

Enrolled House Bill 2058

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Health Care)

CHAPTER

AN ACT

Relating to regulation of health professions; creating new provisions; amending ORS 169.750, 443.445, 443.775, 675.100, 675.310, 675.590, 675.775, 677.235, 677.280, 677.540, 677.780, 678.140, 678.150, 678.155, 678.157, 678.800, 679.230, 680.556, 681.400, 681.410, 683.250, 684.130, 684.160, 685.160, 685.190, 687.115, 687.470, 687.475, 688.160, 688.545, 688.820, 689.115, 691.485 and 692.300 and section 38, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131), and section 49, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177); repealing ORS 689.125 and section 1, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131), and section 20, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177); and declaring an emergency.

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

SECTION 1. ORS 675.100 is amended to read:

675.100. (1) There hereby is created a State Board of Psychologist Examiners consisting of seven members appointed by the Governor **and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be Oregon residents. Of the members of the board:**

(a) Five of the members [*shall be residents of Oregon,*] **must** have doctoral degrees with primary emphasis in psychology and [*shall be licensed under ORS 675.010 to 675.150.*] **must be licensed psychologists or former licensed psychologists who are retired from the practice of psychology; and**

(b) Two **of the members** [*shall be residents of Oregon and shall serve as public members.*] **must be members of the public and may not be:**

(A) **Otherwise eligible for appointment to the board; or**

(B) **A spouse, domestic partner, child, parent or sibling of a licensed psychologist.**

(2)(a) **Board members required to be licensed psychologists may be appointed from a list of three to five nominees for each vacancy, submitted by any professional organization that represents psychologists.**

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

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

(B) **Ethnic group.**

[(2)] (3)(a) The term of office of a board member [*shall be three*] **is three years, but [*the members shall serve*] a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year.**

(b) Before the expiration of the term of a member, the Governor shall appoint a successor to assume duties on July 1 next following. [A member shall be eligible for one consecutive reappointment only.] **A member is eligible for reappointment.** In case of a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

(A) **Is not a resident of this state;**

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

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

[3) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.]

(4) Before entering upon the duties of office, each board member shall subscribe to an oath that the member will faithfully and impartially discharge the duties of office and that the member will support the Constitution of the United States and the Constitution of this state. The oath shall be filed with the Secretary of State.

(5) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495. **The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.**

SECTION 2. ORS 675.310 is amended to read:

675.310. (1) There is created [in the Department of Human Services] the Occupational Therapy Licensing Board. The board is composed of five members appointed by the Governor **and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) Two [members shall] **must** be licensed occupational therapists in this state with no less than three years of experience in occupational therapy immediately preceding their appointment[.];

(b) One [member shall] **must** be a licensed occupational therapy assistant[.]; **and**

(c) Two [members shall] **must** be members of the public[.] **who are not:**

(A) **Otherwise eligible for appointment to the board; or**

(B) **A spouse, domestic partner, child, parent or sibling of an individual who is a licensed occupational therapist or licensed occupational therapy assistant.**

(2)(a) Board members required to be occupational therapists **or occupational therapy assistants** may be selected by the Governor from a **list of three to five nominees for each vacancy**, submitted by:

(A) **The Occupational Therapy Association of Oregon [and the board.], if the vacancy is in an occupational therapist position; or**

(B) **Any professional organization representing occupational therapy assistants, if the vacancy is in an occupational therapy assistant position.**

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

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

(B) **Ethnic group.**

[2) Members are entitled to compensation and expenses as provided in ORS 292.495.]

(3)(a) **Board** members [shall] serve a term of four years, [and may not serve more than two consecutive terms.] **but a member serves at the pleasure of the Governor. The terms shall be staggered so that no more than two terms end each year. A member is eligible for reappointment. If a vacancy occurs in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the expired term.**

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

- (A) Is not a resident of this state;
 - (B) Has been absent from three consecutive board meetings, unless at least one absence is excused;
 - (C) Is not a licensed occupational therapist or a retired occupational therapist who was a licensed occupational therapist in good standing at the time of retirement, if the board member was appointed to serve on the board as an occupational therapist; or
 - (D) Is not a licensed occupational therapy assistant or a retired occupational therapy assistant who was a licensed occupational therapy assistant in good standing at the time of retirement, if the board member was appointed to serve on the board as an occupational therapy assistant.
- (4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

SECTION 3. ORS 675.590 is amended to read:

675.590. (1) There is established a State Board of Clinical Social Workers. **The board shall consist of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

- (a) Four members must be licensed clinical social workers who are licensed in accordance with the provisions of ORS 675.510 to 675.600; and
- (b) Three members must be members of the public who have demonstrated an interest in the field of clinical social work and who are not:
 - (A) Licensed clinical social workers; or
 - (B) A spouse, domestic partner, child, parent or sibling of a licensed clinical social worker.

[(2) The Governor shall appoint seven members to the board, consisting of members as specified in subsection (4) of this section.]

(2)(a) Board members required to be licensed clinical social workers may be appointed from a list of three to five nominees for each vacancy, submitted by any professional organization that represents clinical social workers.

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

- (A) Geographic areas of this state; and
- (B) Ethnic group.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year.

(b) Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for *[one consecutive]* reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

- (A) Is not a resident of this state;
- (B) Has been absent from three consecutive board meetings, unless at least one absence is excused; or
- (C) Is not a licensed clinical social worker or a retired clinical social worker who was a licensed clinical social worker in good standing at the time of retirement, if the board member was appointed to serve on the board as a licensed clinical social worker.

[(4) The composition of the board shall be as follows:]

[(a) Four members shall be licensed clinical social workers who are licensed in accordance with the provisions of ORS 675.510 to 675.600; and]

[(b) Three members shall be public citizens who have demonstrated an interest in the field of clinical social work.]

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

SECTION 4. ORS 675.775 is amended to read:

675.775. (1) The Oregon Board of Licensed Professional Counselors and Therapists is established.

[(2)] The board *[shall consist]* **consists** of *[seven]* **eight** members *[who shall be]* appointed by the Governor~~].~~ **and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) Three must be licensed as professional counselors under ORS 675.715;

(b) Two must be licensed as marriage and family therapists under ORS 675.715;

(c) One must be from the faculty of a school within this state that has programs to train persons to become professional counselors or marriage and family therapists; and

(d) Two must be members of the public who have demonstrated an interest in the fields of professional counseling and marriage and family therapy but who are not a:

(A) Licensed professional counselor or marriage and family therapist; or

(B) Spouse, domestic partner, child, parent or sibling of a licensee.

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

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

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

(B) Ethnic group.

[(4) The board shall consist of:]

[(a) Three members who are persons licensed as professional counselors under ORS 675.715;]

[(b) Two members who are persons licensed as marriage and family therapists under ORS 675.715;]

[(c) One member from the faculty of a school within this state that has programs to train persons to become professional counselors or marriage and family therapists; and]

[(d) One member from the public who has demonstrated an interest in the fields of professional counseling and marriage and family therapy.]

[(5) Statewide counselor and marriage and family therapist organizations may recommend names of qualified persons to the Governor at the time for filling vacancies on the board.]

[(6)] **(3)(a)** The term of office of each member is three years, but a member serves at the pleasure of the Governor. **The terms must be staggered so that no more than three terms end each year.**

(b) By October 1 of each year, the Governor shall appoint persons to fill positions on the board that are due to become vacant on October 1 of that year. A member is eligible for *[one consecutive]* reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

(A) Is not a resident of this state;

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

(C) Is not a licensee or a retired licensee whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a licensee.

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

SECTION 5. ORS 677.235 is amended to read:

677.235. (1) The Oregon Medical Board consists of 12 members appointed by the Governor[,] and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Seven [*of the members shall be appointed from among persons having*] **must have** the degree of Doctor of Medicine[.];

(b) Two [*from among persons having*] **must have** the degree of Doctor of Osteopathy [*and*];

(c) One [*from among persons having*] **must have** the degree of Doctor of Podiatric Medicine[. *Of the seven members who hold the degree of Doctor of Medicine, there shall be at least one member appointed from each federal congressional district. In addition to the 10 named persons described, there shall be appointed*]; **and**

(d) Two [*public*] **must be** members of the public representing health consumers[. *All persons appointed must have been residents of this state for at least seven years.*] **who are not otherwise eligible for appointment to the board.**

(2)(a)(A) Board members required to possess the degree of Doctor of Medicine may be selected by the Governor from a list of three to five physicians for each physician member of the board whose term expires in that year, submitted by the Oregon Medical Association not later than February 1.

