

(Including Amendments to Resolve Conflicts)

C-Engrossed House Bill 2118

Ordered by the Senate June 26
Including House Amendments dated May 5 and June 10 and Senate
Amendments dated June 26

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Oregon Health Licensing Agency to investigate complaint against health regulatory board licensee, applicant or other person alleged to be practicing in violation of law. Requires that public members of health professional licensing boards review investigatory material and report concerning complaint against licensee.

Allows health professional regulatory board to obtain fingerprints for purpose of conducting criminal background checks on licensees seeking license renewal, applicants for license, board employees, volunteers or applicants for employment. Allows board to release or withhold personal electronic mail address, home address and personal telephone number for person licensed, registered or certified by board. Requires release of information if request for information is made for public health or state health planning purpose.

Specifies that health professional regulatory board has continuing jurisdiction over person notwithstanding change in licensing status of person.

Requires Director of Oregon Health Licensing Agency to prepare periodic reports regarding licensing, monitoring and investigative activities of agency and submit reports to Governor.

Standardizes and modifies certain provisions for membership and appointment of health professional regulatory boards, appointment of executive directors and reporting and auditing of certain board activities.

Changes definitions, examination, education, licensing and record keeping provisions related to certain health regulatory boards.

A BILL FOR AN ACT

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Relating to licensing boards; creating new provisions; amending ORS 426.385, 675.070, 675.100, 675.130, 675.300, 675.310, 675.320, 675.510, 675.540, 675.583, 675.590, 675.600, 675.745, 675.775, 675.785, 676.165, 676.608, 677.010, 677.188, 677.190, 677.235, 677.250, 677.270, 677.275, 677.415, 677.417, 677.655, 678.111, 678.112, 678.140, 678.150, 678.442, 678.780, 678.800, 679.140, 679.230, 679.250, 679.290, 681.350, 681.400, 681.410, 681.450, 683.140, 683.250, 683.260, 684.010, 684.100, 684.103, 684.130, 684.140, 684.157, 685.110, 685.160, 685.170, 686.120, 686.130, 686.210, 687.051, 687.081, 687.115, 688.140, 688.160, 688.525, 688.545, 689.005, 689.115, 689.165, 689.195, 689.255, 689.265, 689.405, 689.508, 691.485, 691.505, 691.535, 692.180, 692.300 and 692.320 and section 38, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131), and section 50, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177); and repealing ORS 689.125 and section 1, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131), and section 2, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177).

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

HEALTH PROFESSIONAL LICENSING BOARDS GENERALLY

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **SECTION 1.** (1) As used in this section:

2 (a) “Health professional regulatory board” means the agencies listed in ORS 676.160 and
3 the Oregon Health Licensing Agency created in ORS 676.605.

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

7 (c) “License” means a license, registration, certification or other authorization to engage
8 in a profession.

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

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

15 (3) For the purpose of requesting a state or nationwide criminal records check under
16 ORS 181.534, a health professional regulatory board may require the fingerprints of a licensee
17 seeking renewal of a license, an applicant for a license, a board employee or volunteer or an
18 applicant for employment with the board.

19 **SECTION 2.** (1) As used in this section:

20 (a) “Health professional regulatory board” means the agencies listed in ORS 676.160 and
21 the Oregon Health Licensing Agency created in ORS 676.605.

22 (b) “License” means a license, registration, certification or other authorization to engage
23 in a profession.

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

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

34 (4) Nothing in this section limits the jurisdictional, investigatory or other authority oth-
35 erwise provided by law to a health professional regulatory board.

36 **SECTION 3.** (1) As used in this section, “health professional regulatory board” means the
37 agencies listed in ORS 676.160 and the Oregon Health Licensing Agency created in ORS
38 676.605.

39 (2) Notwithstanding ORS 192.410 to 192.505, a health professional regulatory board may,
40 at its discretion, release or withhold the personal electronic mail address, home address and
41 personal telephone number for a person licensed, registered or certified by the board. If the
42 personal electronic mail address, home address or personal telephone number is requested
43 for a public health or state health planning purpose, the board shall release the information.

