced esthetician. [2015 c.722 §6]

**676.660 Health Licensing Office authority to discipline persons certified to practice advanced nonablative esthetics procedures.** In the manner provided by ORS chapter 183 for contested cases, and after consultation with the Board of Certified Advanced Estheticians, the Health Licensing Office may impose a form of discipline described in ORS 676.612 against any person certified under ORS 676.640 for a violation of the provisions of ORS 676.630 to 676.660 or of a rule adopted under ORS 676.630 to 676.660, or for commission of a prohibited act listed in ORS 676.612. [2015 c.722 §7]

#### LACTATION CONSULTANTS

**676.665 Definitions for ORS 676.665 to 676.689.** As used in ORS 676.665 to 676.689:

(1) "Lactation consultant" means a person licensed to practice lactation consultation.

(2) "Lactation consultation" means the clinical application of scientific principles and evidence to provide care related to lactation to childbearing families. Lactation consultation includes, but is not limited to:

(a) Client assessment through systematic collection of data;

(b) Data analysis;

(c) Creation of a care plan;

(d) Implementation of the care plan, including demonstration and instructions to clients and communication with the clients' primary care provider;

(e) Evaluation of client outcomes;

(f) Problem identification and treatment;

(g) Recommendation and use of assistive devices; and

(h) Lactation education to childbearing families and to health care providers. [2017 c.499 §1]

**676.669 Lactation consultant license; rules.** The Health Licensing Office may issue a lactation consultant license to an applicant who:

- (1) Is at least 18 years old;
- (2) Submits sufficient proof, as determined by the office, that the applicant:
  - (a) As approved by the office by rule, satisfies the requirements for certification as an International Board Certified Lactation Consultant by the International Board of Lactation Consultant Examiners or its successor organization; and
  - (b) Is in good standing in any other states where the applicant is authorized as a lactation consultant;
  - (3) Pays a licensure fee; and
  - (4) Meets other qualifications required by the office by rule. [2017 c.499 §2; 2019 c.456 §40]

**676.673 Continuing education; rules.**

- (1) A lactation consultant shall complete continuing education courses related to:
  - (a) Cultural competency, approved by the Oregon Health Authority under ORS 413.450; and
  - (b) Trauma-informed care, through programs approved by the Health Licensing Office by rule.
    - (2) The office shall adopt rules related to the continuing education described in subsection (1) of this section. The rules must include:
      - (a) Approval of continuing education programs related to trauma-informed care; and
      - (b) Requirements that lactation consultants:
        - (A) Complete initial cultural competency and trauma-informed care continuing education courses within one year of the date of initial licensure; and
        - (B) Complete additional cultural competency and trauma-informed care continuing education courses once every five years thereafter. [2017 c.499 §3]

**676.677 Standards of practice and professional responsibility.** A lactation consultant shall comply with the standards of practice and professional responsibility for lactation consultants that are adopted by rule by the Health Licensing Office under ORS 676.689. [2017 c.499 §4]

**676.681 Use of “lactation consultant” title; exemptions.** (1) A person may not practice lactation consultation or assume or use any title, words or abbreviations, including but not limited to the title or designation “lactation consultant,” that indicate that the person is authorized to practice lactation consultation unless the person is licensed under ORS 676.669.

(2) Subsection (1) of this section does not prohibit:

(a) A person licensed under the laws of this state in a profession or occupation other than lactation consultation from practicing lactation consultation as a part of the person’s practice;

(b) The use of lactation consultation as an integral part of an education program; or

(c) A person whose training and national certification attest to the person’s preparation and ability to practice their profession or occupation from practicing the profession or occupation in which the person is certified, if the person does not represent that the person is a lactation consultant.

(3) ORS 676.665 to 676.689 do not apply to a person who is:

(a) Employed by or who contracts with the Oregon Health Authority or an entity that contracts with the authority, to promote or support breastfeeding through the Women, Infants and Children Program under ORS 413.500; or

(b) A licensed health care practitioner in this state and who provides services similar to lactation consultation.