(B) Board members required to possess the degree of Doctor of Osteopathy may be selected by the Governor from a list of three to five qualified physicians for each vacancy, submitted by the Osteopathic Physicians and Surgeons of Oregon, Inc., not later than February 1 of each odd-numbered year.

(C) The board member required to possess the degree of Doctor of Podiatric Medicine may be selected by the Governor from a list of three to five qualified physicians submitted by the Oregon Podiatric Medical Association not later than February 1 of each fourth year.

(b) The physician members and the member who is a podiatric physician and surgeon must have been in the active practice of their profession for at least five years immediately preceding their appointment.

(c) Neither the public members nor any person [*within the immediate family of the public members shall*] **who is a spouse, domestic partner, child, parent or sibling of a public member** may be employed as a health professional [*or in any health-related industry*]. The public members [*shall be*] **are** members of the investigative committee of the board.

(d)(A) **In selecting the members of the board, the Governor shall strive to balance the representation on the board according to geographic areas of this state and ethnic group.**

(B) **Of the seven members who hold the degree of Doctor of Medicine, there shall be at least one member appointed from each federal congressional district.**

[*(2) Not later than February 1 of each year, the Oregon Medical Association shall nominate three qualified physicians for each physician member of the board whose term expires in that year, and shall certify its nominees to the Governor. Not later than February 1 of each odd-numbered year, the Osteopathic Physicians and Surgeons of Oregon, Inc., shall nominate three physicians possessing the degree of Doctor of Osteopathy and shall certify its nominees to the Governor. Not later than February 1 of each third year, the Oregon Podiatric Medical Association shall nominate three podiatric physicians and surgeons possessing the degree of Doctor of Podiatric Medicine and shall certify its nominees to the Governor. The Governor shall consider these nominees in selecting successors to retiring board members.*]

(3)(a) [*Each member of the board shall serve for a term of three years beginning*] **The term of office of each board member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than four terms end each year. A term begins** on March 1 of the year the member is appointed and [*ending*] **ends** on the last day of

February of the third year thereafter. *[No member shall]* **A member may not** serve more than two consecutive terms.

(b) If a vacancy occurs on the board, another qualifying member possessing the same professional degree or fulfilling the same public capacity as the person whose position has been vacated shall be appointed as provided in this section to fill the unexpired term.

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

(A) **Is not a resident of this state;**

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

(C) **Is not a current licensee or a retired licensee whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a licensee.**

[(4) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.]

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

SECTION 6. ORS 677.280 is amended to read:

677.280. *[(1)]* Subject to any applicable provisions of the State Personnel Relations Law, the Oregon Medical Board may employ consultants, investigators and staff for the purpose of enforcing the laws relating to this chapter and securing evidence of violations thereof, and may fix the compensation therefor and incur necessary other expenses.

[(2) The board members are entitled to compensation and expenses as provided in ORS 292.495. Notwithstanding the provisions of ORS 292.495 (1), a board member shall receive up to \$250 for each day or portion thereof during which the member is actually engaged in the performance of official duties.]

SECTION 7. ORS 677.540 is amended to read:

677.540. (1) There is created a Physician Assistant Committee, which shall consist of five members. Members of the committee shall be appointed as follows:

(a) The Oregon Medical Board shall appoint one of its members and one physician. One of the two must supervise a physician assistant.

(b) The Oregon Medical Board shall appoint three physician assistants after considering persons nominated by the Oregon Society of Physician Assistants.

(2) The term of each member of the committee shall be for three years. A member may not serve more than two consecutive terms. A member shall serve until a successor is appointed. If a vacancy occurs, it shall be filled for the unexpired term by a person with the same qualifications as the retiring member.

(3) If any vacancy under subsection (1) of this section is not filled within 45 days, the Governor shall make the necessary appointment from the category which is vacant.

(4) The committee shall elect its own chairperson with such powers and duties as the committee shall fix.

(5) A quorum of the committee shall be three members. The committee shall hold a meeting at least once quarterly and at such other times the committee considers advisable to review requests for prescription and dispensing privileges and to review applications for licensure or renewal.

(6) The chairperson may call a special meeting of the Physician Assistant Committee upon at least 10 days' notice in writing to each member, to be held at any place designated by the chairperson.

(7) The committee members are entitled to compensation and expenses as provided for board members in ORS *[677.280 (2)]* **677.235.**

SECTION 8. ORS 677.780 is amended to read:

677.780. (1) There is established an Acupuncture Advisory Committee consisting of six members appointed by the Oregon Medical Board. Of the committee members appointed by the board:

(a) One shall be a person who is a current member of the board.

(b) Two shall be physicians licensed under ORS chapter 677.

(c) Three shall be acupuncturists licensed under ORS 677.759. In appointing the three acupuncturists, the board may receive nominations from the [*Oregon Acupuncture Association, the Acupuncture and Oriental Medicine Society of Oregon*] **Oregon Association of Acupuncture and Oriental Medicine** and other professional acupuncture organizations.

(2) The term of office of each committee member is [*four*] **three** years, but a committee member serves at the pleasure of the board. A committee member may not serve more than two consecutive terms. A committee member serves until a successor is appointed and qualified. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.

(3) A committee member is entitled to compensation and expenses as provided for board members in ORS [*677.280 (2)*] **677.235**.

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

SECTION 9. ORS 678.140 is amended to read:

678.140. (1) There is created an Oregon State Board of Nursing composed of nine members[,] **appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) Five [*of whom shall*] **must** be registered nurses[.];

(b) [*Two of whom shall*] **One must** be a licensed practical [*nurses and*] **nurse;**

(c) **One must be a certified nursing assistant; and**

(d) Two [*of whom shall*] **must** be members of the public who are otherwise not eligible for appointment to the board.

(2)(a) **Board members required to be nurse members may be selected by the Governor from a list of three to five nominees for each vacancy, submitted two months before the expiration of the term of office of a nurse member by:**

(A) **The Oregon Nurses Association or any other professional organization representing registered nurses, if the vacancy is in a registered nurse position;**

(B) **The Oregon Licensed Practical Nurses Association or any other professional organization representing licensed practical nurses, if the vacancy is in a licensed practical nurse position; or**

(C) **A professional organization representing certified nursing assistants, if the vacancy is in a certified nursing assistant position.**

(b) **Each nurse or certified nursing assistant member must:**

(A) **Be currently licensed and not under disciplinary status with the board in the category for which the member is appointed; and**

(B) **Have at least five years' experience in the category in which the member is appointed, three of which were immediately prior to appointment.**

(c) **The public members and any person who is a spouse, domestic partner, child, parent or sibling of a public member may not be licensed by the board.**

[(2)] (d) In making appointments of registered nurses, the Governor shall [*consider geographic balance in making the appointments and shall*] ensure that the following areas of practice are represented on the board:

[(a)] (A) One nursing educator;

[(b)] (B) One nursing administrator;

[(c)] (C) Two nonsupervisory nurses involved in direct patient care; and

[(d)] (D) One nurse practitioner.

(e) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The members of the board shall be appointed by the Governor for terms of three years, beginning on January 1. *[No member shall be eligible to appointment for more than two consecutive terms.]* A member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment. An unexpired term of a board member shall be filled in the same manner as an original appointment is made. The appointment shall be for the remainder of the unexpired term. *[All appointments of members of the board by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution.]*

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

(A) Is not a resident of this state;

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

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

[(4) Two months before the expiration of the term of office of a nurse member of the board, or when a vacancy occurs in the office of a nurse member, the Oregon Nurses Association or any other organization representing registered nurses, if the vacancy is in a registered nurse position, or the Oregon Licensed Practical Nurses Association or any other organization representing licensed practical nurses, if the vacancy is in a licensed practical nurse position, may submit a list of three names of persons qualified for the appointment. The appointment of nurse members or practical nurse members may be made from the respective lists.]