44 **SECTION 4.** (1) As used in this section, “health professional regulatory board” means a
45 health professional regulatory board described in ORS 676.160 other than the Department of

1 **Human Services with regard to the certification of emergency medical technicians.**

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

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

11 (4) **The executive director shall prepare periodic reports regarding the licensing, moni-**
12 **toring and investigative activities of the board. The executive director shall submit the re-**
13 **ports to the board and the Governor. The Oregon Department of Administrative Services, in**
14 **consultation with the board, shall adopt rules specifying requirements for the report content**
15 **and processes for preparing and submitting the reports. The rules may be consistent with**
16 **performance management measures and processes initiated by the department. The rules**
17 **shall require each board to undergo a peer review of board activities by a team of executive**
18 **directors of other health professional regulatory boards and at least one public member. The**
19 **department may assess the board for the cost of the peer review.**

20 **SECTION 5.** ORS 676.165 is amended to read:

21 676.165. (1) *[Upon receipt of]* **When a health professional regulatory board or the Oregon**
22 **Health Licensing Agency receives a complaint by any person against a licensee [or applicant, a**
23 **health professional regulatory], applicant or other person alleged to be practicing in violation**
24 **of law, the board or agency shall assign one or more persons to act as investigator of the com-**
25 **plaint.**

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

29 (3) The report to the board **or agency** shall describe the evidence gathered, the results of wit-
30 ness interviews and any other information considered in preparing the report of the investigator.
31 The investigator shall consider, and include in the report, any disciplinary history **with the board**
32 **or agency** of the licensee, *[or]* applicant *[with the board]* **or other person alleged to be practicing**
33 **in violation of law.**

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

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

40 (6) **When a health professional regulatory board reviews the investigatory information**
41 **and report, the public members of the board must be actively involved.**

42 **SECTION 5a.** ORS 676.608 is amended to read:

43 676.608. (1)(a) Upon its own motion *[or upon any complaint]*, the Oregon Health Licensing
44 Agency may initiate and conduct investigations of matters relating to the practice of occupations
45 or professions subject to the authority of the boards, councils and programs listed in ORS 676.606.

1 **(b) When the agency receives a complaint by any person against a holder of a certificate,**
2 **permit, license or registration to practice issued by the agency, the agency shall investigate**
3 **the complaint as provided in ORS 676.165.**

4 (2) While conducting an investigation authorized under subsection (1) of this section or a hear-
5 ing related to an investigation, the agency may:

6 (a) Take evidence;

7 (b) Administer oaths;

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

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

10 (e) Require answers to interrogatories;

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

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

15 (3) In exercising its authority under this section, the agency may issue subpoenas over the sig-
16 nature of the Director of the Oregon Health Licensing Agency or designated employee thereof and
17 in the name of the State of Oregon.

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

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

27 (6) In all investigations and hearings, the agency and any person affected thereby may have the
28 benefit of counsel.

29 **SECTION 5b. Section 5c of this 2009 Act is added to and made a part of ORS 676.605 to**
30 **676.625.**

31 **SECTION 5c. (1) In addition to any other duties imposed by law or otherwise required**
32 **of state agencies, the Director of the Oregon Health Licensing Agency shall keep all records**
33 **of the agency and discharge all duties prescribed by the agency.**

34 **(2) The director shall prepare periodic reports regarding the licensing, monitoring and**
35 **investigative activities of the agency. The director shall submit the reports to the Governor.**
36 **The Oregon Department of Administrative Services, in consultation with the agency, shall**
37 **adopt rules specifying requirements for the report content and processes for preparing and**
38 **submitting the reports. The rules may be consistent with performance management meas-**
39 **ures and processes initiated by the department. The rules shall require the agency to un-**
40 **dergo a peer review of agency activities by a team of executive directors of health**
41 **professional regulatory boards, as defined in ORS 676.160, and at least one public member of**
42 **a health professional regulatory board. The department may assess the agency for the cost**
43 **of the peer review.**

1 **SECTION 6.** ORS 675.070 is amended to read:

2 675.070. (1) Where any of the grounds enumerated in subsection (2) of this section exist, the
3 State Board of Psychologist Examiners may impose any of the following sanctions:

4 (a) Deny a license to any applicant;

5 (b) Refuse to renew the license of any psychologist or psychologist associate;

6 (c) Suspend the license of any psychologist or psychologist associate for a period of not less than
7 one year;

8 (d) Issue a letter of reprimand;

9 (e) Impose probation with authority to restrict the scope of practice of a psychologist or psy-
10 chologist associate or require practice under supervision;

11 (f) Revoke the license of any psychologist or psychologist associate; or

12 (g) Impose a civil penalty not to exceed \$1,000.

13 (2) Grounds exist for imposition of any of the sanctions enumerated in subsection (1) of this
14 section against any psychologist or psychologist associate or applicant, or, where applicable, any
15 unlicensed person found in violation of ORS 675.010 to 675.150, when, in the judgment of the board,
16 the person:

17 (a) [*Abuses intoxicants or controlled substances to such an extent as to incapacitate the person*
18 *from the performance of professional duties*] **Has an impairment as defined in section 1 of this**
19 **2009 Act;**

20 (b) Has been convicted of violation of any law relating to controlled substances;

21 (c) Has been convicted of any felony or of any misdemeanor involving moral turpitude;

22 (d) Is guilty of immoral or unprofessional conduct or of gross negligence in the practice of psy-
23 chology which includes but is not limited to:

24 (A) Any conduct or practice contrary to recognized standard of ethics of the psychological
25 profession or any conduct or practice [*which*] **that** constitutes a danger to the health or safety of
26 a patient or the public, or any conduct, practice or condition [*which impairs*] **that adversely affects**
27 a psychologist or psychologist associate's ability to practice psychology safely and skillfully.

28 (B) Willful ordering or performing of unnecessary tests or studies, administration of unnecessary
29 treatment, failure to obtain consultations or perform referrals when failing to do so is not consistent
30 with the standard of care, or otherwise ordering or performing any psychological service or treat-
31 ment which is contrary to recognized standards of practice of the psychological profession;

32 [*(e) Is mentally or emotionally unfit to practice psychology;*]

33 [*(f)*] **(e)** Has practiced or attempted to practice medicine without being licensed to do so;

34 [*(g)*] **(f)** Has obtained or attempted to obtain a license under ORS 675.010 to 675.150 by fraud
35 or material misrepresentation;

36 [*(h)*] **(g)** Has impersonated a licensed psychologist or psychologist associate or has allowed an-
37 other person to use the license of the psychologist;

38 [*(i)*] **(h)** Has violated any provision of ORS 675.010 to 675.150 or any provision of the code of
39 professional conduct formulated under ORS 675.110 (12); or

40 [*(j)*] **(i)** Has obtained a fee or payment from a patient or third party payer through fraud or in-
41 tentional misrepresentation.

42 (3) In case of any conviction required under subsection (2) of this section as grounds for denial,
43 refusal, suspension, revocation, reprimand, probation or imposition of a civil penalty, a certified copy
44 of the record of the conviction shall be conclusive evidence.

45 (4) The board may license an applicant or renew or restore any license suspended or revoked

1 under subsection [(2)(e)] **(2)(a)** of this section [*whenever*] **due to a mental health condition** if the
2 board determines that the applicant or former licensed psychologist or former psychologist associate
3 [*is no longer mentally or emotionally unfit to practice psychology*] **no longer has an impairment due**
4 **to a mental health condition.**

5 (5) License suspension or revocation in another state is grounds for license denial or discipli-
6 nary action by the board.

7 **SECTION 7.** ORS 675.100 is amended to read:

8 675.100. (1) There hereby is created a State Board of Psychologist Examiners consisting of seven
9 members appointed by the Governor **and subject to confirmation by the Senate in the manner**
10 **provided in ORS 171.562 and 171.565. All members of the board must be Oregon residents.**
11 **Of the members of the board:**

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

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

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

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

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

23 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
24 **resentation on the board according to:**

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

26 (B) **Ethnic group.**

27 [(2)] **(3)(a)** The term of office of a board member [*shall be three*] **is three** years, but [*the members*
28 *shall serve*] **a member serves** at the pleasure of the Governor.