(4) ORS 676.665 to 676.689 do not require a person who is a certified lactation counselor to obtain a license issued under ORS 676.669 in order to perform any of the services described in ORS 676.665 (2). [2017 c.499 §5]

**676.685 Discipline.** In the manner prescribed in ORS chapter 183 for contested cases, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against a person licensed under ORS 676.669 for any of the prohibited acts listed in ORS 676.681 and for any violation of a rule adopted under ORS 676.665 to 676.689. [2017 c.499 §6]

**676.689 Rules.** (1) The Health Licensing Office shall adopt rules to:

(a) Establish a process for issuing lactation consultant licenses;

(b) Establish licensure fees;

(c) Determine qualifications for applicants for initial licensure and licensure by reciprocity;

(d) Develop and maintain a publicly available record of lactation consultants; and

(e) Establish standards of practice and professional responsibility for lactation consultants that take into consideration the standards established by the International Board of Lactation Consultant Examiners.

(2) The office may adopt other rules as necessary to carry out the provisions of ORS 676.665 to 676.689. [2017 c.499 §7; 2019 c.456 §41]

**676.800** [2013 c.771 §3; 2013 c.771 §19; 2015 c.674 §2; renumbered 676.806 in 2015]

**APPLIED BEHAVIOR ANALYSIS**

**676.802 Definitions for ORS 676.802, 676.806 and 676.810 to 676.820.** As used in this section, ORS 676.806 and 676.810 to 676.820:

(1)(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human social behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

(b) “Applied behavior analysis” does not mean psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy or long-term counseling as treatment modalities.

(2) “Licensed health care professional” means an individual whose scope of practice includes applied behavior analysis and who is licensed by:

(a) The Occupational Therapy Licensing Board;

(b) The Oregon Board of Licensed Professional Counselors and Therapists;

(c) The Oregon Medical Board;

(d) The Oregon State Board of Nursing;

(e) The Oregon Board of Physical Therapy;

(f) The State Board of Examiners for Speech-Language Pathology and Audiology;

(g) The State Board of Licensed Social Workers; or

(h) The Oregon Board of Psychology. [2015 c.674 §1; 2017 c.6 §27; 2019 c.43 §10]

**676.805** [2013 c.771 §11; 2015 c.674 §15; renumbered 676.825 in 2015]

**676.806 Behavior Analysis Regulatory Board.** (1) There is created, within the Health Licensing Office, the Behavior Analysis Regulatory Board consisting of nine members appointed by the Governor, including:

(a) Four members who are licensed by the board under ORS 676.810;

(b) One member who is a licensed psychiatrist, with experience or training in treating autism spectrum disorder;

(c) One member who is a licensed psychologist, with experience or training in treating autism spectrum disorder;

(d) One member who is a licensed developmental pediatrician, with experience or training in treating autism spectrum disorder;

(e) One member of the general public who does not have a financial interest in the

provision of applied behavior analysis and does not have a ward or family member who has been diagnosed with autism spectrum disorder; and

(f) One member who is a parent, guardian or family member of an individual who has been diagnosed with autism spectrum disorder and has received some form of applied behavior analysis therapy.

(2) Not more than one member of the board may be an employee of an insurer.

(3) The appointments of the members of the board are subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(4) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on November 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

(6) The board shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the board determines.

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

(8) The board shall meet at least once every year as determined by the office. The board may also meet at other times and places specified by the call of the chairperson or of a majority of the members of the board. [Formerly 676.800]

**676.810 Board duties; licensure of behavior analysts and assistant behavior analysts; rules.** (1) The Behavior Analysis Regulatory Board shall establish by rule criteria and procedures for the licensing of:

(a) Behavior analysts; and

(b) Assistant behavior analysts.

(2) The criteria for the licensing of a behavior analyst:

(a) Must include the requirement that the applicant have successfully completed a state and nationwide criminal records check that requires fingerprinting; and

(b) May include, but are not limited to, the requirement that the applicant:

(A) Be certified by the Behavior Analyst Certification Board, Incorporated, or its suc-



cessor agency, or another agency approved by the Behavior Analysis Regulatory Board, as a board certified behavior analyst or equivalent; or

(B) Meet other requirements of the board that include the submission of a declaration to the Health Licensing Office that satisfies the requirements of section 4, chapter 771, Oregon Laws 2013.

(3) The criteria for the licensing of an assistant behavior analyst:

(a) Must include the requirement that the applicant have successfully completed a state and nationwide criminal records check that requires fingerprinting; and

(b) May include, but are not limited to, the requirement that the applicant:

(A) Be certified by the Behavior Analyst Certification Board, Incorporated, or its successor agency, or another agency approved by the Behavior Analysis Regulatory Board, as a board certified assistant behavior analyst or equivalent; and

(B) Be supervised by a behavior analyst who is licensed by the board.