[(5) At the time of appointment, each member of the board must be a citizen of the United States and a resident of Oregon. Each nurse member must be currently licensed and not under disciplinary status with the board in the category for which appointed with at least five years' experience therein, three of which were immediately prior to appointment. The public members and any person in the immediate family of the public members shall not be employed as a health professional or in any health-related industry.]

[(6) The Governor may remove a member of the board for cause.]

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

SECTION 10. ORS 678.150 is amended to read:

678.150. (1) The Oregon State Board of Nursing shall elect annually from its number a president, a president-elect and a secretary, each of whom shall serve until a successor is elected and qualified. The board shall meet on the call of the president or as the board may require. Special meetings of the board may be called by the secretary upon the request of any three members. Five members shall constitute a quorum.

[(2) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. Notwithstanding ORS 292.495 (1), a board member shall receive up to \$150 for each day or portion thereof during which the member is actually engaged in the performance of official duties.]

[(3)] (2) The board shall adopt a seal which shall be in the care of the executive director.

[(4)] (3) The board shall keep a record of all its proceedings and of all persons licensed and schools or programs accredited or approved under ORS 678.010 to 678.445. The records shall at all reasonable times be open to public scrutiny.

[(5)] (4) Subject to the State Personnel Relations Law, the board shall hire, define the duties and fix the salary of an executive director who shall hire and define the duties of such other employees as are necessary to carry into effect the provisions of ORS 678.010 to 678.445. The executive director, with approval of the board, may also employ special consultants. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board.

[(6)] (5) The board shall determine the qualifications of applicants for a license to practice nursing in this state and establish educational and professional standards for such applicants subject to laws of this state.

[(7)] (6) The board shall:

- (a) Exercise general supervision over the practice of nursing in this state.
- (b) Prescribe standards and approve curricula for nursing education programs preparing persons for licensing under ORS 678.010 to 678.445.
- (c) Provide for surveys of nursing education programs at such times as may be necessary.
- (d) Accredite such nursing education programs as meet the requirements of ORS 678.010 to 678.445 and of the board.
- (e) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed standards.
- (f) Examine, license and renew the licenses of duly qualified applicants and administer examinations for other states where requested to do so by the other state.
- (g) Issue subpoenas for any records relevant to a board investigation, including patient and other medical records, personnel records applicable to nurses and nursing assistants, records of schools of nursing and nursing assistant training records and any other relevant records; issue subpoenas to persons for personal interviews relating to board investigations; compel the attendance of witnesses; and administer oaths or affirmations to persons giving testimony during an investigation or at hearings. In any proceeding under this subsection, when a subpoena is issued to an applicant, certificate holder or licensee of the board, a claim of nurse-patient privilege under ORS 40.240 or of psychotherapist-patient privilege under ORS 40.230 is not grounds for quashing the subpoena or for refusing to produce the material that is subject to the subpoena.
- (h) Enforce the provisions of ORS 678.010 to 678.445, and incur necessary expenses therefor.
- (i) Prescribe standards for the delegation of special tasks of patient care to nursing assistants and for the supervision of nursing assistants. The standards must include rules governing the delegation of administration of noninjectable medication by nursing assistants and must include rules prescribing the types of noninjectable medication that can be administered by nursing assistants, and the circumstances, if any, and level of supervision under which nursing assistants can administer noninjectable medication. In formulating the rules governing the administration of noninjectable medication by nursing assistants, the board shall consult with nurses, physicians, gerontologists and pharmacologists. Notwithstanding any other provision of this paragraph, however, determination of the appropriateness of the delegation of a special task of patient care shall remain with the registered nurse issuing the order.
- (j) Notify licensees at least annually of changes in legislative or board rules that affect the licensees. Notice may be by newsletter or other appropriate means.

[(8)] (7) The board shall determine the scope of practice as delineated by the knowledge acquired through approved courses of education or through experience.

[(9)] (8) For local correctional facilities, lockups and juvenile detention facilities, as defined in ORS 169.005, youth correction facilities as defined in ORS 420.005, for facilities operated by a public agency for detoxification of persons who use alcohol excessively, for homes or facilities licensed under ORS 443.705 to 443.825 for adult foster care, and for facilities licensed under ORS 443.400 to 443.455 for residential care, training or treatment, the board shall adopt rules pertaining to the provision of nursing care, and to the various tasks relating to the administration of noninjectable medication including administration of controlled substances. The rules must provide for delegation of nursing care and tasks relating to the administration of medication to other than licensed nursing personnel by a physician licensed by the Oregon Medical Board or by a registered nurse, designated

by the facility. Such delegation must occur under the procedural guidance, initial direction and periodic inspection and evaluation of the physician or registered nurse. However, the provision of nursing care may be delegated only by a registered nurse.

[(10)] (9) The board may require applicants, licensees and certificate holders under ORS 678.010 to 678.445 to provide to the board data concerning the individual's nursing employment and education.

[(11)] (10) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the board may require the fingerprints of a person who is:

- (a) Applying for a license or certificate that is issued by the board;
- (b) Applying for renewal of a license or certificate that is issued by the board; or
- (c) Under investigation by the board.

[(12)] (11) Pursuant to ORS chapter 183, the board shall adopt rules necessary to carry out the provisions of ORS 678.010 to 678.445.

SECTION 11. ORS 678.155 is amended to read:

678.155. (1) In carrying out its duties under ORS 678.150 [(6), (7) and (8)] **(5), (6) and (7)**, the Oregon State Board of Nursing shall not make changes in entry level nursing education or licensure requirements unless such changes are enacted by the Legislative Assembly.

(2) In carrying out its duties under ORS 678.150 [(7)(i)] **(6)(i)**, the Oregon State Board of Nursing shall not prescribe any standard that would substantially alter the practices followed prior to July 1, 1979, in long term care facilities relating to the administration of noninjectable medication by nursing assistants, except for the training requirements in ORS 678.440.

SECTION 12. ORS 678.157 is amended to read:

678.157. Nothing in ORS 678.150 and this section affects the limitation on the authority of the board imposed by ORS 678.155 and 678.445 in carrying out its duties under ORS 678.150 [(7)(i)] **(6)(i)**.

SECTION 13. ORS 678.800 is amended to read:

678.800. (1) There is hereby created a Board of Examiners of Nursing Home Administrators [*in the Department of Human Services*]. **The board consists of nine members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be concerned with the care and treatment of the chronically ill or infirm elderly patients and must be residents of this state. Of the members of the board:**

[(2) *The board shall be composed of nine individuals concerned with the care and treatment of the chronically ill or infirm elderly patients and shall be appointed by the Governor after consultation with the associations and societies appropriate to the professions and institutions:*]

(a) Three [*members shall*] **must** be nursing home administrators licensed under ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2);

(b) One **must be** a medical doctor licensed by the Oregon Medical Board actively engaged in private practice and conversant with the care and treatment of the long-term patient;

(c) One **must be a** licensed professional nurse actively engaged in caring for chronically ill and infirm patients and licensed by the Oregon State Board of Nursing;

[(d) *Three members representative of the public at large, at least one of whom shall be at least 62 years of age;*]

[(e)] (d) **One must be** a pharmacist licensed by the State Board of Pharmacy; and

(e) **Three must be members of the public who are not:**

(A) **Otherwise eligible for appointment to the board; or**

(B) **A spouse, domestic partner, child, parent or sibling of a nursing home administrator.**

(2)(a) **Board members required to be nursing home administrators may be selected by the Governor from a list of three to five nominees submitted by any professional organization representing nursing home administrators.**

[(f)] (b) Except for those persons described in paragraph (a) of this subsection, no member of the board [*shall*] **may** have a direct financial interest in a nursing home.

[3] *All members of the board shall be citizens of the United States or shall have declared their intent to become citizens of the United States and shall be residents of this state.*

(c) No more than two of the members of the board may be officials or full-time employees of state or local governments.