29 (b) Before the expiration of the term of a member, the Governor shall appoint a successor to
30 assume duties on July 1 next following. A member shall be eligible for one consecutive reappoint-
31 ment only. In case of a vacancy for any cause, the Governor shall make an appointment to become
32 immediately effective for the unexpired term.

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

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

39 (5) Each member of the board is entitled to compensation and expenses as provided in ORS
40 292.495.

41 **SECTION 8.** ORS 675.130 is amended to read:

42 675.130. (1) The State Board of Psychologist Examiners shall select one of its members as
43 chairperson, and another as vice chairperson, for such terms and with such powers and duties nec-
44 essary for the performance of the functions of such offices as the board shall determine.

45 (2) A majority of the board constitutes a quorum for the transaction of business.

1 (3) The board shall meet at least once a year at a place, day and hour determined by the board.
2 The board shall also meet at such other times and places as are specified by the call of the chair-
3 person, or of a majority of the members of the board or of the Governor.

4 (4) The **executive director of the** board shall maintain records of all *[of its]* **board** proceedings
5 under ORS 675.010 to 675.150.

6 (5) The *[board]* **executive director** shall maintain a register of all living psychologists licensed
7 under ORS 675.010 to 675.150, showing their names, their last-known business addresses, their last-
8 known residential addresses, and the dates and numbers of their licenses.

9 *[(6) The board may appoint an executive secretary who shall not be a member of the board. The*
10 *board shall fix the compensation for the executive secretary.]*

11
12 **OCCUPATIONAL THERAPY LICENSING BOARD**

13
14 **SECTION 9.** ORS 675.300 is amended to read:

15 675.300. (1) The Occupational Therapy Licensing Board may deny, suspend, revoke or refuse to
16 renew a license or may impose probationary conditions where the licensee or applicant has been
17 guilty of:

18 (a) Unprofessional conduct as defined by the standards established by the board;

19 (b) Obtaining or attempting to obtain a license by means of fraud, misrepresentation or
20 concealment of material facts;

21 (c) Violating any lawful order or rule adopted by the board that may affect the health, welfare
22 or safety of the public; or

23 (d) Gross negligence or incompetence in the performance of professional duties.

24 (2) The board may suspend or revoke the license of any person licensed under ORS 675.210 to
25 675.340 and 675.990 (2) if the licensee has *[been adjudged mentally incompetent by a court of competent*
26 *jurisdiction]* **an impairment as defined in section 1 of this 2009 Act.**

27 (3) Where the board proposes to refuse to issue or renew a license or proposes to revoke or
28 suspend a license, opportunity for hearing shall be accorded as provided in ORS chapter 183.

29 (4) Judicial review of orders under subsection (3) of this section shall be in accordance with ORS
30 chapter 183.

31 (5) Information that the board obtains as part of an investigation into licensee or applicant
32 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
33 licensee or applicant conduct is confidential as provided under ORS 676.175.

34 **SECTION 10.** ORS 675.310 is amended to read:

35 675.310. (1) There is created *[in the Department of Human Services]* the Occupational Therapy
36 Licensing Board. The board is composed of five members appointed by the Governor **and subject**
37 **to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All mem-**
38 **bers of the board must be residents of this state. Of the members of the board:**

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

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

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

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

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

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

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

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

8 **(b)** **In selecting the members of the board, the Governor shall strive to balance the rep-**
9 **resentation on the board according to:**

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

11 **(B)** **Ethnic group.**

12 [(2)] **(3)** Members are entitled to compensation and expenses as provided in ORS 292.495.

13 [(3)] **(4)** **Board** members [*shall*] serve a term of four years and may not serve more than two
14 consecutive terms. **A member serves at the pleasure of the Governor.**

15 **SECTION 11.** ORS 675.320 is amended to read:

16 675.320. The Occupational Therapy Licensing Board shall have the following powers in addition
17 to powers otherwise granted under ORS 675.210 to 675.340 or necessary to carry out the provisions
18 of ORS 675.210 to 675.340:

19 (1) To organize and elect from its membership a chairperson and vice chairperson, each of whom
20 shall hold office for one year or until the election and qualification of a successor.