(4) The Behavior Analysis Regulatory Board shall adopt rules to establish guidelines for the professional methods and procedures to be used by individuals licensed under this section. [2015 c.674 §3]

**676.815 Behavior analysis interventionists; rules.** The Health Licensing Office shall establish by rule criteria for the registration of behavior analysis interventionists. The criteria must include, but are not limited to, the requirement that the applicant:

(1) Have a high school diploma, a modified diploma, a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test or a degree from a post-secondary institution;

(2) Be at least 18 years of age;

(3) Have successfully completed a state and nationwide criminal records check that requires fingerprinting;

(4) Have completed at least 40 hours of professional training in applied behavior analysis approved by the office by rule; and

(5) Receive ongoing training and supervision by a licensed behavior analyst, by a licensed assistant behavior analyst or by another licensed health care professional. [2015 c.674 §4; 2017 c.66 §26; 2017 c.167 §1; 2017 c.726 §13]

**676.820 Use of titles “licensed behavior analyst,” “licensed assistant behavior analyst,” “registered behavior analysis interventionist.”** (1) An individual licensed under ORS 676.810 or registered under ORS

676.815 may practice applied behavior analysis.

(2) Only an individual who is licensed under ORS 676.810 or registered under ORS 676.815 may use the title “licensed behavior analyst,” “licensed assistant behavior analyst” or “registered behavior analysis interventionist.” [2015 c.674 §5]

**676.825 Disciplinary authority over persons licensed or registered.** In the manner prescribed in ORS chapter 183 for contested cases, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against any person licensed or registered under ORS 676.810 or 676.815 for any of the prohibited acts listed in ORS 676.612 and for any violation of a rule adopted under ORS 676.810 or 676.815. [Formerly 676.805]

**676.830 Health benefit plan credentialing for applied behavior analysis providers.** A health benefit plan as defined in ORS 743B.005 may establish credentialing requirements for the provision of applied behavior analysis as defined in ORS 676.802 by licensed health care professionals as defined in ORS 676.802, by behavior analysts or assistant behavior analysts licensed by the Behavior Analysis Regulatory Board or by behavior analysis interventionists registered by the Health Licensing Office. [2015 c.674 §17]

## 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;

(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) In collaboration with the Oregon Health Authority, a board may adopt rules under which the board may require a person authorized to practice the profession regulated by the board to receive cultural competency continuing education approved by the authority under ORS 413.450.

(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.

(3)(a) A board, or the Health Licensing Office for those boards for which the office issues and renews authorizations to practice the profession regulated by the board, shall document participation in cultural competency continuing education by persons authorized to practice a profession regulated by the board.

(b) For purposes of documenting participation under this subsection, a board may adopt rules requiring persons authorized to practice the profession regulated by the board to submit documentation to the board, or to the office for those boards for which the office issues and renews authorizations to practice the profession regulated by the board, of participation in cultural competency continuing education.

(4) A board shall report biennially to the authority on the participation documented under subsection (3) of this section.

(5) The authority, on or before August 1 of each even-numbered year, shall report to the interim committees of the Legislative Assembly related to health care on the information submitted to the authority under subsection (4) of this section. [2013 c.240 §1; 2017 c.6 §28; 2017 c.499 §19; 2018 c.61 §24; 2019 c.43 §11]

**Note:** The amendments to 676.850 by section 1, chapter 186, Oregon Laws 2019, become operative July

1, 2021, and apply to applicants for initial authorization or renewal of authorization on or after July 1, 2021. See sections 3 and 4, chapter 186, Oregon Laws 2019. The text that is operative on and after July 1, 2021, is set forth for the user's convenience.

**676.850.** (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;

(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.

**676.855 Authority of public universities and community colleges to require cultural competency continuing education.** Each public university listed in ORS 352.002 and each community college, as defined in ORS 341.005, may require persons authorized to practice a profession regulated by a board, as defined in ORS 676.850, who provide services to students at health care facilities located on a campus of the public university or community college to provide proof of participating at least once every two years in a continuing education opportunity relating to cultural competency approved by the Oregon Health Authority under ORS 413.450. [2013 c.240 §18]

**Note:** The amendments to 676.855 by section 2, chapter 186, Oregon Laws 2019, become operative July 1, 2021, and apply to applicants for initial authorization or renewal of authorization on or after July 1, 2021. See sections 3 and 4, chapter 186, Oregon Laws 2019. The text that is operative on and after July 1, 2021, is set forth for the user's convenience.