(d) **At least one public member must be at least 62 years of age.**

(e) **No public members of the board may hold any pecuniary interest in, or have any employment contract with, a long term care facility.**

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

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

(B) **Ethnic group.**

[4] (3)(a) The term of office of each member is three years but a member serves at the pleasure of the Governor. **The terms must be staggered so that no more than three terms end each year.** Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment [*but no member shall serve more than two consecutive terms*]. If there is a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term.

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

(A) **Is not a resident of this state;**

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

(C) **Is not a licensed nursing home administrator or a retired nursing home administrator whose license as a nursing home administrator was in good standing at the time of retirement, if the member was appointed to serve on the board as a nursing home administrator.**

[5] *All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.*

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

[7] *No public members of the board shall hold any pecuniary interest in, or have any employment contract with, a long term care facility.*

SECTION 14. ORS 679.230 is amended to read:

679.230. (1) The Oregon Board of Dentistry [*shall consist*] **consists** of [*nine*] **10** members[. A member shall be] appointed [*to the board*] by the Governor [*upon the expiration of the term of office of each of the preceding board members. Appointments to the board by the Governor are*] **and** subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. [*Each member shall hold the office for four years and until the member's successor is appointed and qualified.*] **All members of the board must be residents of this state. Of the members of the board:**

(a) **Six must be Oregon active licensed dentists, of which at least one must be a dentist practicing in a dental specialty recognized by the American Dental Association;**

(b) **Two must be Oregon active licensed dental hygienists; and**

(c) **Two must be members of the public who are not:**

(A) **Otherwise eligible for appointment to the board; or**

(B) **A spouse, domestic partner, child, parent or sibling of a dentist or dental hygienist.**

(2)(a) **Board members required to be Oregon active licensed dentists or dental hygienists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by:**

(A) **The Oregon Dental Association, if the vacancy is in a dentist position;**

(B) **The Oregon Dental Hygienists' Association, if the vacancy is in a dental hygienist position; or**

(C) Any of the professional organizations representing a dental specialty, if the vacancy is in a dental specialty position.

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

- (A) Geographic areas of this state; and
- (B) Ethnic group.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. Terms of office begin on the first Monday of April after the time of appointment. *[No person is eligible to membership on the board who is not a citizen of the United States or a resident of the State of Oregon. Six members shall be Oregon active licensed dentists, of which at least one shall be a dentist practicing in a dental specialty recognized by the American Dental Association, one member shall be a public member and two members shall be Oregon active licensed dental hygienists. Appointments of dentists made by the Governor to the Oregon Board of Dentistry may be selected by the Governor from a list of five names for each appointment suggested by the Oregon Dental Association. Appointments of dental hygienists made by the Governor to the Oregon Board of Dentistry may be selected by the Governor from a list of five names suggested by the Oregon Dental Hygienists' Association. Appointments of dental specialists by the Governor to the Oregon Board of Dentistry may be selected by the Governor from one name suggested by each of the organizations representing a dental specialty.]* A member is eligible for reappointment. If there is a vacancy in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

- (A) Is not a resident of this state;
- (B) Has been absent from three consecutive board meetings, unless at least one absence is excused;
- (C) Is not a licensed dentist or a retired dentist whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a dentist or a dental specialist; or
- (D) Is not a licensed dental hygienist or a retired dental hygienist whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a dental hygienist.

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

SECTION 15. ORS 680.556 is amended to read:

680.556. (1) There is established, within the Oregon Health Licensing Agency, the State Board of Denture Technology. The board consists of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

- (a) Four must be active licensed denturists;
- (b) One must be an Oregon licensed dentist in active practice; and
- (c) Two must be members of the public who do not possess the professional qualifications of other members and who are not a spouse, domestic partner, child, parent or sibling of an active licensed denturist or dentist.

[(2) The board shall consist of seven members appointed by the Governor.]

[(3) Four members shall be active licensed denturists, one member shall be an Oregon licensed dentist in active practice and two members shall be public members who do not possess the professional qualifications of other members.]

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

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

- (A) Geographic areas of this state; and
- (B) Ethnic group.

[(4)] (3)(a) The term of office of each member is three 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 July 1 next following. **The terms must be staggered so that no more than three terms end each year.** A member is eligible for reappointment. *[If a person serves two consecutive terms, a period of three years must pass before the person may be appointed to the board again.]* If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

- (A) Is not a resident of this state;
- (B) Has been absent from three consecutive board meetings, unless at least one absence is excused;
- (C) Is not a licensed denturist or a retired denturist who was a licensed denturist in good standing at the time of retirement, if the board member was appointed to serve on the board as a denturist; or
- (D) Is not a licensed dentist or a retired dentist whose license to practice dentistry was in good standing at the time of retirement, if the board member was appointed to serve on the board as a dentist.

(4) Members are entitled to compensation and expenses as provided in ORS 292.495 from funds available under ORS 680.570. The agency may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

(5) The agency shall provide the board with such administrative services and employees as the board requires to carry out its duties for the administration of ORS 680.500 to 680.570 and 680.990 (2).

[(6) *Members of the board, or its appointed committees, shall be entitled to compensation and expenses as provided in ORS 292.495 from funds available under ORS 680.570.*]

SECTION 16. ORS 681.400 is amended to read:

681.400. (1) There is established a State Board of Examiners for Speech-Language Pathology and Audiology [*consisting*]. **The board consists** of seven members appointed by the Governor[.] **and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

- (a) Two must be audiologists licensed under this chapter.
- (b) Two must be speech-language pathologists licensed under this chapter.
- (c) One must be a person licensed to practice medicine who also holds board certification from the American Board of Otolaryngology.
- (d) Two must be members of the public who are not:
 - (A) Otherwise eligible for appointment to the board; or
 - (B) A spouse, domestic partner, child, parent or sibling of an audiologist, speech-language pathologist or a person licensed to practice medicine who also holds board certification from the American Board of Otolaryngology.

(2)(a) Board members required to be licensed audiologists or licensed speech-language pathologists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by:

(A) Any professional organization representing audiologists, if the vacancy on the board is for an audiologist position; or

(B) Any professional organization representing speech-language pathologists, if the vacancy on the board is for a speech-language pathologist position.

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

(A) Geographic areas of this state; and

(B) Ethnic group.

[2] (3)(a) The term of office of each member is three years, but a member serves at the pleasure of the Governor. **The terms must be staggered so that no more than three terms end each year.** Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 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.

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

(A) Is not a resident of this state;

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

(C) Is not a licensed audiologist or a retired audiologist who was a licensed audiologist whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as an audiologist; or

(D) Is not a licensed speech-language pathologist or a retired speech-language pathologist who was a licensed speech-language pathologist whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a speech-language pathologist.

SECTION 17. ORS 681.410 is amended to read:

681.410. [(1) *Of the membership of the State Board of Examiners for Speech-Language Pathology and Audiology:*]

[*(a) All members must be residents of this state.*]

[*(b) Two members must be audiologists licensed under this chapter.*]

[*(c) Two members must be speech-language pathologists licensed under this chapter.*]

[*(d) One member must be a person licensed to practice medicine who also holds board certification from the American Board of Otolaryngology.*]

[*(e) Two members must be public members who do not possess the qualifications of any member described in paragraphs (b) to (d) of this subsection.*]

[2] A member of the [board] **State Board of Examiners for Speech-Language Pathology and Audiology** shall receive compensation and expenses as provided in ORS 292.495. **The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.**

SECTION 18. ORS 683.250 is amended to read:

683.250. (1) The Oregon Board of Optometry [*shall operate*] **operates** as a semi-independent state agency subject to ORS 182.456 to 182.472, for the purpose of carrying out this chapter. The board [*shall consist*] **consists** of five members appointed by the Governor. [*Each member of the board shall qualify by taking and subscribing the oath of office required by the Constitution, which shall be filed in the office of the Secretary of State.*] **and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) Four [*of the members of this board shall*] **must** be doctors of optometry licensed and in practice in Oregon; and [*the fifth member shall be a public*]

(b) **One member must be a member of the public who [representing] represents health consumers.** *Each of the members shall hold office for a term of three years or until a successor is appointed and qualified and shall be so classified] and who is not:*

(A) **Otherwise eligible for appointment to the board; or**

(B) **The spouse, domestic partner, child, parent or sibling of a doctor of optometry.**

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

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

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

(B) **Ethnic group.**

(3)(a) **The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that [at least one optometrist member of the board retires] no more than two terms end each year. A member is eligible for reappointment. If a vacancy occurs in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.**

(b) **Each member of the board shall qualify by taking and subscribing the oath of office required by the Oregon Constitution, which shall be filed in the office of the Secretary of State.**

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

(A) **Is not a resident of this state;**

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

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

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

(5) **A majority of the members constitute a quorum for the transaction of business.**

SECTION 19. ORS 684.130 is amended to read:

684.130. (1) **There is established the State Board of Chiropractic Examiners. [The board shall be composed of five chiropractors and two public members who are residents of this state.] The board consists of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) **Five must be chiropractors; and**

(b) **Two must be members of the public who are not chiropractors or a spouse, domestic partner, child, parent or sibling of a chiropractor.**

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

(b) **The chiropractor members must have practiced chiropractic in this state for five years prior to appointment.**

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

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

(B) **Ethnic group.**

(3)(a) **Annually, upon the expiration of the term of any [members] member of the board, the Governor shall appoint one or more qualified persons to the board to serve for a period of three**

years. A member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. If a vacancy occurs in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.

[(2) The Governor shall fill vacancies on the board, occasioned by death or otherwise. Upon sufficient proof to the Governor of the inability or misconduct of a member of the board, the member shall be dismissed and the Governor shall appoint as successor a person qualified to fill the vacancy.]

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

(A) Is not a resident of this state;

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

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

[(3) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.]

SECTION 20. ORS 684.160 is amended to read:

684.160. (1) A member of the State Board of Chiropractic Examiners is entitled to compensation and expenses as provided in ORS 292.495. **The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.**

(2) Such per diem and mileage, and other incidental expenses necessarily connected with the [State] board [of Chiropractic Examiners] shall be paid out of the account of the State Board of Chiropractic Examiners and not otherwise.

SECTION 21. ORS 685.160 is amended to read:

685.160. (1) There hereby is created the Board of Naturopathic Examiners [*in the Department of Human Services*]. The board [*shall consist*] **consists** of seven members appointed by the Governor [*for terms of three years commencing*] **and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) Five must be naturopathic physicians who have each practiced continuously in this state for the five years immediately prior to the date of appointment.

(b) Two must be members of the general public who are not naturopathic physicians or a spouse, domestic partner, child, parent or sibling of a naturopathic physician.

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

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

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment. A term of office commences July 1[, and]. Unless a member is removed prior to the end of the term, a member continues to serve on the board until [*their successors are*] a successor is appointed and qualified. A majority of the members of the board constitutes a quorum. If there is a vacancy for any cause, the Governor shall appoint a member to serve for the remainder of the unexpired term. [*All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.*]

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

(A) Is not a resident of this state;

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

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

[2] *Of the membership of the Board of Naturopathic Examiners:]*

[a] *All members must be citizens of this state.]*

[b] *Five members shall be naturopaths who have each practiced continuously in this state for the five years immediately prior to the date of appointment.]*

[c] *Two shall be members of the general public who do not possess the qualifications set forth in paragraph (b) of this subsection.]*

[3] (4) The board shall carry into effect the provisions of this chapter and is authorized to issue licenses to practice naturopathic medicine in this state. The possession of a common seal by the board hereby is authorized.

SECTION 22. ORS 685.190 is amended to read:

685.190. A member of the **Board of Naturopathic Examiners** is entitled to compensation and expenses as provided in ORS 292.495. **The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.**

SECTION 23. ORS 687.115 is amended to read:

687.115. (1) The State Board of Massage Therapists [*shall operate*] **operates** as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991. The board [*shall be composed of*] **consists of seven members[,] appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) Four [*of whom shall*] **must** be licensed massage therapists [*and*].

(b) Three [*of whom shall*] **must** be members of the public, including one public member selected from a health related field[, *who shall be appointed by the Governor for terms of four years. Members serve at the option of the Governor*]. **Public members may not be:**

(A) **Massage therapists; or**

(B) **A spouse, domestic partner, child, parent or sibling of a massage therapist.**

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

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

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

(B) **Ethnic group.**

(3)(a) **The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment. If there is a vacancy in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the remainder of the unexpired term.**

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

(A) Is not a resident of this state;

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

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

~~[(2)] (4) [Members are entitled to compensation and expenses as determined by the board.]~~ **Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.**

~~[(3)] (5)~~ The board may:

(a) Hold meetings at times and locations determined by the board.

(b) Hire, define the duties and fix the salary of an administrator who may hire and define the duties and provide supervision and evaluation of other employees as necessary to carry out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991. The administrator, with approval of the board, may also employ special consultants. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board.

SECTION 24. ORS 687.470 is amended to read:

687.470. (1) There is established within the Oregon Health Licensing Agency the State Board of Direct Entry Midwifery [*consisting*]. **The board consists of [*seven*] eight members appointed by the Governor[.] and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) **Four must be licensed direct entry midwives.**

(b) **Two must be certified nurse midwives.**

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

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

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

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

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

(B) **Ethnic group.**

(3)(a) **The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment.**

(b) **Unless a member is removed from office prior to the expiration of the term, each member of the board [*shall serve a term of three years and*] serves until the expiration of the member's term and until a successor is appointed and qualified. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. [*All appointments of members of the board are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. The membership of the board shall include:*]**

~~[(1) *Four licensed direct entry midwives.*]~~

~~[(2) *Two certified nurse midwives.*]~~

~~[(3) *One physician licensed under ORS chapter 677 involved at the time of appointment in obstetrical care or education.*]~~

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

(A) **Is not a resident of this state;**

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

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

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

SECTION 25. ORS 687.475 is amended to read:

687.475. [(1)] The State Board of Direct Entry Midwifery shall elect a chairperson. The board shall adopt rules to govern the proceedings of the board. The board shall hold meetings at such times and places as it determines. A majority of the members of the board shall constitute a quorum.

[(2) *Each member of the board is entitled to compensation and expenses as provided in ORS 292.495.*]

SECTION 26. ORS 688.160 is amended to read:

688.160. (1) The Physical Therapist Licensing Board [*shall operate*] **operates** as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010 to 688.201 and 688.990 (1). The Physical Therapist Licensing Board [*shall consist*] **consists** of [*seven*] **eight** members appointed by the Governor [*who may be appointed from a list of not fewer than nine names, submitted by the Oregon Physical Therapy Association.*] **and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) Five [*members shall*] **must** be physical therapists who are Oregon residents, possess unrestricted licenses to practice physical therapy in this state, have been practicing in this state for at least two years immediately preceding their appointments and have been practicing in the field of physical therapy for at least five years.

(b) One [*member shall*] **must** be a licensed physical therapist assistant.

(c) [*One member shall be a public member who has*] **Two must be public members who have an interest in consumer rights.** [*All members shall have equal voting privileges.*] **and who are not:**

(A) **Otherwise eligible for appointment to the board; or**

(B) **The spouse, domestic partner, child, parent or sibling of a physical therapist or physical therapist assistant.**

(2)(a) **Board members required to be physical therapists or physical therapist assistants may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by the Oregon Physical Therapy Association.**

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

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

(B) **Ethnic group.**

[(2)] (3)(a) [*Upon the expiration of the term of a member of the board, the Governor shall appoint a successor who may be appointed from a list of three names submitted to the Governor by the Oregon Physical Therapy Association to serve a term of four years. A member may not serve for more than two consecutive four-year terms.*] **The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment.**

[(3)] (b) In the event of a vacancy in the office of a member of the board other than by reason of the expiration of a term, the Governor, not later than 90 days after the occurrence of the vacancy, shall appoint a person to fill the vacancy for the unexpired term. [*The person may be appointed from a list of three names submitted as provided in subsection (2) of this section. If requested by the board, the Governor may remove any member of the board for misconduct, incompetence or neglect of duty.*]

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

(A) **Is not a resident of this state;**

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

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

(D) Is not a licensed physical therapist assistant or a retired physical therapist assistant who was a licensed physical therapist assistant in good standing at the time of retirement, if the board member was appointed to serve on the board as a retired physical therapist assistant.