**676.855.** Each public university listed in ORS 352.002 and each community college, as defined in ORS 341.005, may require persons authorized to practice a profession regulated by a board, as defined in ORS 676.850, who provide services to students at health care facilities located on a campus of the public university or community college to provide proof of completing cultural competency continuing education approved by the Oregon Health Authority under ORS 413.450.

#### **SUICIDE RISK ASSESSMENT, TREATMENT AND MANAGEMENT CONTINUING EDUCATION**

**676.860 Requirement to complete suicide risk assessment, treatment and management continuing education; documentation and report; rules.** (1) As used in this section:

(a) "Board" means:

(A) Occupational Therapy Licensing Board;

(B) Oregon Board of Licensed Professional Counselors and Therapists;

(C) Oregon Board of Naturopathic Medicine;

(D) Oregon Medical Board;

(E) Oregon State Board of Nursing;

(F) Oregon Board of Physical Therapy;

(G) State Board of Chiropractic Examiners;

(H) State Board of Licensed Social Workers;

(I) Oregon Board of Psychology; and

(J) Teacher Standards and Practices Commission.

(b) "Licensee" means a person authorized to practice one of the following professions:

(A) Clinical social worker, as defined in ORS 675.510;

(B) Licensed marriage and family therapist, as defined in ORS 675.705;

(C) Licensed professional counselor, as defined in ORS 675.705;

(D) Licensed psychologist, as defined in ORS 675.010;

(E) Occupational therapist, as defined in ORS 675.210;

(F) Regulated social worker, as defined in ORS 675.510;

(G) School counselor, as defined by rule by the Teacher Standards and Practices Commission;

(H) Certified registered nurse anesthetist, as defined in ORS 678.245;

(I) Chiropractic physician, as defined in ORS 684.010;

(J) Clinical nurse specialist, as defined in ORS 678.010;

(K) Naturopathic physician, as defined in ORS 685.010;

(L) Nurse practitioner, as defined in ORS 678.010;

(M) Physician, as defined in ORS 677.010;

(N) Physician assistant, as defined in ORS 677.495;

(O) Physical therapist, as defined in ORS 688.010; and

(P) Physical therapist assistant, as defined in ORS 688.010.

(2) In collaboration with the Oregon Health Authority, a board shall adopt rules to require a licensee regulated by the board to report to the board, upon reauthorization to practice, the licensee's completion of any continuing education regarding suicide risk assessment, treatment and management.

(3) A licensee shall report the completion of any continuing education described in subsection (2) of this section to the board that regulates the licensee.

(4)(a) A board shall document completion of any continuing education described in subsection (2) of this section by a licensee regulated by the board. The board shall document the following data:

(A) The number of licensees who complete continuing education described in subsection (2) of this section;

(B) The percentage of the total of all licensees who complete the continuing education;

(C) The counties in which licensees who complete the continuing education practice; and

(D) The contact information for licensees willing to share information about suicide risk assessment, treatment and management with the authority.

(b) The board shall remove any personally identifying information from the data submitted to the board under this subsection, except for the personally identifying information of licensees willing to share such information with the authority.

(c) For purposes of documenting completion of continuing education under this subsection, a board may adopt rules requiring licensees to submit documentation of completion to the board.

(5) A board, on or before March 1 of each even-numbered year, shall report to the authority on the data documented under subsection (4) of this section, as well as information about any initiatives by the board to promote suicide risk assessment, treatment and management among its licensees.

(6) The authority, on or before August 1 of each even-numbered year, shall report to the interim committees of the Legislative Assembly related to health care on the information submitted to the authority under subsection (5) of this section. The authority shall include in the report information about initiatives by boards to promote awareness about suicide risk assessment, treatment and management and information on how boards are promoting continuing education described in subsection (2) of this section to licensees.

(7) The authority may use the information submitted to the authority under subsection (5) of this section to develop continuing education opportunities related to suicide risk assessment, treatment and management for licensees and to facilitate improvements in suicide risk assessment, treatment and management efforts in this state. [2017 c.511 §1; 2019 c.43 §12]

**676.863 Oregon Health Authority list of continuing education opportunities.** (1) The Oregon Health Authority shall develop a list of continuing education opportunities related to suicide risk assessment, treatment and management and make the list available to each board, as defined in ORS 676.860.

(2) In developing the list, the authority shall:

(a) Consider suicide risk assessment, treatment and management training programs recommended by organizations that provide suicide awareness advocacy and education; and

(b) Consult with institutions of higher education and experts in suicide risk assess-

ment, treatment and management. [2017 c.511 §2]

### SURGICAL TECHNOLOGY

**676.870 Definitions for ORS 676.870 to 676.890.** As used in ORS 676.870 to 676.890:

(1) "Health care facility" means a hospital or an ambulatory surgical center, as those terms are defined in ORS 442.015.

(2) "Rural or medically underserved community" means a geographic area of this state that is 10 or more miles from the geographic center of a population center of 40,000 or more individuals.

(3) "Surgical technology" means intraoperative surgical patient care that involves:

(a) Preparing an operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely;

(b) Preparing an operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments and equipment using sterile techniques;

(c) Anticipating the needs of a surgical team based on knowledge of human anatomy and pathophysiology and how those fields relate to the surgical patient and the patient's surgical procedure; and

(d) Performing tasks as directed in an operating room, including:

(A) Passing instruments, equipment or supplies;

(B) Sponging or suctioning of an operative site;

(C) Preparing and cutting suture material;

(D) Transferring fluids or drugs;

(E) Handling specimens;

(F) Holding retractors and other equipment;

(G) Applying electrocautery to clamps on bleeders;

(H) Connecting drains to suction apparatus;

(I) Applying dressings to closed wounds; and

(J) Assisting in counting supplies and instruments, including sponges and needles. [2015 c.373 §1]

**676.875 Requirements for practice of surgical technology in health care facilities; rules.** (1) A health care facility may not allow a person to practice surgical technology at the health care facility unless the person:

(a)(A) Provides the health care facility with documentation showing that the person has completed an educational program for

surgical technologists accredited by a national accreditation organization approved by the Oregon Health Authority by rule; and

(B) Holds and maintains a surgical technologist certification issued by a nationally accredited certifying organization for surgical technologists approved by the authority by rule;

(b)(A) Provides the health care facility with documentation showing that the person has completed a training program for surgical technologists in the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States or in the United States Public Health Service Commissioned Corps; and

(B) Every two years completes 16 hours of continuing education approved by the authority; or

(c)(A) Provides the health care facility with documentation showing that the person practiced surgical technology during at least two of the three years immediately preceding January 1, 2017:

(i) In a health care facility in Oregon or in another state; or

(ii) As an employee of an agency or institution of the federal government; and

(B) Every two years completes 16 hours of continuing education approved by the authority.

(2) Notwithstanding subsection (1)(a)(B) of this section, a health care facility may allow a person who does not hold a surgical technologist certification to perform surgical technology at the health care facility for 12 months after the person completes an educational program for surgical technologists accredited by a national accreditation organization approved by the authority by rule. [2015 c.373 §2]

**676.880 Exemption.** ORS 676.875 does not apply to a health care facility that allows a licensed health care practitioner to perform the duties of a surgical technologist if the practitioner is acting within the scope of practice of the practitioner's license. [2015 c.373 §4]

**676.885 Practice of surgical technology in health care facility in rural or medically underserved community.** (1) A health care facility in a rural or medically underserved community may allow a person to practice as a surgical technologist at the health care facility who does not meet the requirements of ORS 676.875 while the person is attending an educational program for surgical technologists accredited by a national accreditation organization approved by the Oregon Health Authority by rule.

(2) A person described in subsection (1) of this section is exempt from the require-

ments of ORS 676.875 for three years from the date on which the person began practicing as a surgical technologist at the health care facility. [2015 c.373 §3]

**676.890 Penalties; rules.** The Oregon Health Authority shall adopt rules necessary to carry out ORS 676.870 to 676.890, including but not limited to penalties for violation of ORS 676.870 to 676.890 or rules adopted under ORS 676.870 to 676.890. [2015 c.373 §5]

## PENALTIES

**676.990 Criminal penalties.** Violation of any of the provisions of ORS 676.110 to 676.130 is a Class C misdemeanor. [Amended by 2011 c.597 §278]

**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 676.810 and 676.815 (applied behavior analysis);

(n) ORS 681.700 to 681.730 (music therapy);

(o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure);

(p) ORS 681.740 to 681.758 (art therapy); and

(q) ORS 676.665 to 676.689 (lactation consultation).

(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]

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