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

(5) A board member who acts within the scope of board duties, without malice and in reasonable belief that the member's action is warranted by law, is immune from civil liability.

(6) The board shall have power to:

(a) Establish matters of policy affecting administration of ORS 688.010 to 688.201;

(b) Provide for examinations for physical therapists and physical therapist assistants and adopt passing scores for the examinations;

(c) Adopt rules necessary to carry out and enforce the provisions of ORS 688.010 to 688.201;

(d) Establish standards and tests to determine the qualifications of applicants for licenses to practice physical therapy in this state;

(e) Issue licenses to persons who meet the requirements of ORS 688.010 to 688.201;

(f) Adopt rules relating to the supervision and the duties of physical therapist aides who assist in performing routine work under supervision;

(g) Adopt rules establishing minimum continuing education requirements for all licensees;

(h) Exercise general supervision over the practice of physical therapy within this state;

(i) Establish and collect fees for the application or examination for, or the renewal, reinstatement or duplication of, a license under ORS 688.040, 688.080 or 688.100 or for the issuance of a temporary permit under ORS 688.110; and

(j) Establish and collect fees to carry out and enforce the provisions of ORS 688.010 to 688.201.

(7) The board shall meet as determined by the board and at any other time at the call of the board chairperson, who shall be elected by the members of the board. **All members have equal voting privileges.**

(8) The board may appoint and fix the compensation of an executive director and other staff as necessary to carry out the operations of the board.

(9) The board shall:

(a) Maintain a current list of all persons regulated under ORS 688.010 to 688.201, including the persons' names, current business and residential addresses, telephone numbers, electronic mail addresses and license numbers.

(b) Provide information to the public regarding the procedure for filing a complaint against a physical therapist or physical therapist assistant.

(c) Publish at least annually, and in a format or place determined by the board, final disciplinary actions taken against physical therapists and physical therapist assistants and other information, including rules, in order to guide physical therapists and physical therapist assistants regulated pursuant to ORS 688.010 to 688.201.

SECTION 27. ORS 688.545 is amended to read:

688.545. (1)[(a)] There is created [*in the Department of Human Services*] a Board of Radiologic Technology [*consisting of nine members who shall be appointed by the Governor*]. **The board consists of nine members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.** Each member of the board [*shall be a citizen of the United States and a resident of the state of Oregon. Each appointed member is entitled to vote*] **must be a resident of this state.**

[(b)] Of the members of the board:

[(A)] (a) One [shall] **must** be a radiologist;

[(B)] *At least one shall be a lay person;*

[(C)] (b) [At least] One [shall] **must** be a limited permit holder; [and]

[(D)] (c) [At least] Five [shall] **must** be licensed practicing radiologic technologists, one of whom [shall] **must** be a radiation therapist[.]; **and**

(d) **Two must be members of the public. A public member appointed under this paragraph may not be:**

(A) **Otherwise eligible for appointment to the board; or**

(B) **The spouse, domestic partner, child, parent or sibling of a radiologist, limited permit holder or radiologic technologist.**

(2)(a) **Board members required to be limited permit holders or licensed practicing radiologic technologists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by:**

(A) **A professional organization representing limited permit holders, if the vacancy is in a limited permit holder position;**

(B) **A professional organization representing radiation therapists, if the vacancy is in the radiation therapist position; or**

(C) **A professional organization representing radiologic technologists, if the vacancy is in a radiologic technologist or radiation therapist position.**

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

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

(B) **Ethnic group.**

[(2)] (3) **The section manager of the Radiation Protection Services Section of the Department of Human Services, or a person appointed by the section manager, shall be an advisory member of the board for the purpose of providing counsel and [shall not be] is not entitled to vote.**

[(3)] (4)(a) **The term of office of the members of the board [shall be three years and a member may be reappointed to serve not more than two full terms.] is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment.**

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

(A) **Is not a resident of this state;**

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

(C) **Is not a limited permit holder or a retired limited permit holder who was a limited permit holder in good standing at the time of retirement, if the board member was appointed to serve on the board as a limited permit holder;**

(D) **Is not a licensed practicing radiologic technologist or a retired radiologic technologist who was a licensed radiologic technologist in good standing at the time of retirement, if the board member was appointed to serve on the board as a radiologic technologist; or**

(E) **Is not a licensed practicing radiation therapist or a retired radiation therapist who was a licensed radiation therapist in good standing at the time of retirement, if the board member was appointed to serve on the board as a radiation therapist.**

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

[(5)] (6) **The board shall annually elect a board chairperson and a vice chairperson from the members of the board.**

[(6)] (7) **For the purpose of transacting its business, the board shall meet at least once every three months at times and places designated by resolution. Special meetings may also be held at**

such times as the board may elect or at the call of the chairperson. Notification of the time, place and purpose of any special meeting shall be sent to all members of the board at least 15 days before the date of the meeting. All meetings are subject to ORS 192.610 to 192.690.

[(7)] (8) Five members of the board [shall] constitute a quorum for the transaction of business at any meeting. Five affirmative votes [shall be] are required to take action.

SECTION 28. ORS 688.820 is amended to read:

688.820. (1) There is established within the Oregon Health Licensing Agency the Respiratory Therapist Licensing Board[.]. **The board consists [consisting] of five members appointed by the Governor[.] and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state.**

(2) **Of the members of the board:**

(a) **Four must be respiratory therapists; and**

(b) **One must be a member of the general public.**

(3) **Board members required to be respiratory therapists must have engaged in the practice of respiratory care for a period of five or more years immediately preceding appointment to the board.**

(4)(a) **Board members may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by the Oregon Society for Respiratory Care or another professional organization representing respiratory care practitioners.**

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

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

(B) **Ethnic group.**

[(2)] (5)(a) **The term of office of each member of the board is four years[.], but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than two terms end each year.** A member is eligible for reappointment[, but no member shall serve more than two full terms]. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

(A) **Is not a resident of this state;**

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

(C) **Is not a respiratory care practitioner or a retired respiratory care practitioner whose license was in good standing at the time of retirement.**

[(3)] *The members of the board must be citizens of this state who have engaged in the practice of respiratory care for a period of five or more years immediately preceding appointment to the board. In making appointments to the board, the Governor shall take into consideration any nominations received from the Oregon Society for Respiratory Care, or its successor.]*

[(4)] *A member of the board may be removed by the Governor for neglect of duty, incompetency or unethical or dishonorable conduct.]*

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

SECTION 29. ORS 689.115 is amended to read:

689.115. (1) The State Board of Pharmacy [shall consist] **consists of seven members[.] appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

(a) *[two of whom shall be representatives of the public, and the remaining] Five [of whom shall] must be licensed pharmacists. [The members shall possess the qualifications specified in subsections (2) and (3) of this section.]*

(b) Two must be members of the public who are not licensed pharmacists or a spouse, domestic partner, child, parent or sibling of a pharmacist.

(2)(a) Board members required to be licensed pharmacists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a task force assembled by the Oregon State Pharmacy Association to represent all of the interested pharmacy groups.

[(2)] (b) The public members of the State Board of Pharmacy [shall be residents of this state who] must be individuals who:

(A) Have attained the age of majority [and shall not be nor shall they ever have been a member];

(B) Are not former members of the profession of pharmacy[, or persons who have any immediate family in the profession of pharmacy or persons who have ever had];

(C) Do not have and have never had any material financial interest in the providing of pharmacy service [or who have]; **and**

(D) Have not engaged in any activity directly related to the practice of pharmacy.

[(3)] (c) The licensed pharmacist members of the board [shall] must at the time of their appointment:

[(a) Be residents of this state;]

[(b)] (A) Be licensed and in good standing to engage in the practice of pharmacy in this state;

[(c)] (B) Be engaged in the practice of pharmacy in this state; and

[(d)] (C) Have five years of experience in the practice of pharmacy in this state after licensure.

(d) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

(A) Geographic areas of this state; and

(B) Ethnic group.

[(4) The Governor shall appoint the members of the State Board of Pharmacy, subject to the advice and consent of the Senate, and in accordance with the other provisions of subsection (5) of this section.]

[(5) At least five recommendations for appointment to each vacancy on the board may be made to the Governor by a task force assembled by the Oregon State Pharmacists Association to represent all of the interested pharmacy groups. Such nominations shall be recommendations only and shall not be binding in any manner upon the Governor.]

*[(6)] (3)(a) [Any vacancy which occurs in the membership of the board for any reason, including expiration of term, removal, resignation, death, disability or disqualification, shall be filled by the Governor in the manner prescribed by subsections (4) and (5) of this section.] **The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment.** The Governor shall fill vacancies which occur by expiration of full terms within 90 days prior to each date of expiration, and shall fill vacancies which occur for any other reason within 60 days after each such vacancy occurs, **for the unexpired term.***

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

(A) Is not a resident of this state;

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

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

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

SECTION 30. ORS 689.125 is repealed.

SECTION 31. ORS 691.485 is amended to read:

691.485. (1) There is established a Board of Examiners of Licensed Dietitians [*within the Department of Human Services*] for the purpose of carrying out and enforcing the provisions of ORS 691.405 to 691.585. **The board consists of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:**

[*(2) The board shall consist of seven members appointed by the department of which:*]

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

(b) One [*is*] **must be** a physician trained in clinical nutrition; and

(c) Four [*are*] **must be licensed** dietitians [*licensed under ORS 691.405 to 691.585*] who have been engaged in the practice of dietetics for no fewer than five years.

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

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

(A) Geographic areas of this state; and

(B) Ethnic group.

[*(3) Members of the board shall be appointed for three-year terms and are eligible for reappointment, but none shall serve more than two consecutive terms.*]

(3) The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment. If there is a vacancy on the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

SECTION 32. ORS 169.750 is amended to read:

169.750. A juvenile detention facility may not:

(1) Impose upon a detained juvenile for purposes of discipline or punishment any infliction of or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals, or isolation, or detention under conditions that violate the provisions of subsections (2) to (8) of this section[,] **or** ORS 169.076 (7) to (11), (13) or (14) or 169.740;

(2) Use any physical force, other means of physical control or isolation upon a detained juvenile except as reasonably necessary and justified to prevent escape from the facility, physical injury to another person, to protect a detained juvenile from physical self-injury or to prevent destruction of property, or to effectuate the confinement of the juvenile in roomlock or isolation as provided for in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only so long as it appears that the danger exists. A use of force or other physical means of control may not employ:

(a) The use of restraining devices for a purpose other than to prevent physical injury or escape, or, in any case, for a period in excess of six hours. However, the time during which a detained juvenile is being transported to another facility pursuant to court order shall not be counted within the six hours; or

(b) Isolation for a period in excess of six hours;

(3) Use roomlock except for the discipline and punishment of a detained juvenile for violation of a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or for conduct that constitutes a crime under the laws of this state or that would justify physical force, control or isolation under subsection (2) of this section;

(4) Cause to be made an internal examination of a detained juvenile's anus or vagina, except upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such examination and then only by a licensed physician or a nurse;

(5)(a) Administer to any detained juvenile medication, except upon the informed consent of the juvenile or in the case of an imminent threat to the life of the juvenile or where the juvenile has a contagious or communicable disease that poses an imminent threat to the health of other persons in the facility. However, prescription medication may not be administered except upon a written prescription or written order by a licensed physician or licensed dentist and administered by a licensed physician, licensed dentist or other medical personnel authorized by the State of Oregon under ORS chapter 677, 678 or 679 to administer medication. Facility staff not otherwise authorized by law to administer medications may administer noninjectable medications in accordance with rules adopted by the Oregon State Board of Nursing pursuant to ORS 678.150 [(9)] (8);

(b) Nonmedical personnel shall receive training for administering medications, including recognition of and response to drug reactions and unanticipated side effects, from the responsible physician or nurse and the official responsible for the facility. All personnel shall be responsible for administering the dosage medications according to orders and for recording the administrations of the dosage in a manner and on a form approved by the responsible physician; and

(c) Notwithstanding any other provision of law, medication may not be administered unless a registered nurse or physician is either physically on the premises or readily available by telephone and within 30 minutes travel time of the patient;

(6) Administer to any detained juvenile any medication or medical procedure for purposes of experimentation;

(7) Discipline or punish any juvenile for conduct or behavior by roomlock, for a period in excess of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for more than one day, except after:

(a) Advising the juvenile in writing of the alleged offensive conduct or behavior;

(b) Providing the juvenile the opportunity to a hearing before a staff member who was not a witness to the alleged offensive conduct or behavior;

(c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-examine witnesses;

(d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile; and

(e) A finding that the alleged conduct or behavior was proven by a preponderance of the evidence and that it violated a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or constituted a crime under the laws of this state; and

(8) Detain juveniles with emotional disturbances, mental retardation or physical disabilities on the same charges and circumstances for which other juveniles would have been released or provided with another alternative.

SECTION 33. ORS 443.445 is amended to read:

443.445. (1) [No] A residential facility or home [shall] **may not** admit individuals who require continuous nursing care except as provided in subsection (3) of this section.

(2) Except as provided in subsection (3) of this section, if any resident of a residential facility or home requires nursing care for eight or more consecutive days or a physician or the designee of a physician or a registered nurse certifies that continued nursing care is required, the resident shall be transferred to an appropriate health care facility for as long as necessary.

(3) A resident of a residential facility or home who requires nursing care in addition to training, treatment or care needs, or any combination thereof, may be served by that facility or home with approval from the Department of Human Services and in accordance with the rules of the department and consistent with rules adopted by the Oregon State Board of Nursing under ORS 678.150 [(9)] (8).

(4) [No] A residential facility or home [shall] **may not** admit individuals of categories other than those designated on its license without prior written consent of the department.

(5) In the case of residential facilities or homes supervised by and operated exclusively for persons who rely upon prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized church or religious denomination, no medical, psychological or rehabilitative procedures shall be required.

SECTION 34. ORS 443.775 is amended to read:

443.775. (1) The Department of Human Services shall adopt rules governing adult foster homes and the level of care provided in such homes, including the provision of care to more than one person with nursing care needs under specified conditions and department approval, such as are necessary to protect the health, safety or welfare of the residents and to provide for an appropriate continuum of care, but shall not be inconsistent with the residential nature of the living accommodations and the family atmosphere of the home. The rules shall be consistent with rules adopted by the Oregon State Board of Nursing under ORS 678.150 [(9)] (8).

(a) An exception to the limit of one resident with nursing care needs may be granted if the provider proves to the department by clear and convincing evidence that such an exception will not jeopardize the care, health, safety or welfare of the residents and that the provider is capable of meeting the additional care needs of the new resident.

(b) The department, and the counties acting under the exemption granted pursuant to ORS 443.780, shall report on a quarterly basis to the Legislative Assembly on the number of exceptions granted during the quarter pursuant to paragraph (a) of this subsection.

(2) The provider may not employ a resident manager who does not meet the classification standard for the adult foster home.

(3) The provider shall be able to meet the night care needs of a resident before admitting the resident. The provider shall include night care needs in the resident's care plan.

(4) The provider shall screen a prospective resident before admitting the resident. The screening shall include but is not limited to diagnosis, medications, personal care needs, nursing care needs, night care needs, nutritional needs, activities and lifestyle preferences. A copy of the screening shall be given to the prospective resident or the prospective resident's representative.

(5) The department shall make rules to assure that any employee who makes a complaint pursuant to ORS 443.755 shall be protected from retaliation.

(6) For adult foster homes in which clients reside for whom the department pays for care, including homes in which the provider and the resident are related, the department may require substantial compliance with its rules relating to standards for care of the client as a condition for paying for care.

(7) By order the Director of Human Services may delegate authority under this section to personnel other than of the department.

(8) The department may commence a suit in equity to enjoin maintenance of an adult foster home if:

(a) The home is operated without a valid license under this section; or

(b) After the license to maintain the home is ordered suspended or revoked, a reasonable time for placement of residents in other facilities has been allowed but such placement has not been accomplished.

(9) The department shall establish by rule the maximum capacity of adult foster homes, including all nonrelated and related persons receiving residential care and day care.

(10) Any person who violates a provision of ORS 443.705 to 443.825 or the rules adopted thereunder may be subjected to the imposition of a civil penalty, to be fixed by the director by rule, not to exceed \$100 per violation, to a maximum of \$250 or, per occurrence of substantiated abuse, a maximum of \$1,000.

SECTION 35. ORS 692.300 is amended to read:

692.300. (1) There is created the State Mortuary and Cemetery Board [*in the Department of Human Services*] to carry out the purposes and enforce the provisions of this chapter. [*The board shall consist of 11 members. The members of the board shall be as follows:*] **The board consists of 11 members appointed by the Governor and subject to confirmation by the Senate in the man-**

ner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Two members *[shall]* **must** be licensed funeral service practitioners. One of the members under this paragraph *[shall]* **must** be a funeral service practitioner who does not offer embalming.

(b) One member *[shall]* **must** be a licensed embalmer.

(c) Three members *[shall]* **must** be representatives of cemeteries, one representing for-profit cemeteries, one representing a city or county owned or operated cemetery and one representing a special district owned or operated cemetery.

(d) One member *[shall]* **must** be a representative of a crematorium.

(e) Four members *[shall]* **must** be representatives of the public, one of whom *[shall]* **must** be a member of a recognized senior citizen organization.

(2)(a) Board members required to be licensed funeral service practitioners or licensed embalmers may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by:

(A) Any professional organization representing funeral service practitioners, if the vacancy on the board is for a funeral service practitioner position; or

(B) Any professional organization representing embalmers, if the vacancy on the board is for an embalmer position.

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

(A) Geographic areas of this state; and

(B) Ethnic group.

~~[(2)]~~ **(3)(a) The term of office of the members of the board shall be *[four]* three years ending on December 31, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than four terms end each year. A member is eligible for no more than two consecutive terms. *[They shall be appointed by the Governor and hold office until the appointment and qualification of their successors.]* If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.**

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

(A) Is not a resident of this state;

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

(C) Is not a licensed funeral service practitioner or a retired funeral service practitioner whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a funeral service practitioner; or

(D) Is not a licensed embalmer or a retired embalmer whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as an embalmer.

SECTION 36. (1) A member serving on the Oregon State Board of Nursing created in ORS 678.140 on the effective date of this 2009 Act continues to serve until the term of office for which the member was appointed terminates by expiration of time, resignation from the board by the member or removal of the member from office.

(2) When a member's term of service on the board terminates, a member who is otherwise eligible for reappointment to the board may be reappointed, unless the appointment exceeds the total appointments authorized for members within the member's classification.

SECTION 37. Section 36 of this 2009 Act is repealed on June 30, 2014.

SECTION 38. (1) Except as provided in this section, the amendments to ORS 169.750, 443.445, 443.775, 675.100, 675.310, 675.590, 675.775, 677.235, 677.280, 677.540, 677.780, 678.140, 678.150, 678.155, 678.157, 678.800, 679.230, 680.556, 681.400, 681.410, 683.250, 684.130, 684.160, 685.160, 685.190, 687.115, 687.470, 687.475, 688.160, 688.545, 688.820, 689.115, 691.485 and 692.300 by sections 1 to 29 and 31 to 35 of this 2009 Act and the repeal of ORS 689.125 by section 30

of this 2009 Act apply to appointments to health professional regulatory boards, as defined in ORS 676.160, and to boards, advisory councils and programs listed in ORS 676.606 made prior to, on or after the effective date of this 2009 Act.

(2) A member serving on a health professional regulatory board, as defined in ORS 676.160, or on a board, advisory council or program listed in ORS 676.606 on the effective date of this 2009 Act continues to serve until the term of office for which the member was appointed terminates by expiration of time, resignation from the board by the member or removal of the member from office.

SECTION 39. If Senate Bill 177 becomes law, section 20, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177) (amending ORS 675.590), is repealed and ORS 675.590, as amended by section 3 of this 2009 Act, is amended to read:

675.590. (1) There is established a [*State Board of Clinical Social Workers*] **State Board of Licensed Social Workers**. The board shall consist of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

[*(a) Four members must be licensed clinical social workers who are licensed in accordance with the provisions of ORS 675.510 to 675.600; and*]

(a) **Four members shall be clinical social workers licensed under ORS 675.530; and**

(b) Three members must be members of the public who have demonstrated an interest in the field of clinical social work and who are not:

(A) [*Licensed clinical*] **Regulated** social workers; or

(B) A spouse, domestic partner, child, parent or sibling of a [*licensed clinical*] **regulated** social worker.

(2)(a) Board members required to be [*licensed*] clinical social workers **licensed under ORS 675.530** may be appointed from a list of three to five nominees for each vacancy, submitted by any professional organization that represents clinical social workers.

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

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year.

(b) Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 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.

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

(A) Is not a resident of this state;

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

(C) Is not a [*licensed*] clinical social worker **licensed under ORS 675.530** or a retired clinical social worker who was a [*licensed*] clinical social worker **licensed under ORS 675.530** in good standing at the time of retirement, if the board member was appointed to serve on the board as a [*licensed*] clinical social worker **licensed under ORS 675.530**.

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

SECTION 40. If Senate Bill 177 becomes law, section 49, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177), is amended to read:

Sec. 49. (1) The amendments to [*ORS 675.590 by section 20 of this 2009 Act*] **ORS 675.595 by section 21, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177)**, are intended to change

the name of the “State Board of Clinical Social Workers” to the “State Board of Licensed Social Workers.”

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the “State Board of Clinical Social Workers,” wherever they occur in Oregon Revised Statutes, other words designating the “State Board of Licensed Social Workers.”

SECTION 41. If Senate Bill 131 becomes law, section 1, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131) (amending ORS 685.160), is repealed and ORS 685.160, as amended by section 21 of this 2009 Act, is amended to read:

685.160. (1) There hereby is created the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine**. The board consists of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Five must be naturopathic physicians who have each practiced continuously in this state for the five years immediately prior to the date of appointment.

(b) Two must be members of the general public who are not naturopathic physicians or a spouse, domestic partner, child, parent or sibling of a naturopathic physician.

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

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

- (A) Geographic areas of this state; and
- (B) Ethnic group.

(3)(a) The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment. A term of office commences July 1. Unless a member is removed prior to the end of the term, a member continues to serve on the board until a successor is appointed and qualified. A majority of the members of the board constitutes a quorum. If there is a vacancy for any cause, the Governor shall appoint a member to serve for the remainder of the unexpired term.

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

- (A) Is not a resident of this state;
- (B) Has been absent from three consecutive board meetings, unless at least one absence is excused; or
- (C) Is not a licensed naturopathic physician or a retired naturopathic physician who was a licensed naturopathic physician in good standing at the time of retirement, if the board member was appointed to serve on the board as a naturopathic physician.

(4) The board shall carry into effect the provisions of this chapter and is authorized to issue licenses to practice naturopathic medicine in this state. The possession of a common seal by the board hereby is authorized.

SECTION 42. If Senate Bill 131 becomes law, section 38, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131), is amended to read:

Sec. 38. (1) The amendments to [*ORS 685.160 by section 1 of this 2009 Act*] **ORS 685.170 by section 28, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131)**, are intended to change the name of the “Board of Naturopathic Examiners” to the “Oregon Board of Naturopathic Medicine.”

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the “Board of Naturopathic Examiners,” wherever they occur in Oregon Revised Statutes, other words designating the “Oregon Board of Naturopathic Medicine.”

SECTION 43. The amendments to ORS 675.590 and 685.160 and section 38, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131), and section 49, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), by sections 39 to 42 of this 2009 Act become operative on January 1, 2010.

SECTION 44. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House March 5, 2009

Received by Governor:

Repassed by House June 15, 2009

.....M.,....., 2009

Approved:

.....
Chief Clerk of House

.....M.,....., 2009

.....
Speaker of House

.....
Governor

Passed by Senate June 11, 2009

Filed in Office of Secretary of State:

.....M.,....., 2009

.....
President of Senate

.....
Secretary of State