21 [(2) *To appoint a director to perform such duties as the board shall prescribe, and whose compen-*
22 *sation shall be fixed by the board subject to ORS 240.245.*]

23 [(3)] **(2)** To authorize all necessary disbursements to carry out the provisions of ORS 675.210 to
24 675.340, including, but not limited to, payment for necessary supplies, office equipment and investi-
25 gations and such other expenditures as provided for in ORS 675.210 to 675.340.

26 [(4)] **(3)** To suspend, revoke or invalidate licenses for nonpayment of renewal fees.

27 [(5)] **(4)** To restore licenses that have been suspended, revoked or voided.

28 [(6)] **(5)** To adopt license and license renewal fees under ORS 675.270, 675.280 and 675.290. The
29 fees must be approved by the Oregon Department of Administrative Services and may not exceed
30 the cost of administering ORS 675.210 to 675.340.

31 [(7)] **(6)** To collect license applications and renewal fees.

32 [(8)] **(7)** To investigate alleged violations of ORS 675.210 to 675.340.

33 [(9)] **(8)** To enforce the provisions of ORS 675.210 to 675.340 and generally supervise the practice
34 of occupational therapy in this state.

35 [(10)] **(9)** To make and enforce rules in accordance with ORS chapter 183 for the procedure of
36 the board and for regulating the practice of occupational therapy not inconsistent with the pro-
37 visions of ORS 675.210 to 675.340.

38 [(11)] **(10)** To establish minimum requirements for continuing education to be complied with by
39 all licensees under ORS 675.210 to 675.340.

40 [(12)] **(11)** To establish minimum requirements for limited permit to be complied with by all ap-
41 plicants prior to issuance of limited permit. A limited permit shall be issued to a person at the dis-
42 cretion of the board upon application and payment of a permit fee of \$25.

43 [(13)] **(12)** To establish official abbreviations that may be used, under ORS 675.220 (1), by persons
44 licensed as occupational therapists or occupational therapy assistants.

45 [(14)] **(13)** To establish minimum requirements for supervised field work necessary for applicants

1 under ORS 675.240 or 675.250.

2 [(15)] (14) To adopt rules that define the scope of the practice of occupational therapy and that
3 reflect national standards for the practice of occupational therapy.

4
5 **STATE BOARD OF CLINICAL SOCIAL WORKERS**
6

7 **SECTION 12.** ORS 675.510 is amended to read:

8 675.510. As used in ORS 675.510 to 675.600, unless the context requires otherwise:

9 (1) "Board" means the State Board of Clinical Social Workers.

10 (2) "Clinical social work" means the professional practice of applying principles and methods
11 with individuals, couples, families, children and groups, which include, but are not restricted to:

12 (a) Providing diagnostic, preventive and treatment services of a psychosocial nature pertaining
13 to personality adjustment, behavior problems, interpersonal dysfunctioning or deinstitutionalization;

14 (b) Developing a psychotherapeutic relationship to employ a series of problem solving techniques
15 for the purpose of removing, modifying, or retarding disrupted patterns of behavior, and for pro-
16 moting positive personality growth and development;

17 (c) Counseling and the use of psychotherapeutic techniques, such as disciplined interviewing
18 which is supportive, directive or insight oriented depending upon diagnosed problems, observation
19 and feedback, systematic analysis, and recommendations;

20 (d) Modifying internal and external conditions that affect a client's behavior, emotions, thinking,
21 or intrapersonal processes;

22 (e) Explaining and interpreting the psychosocial dynamics of human behavior to facilitate prob-
23 lem solving; and

24 (f) Supervising, administering or teaching clinical social work practice.

25 (3) "Clinical social work associate" means a person who holds a master's degree from an ac-
26 credited college or university accredited by the Council on Social Work Education whose plan of
27 practice and supervision has been approved by the board, and who is working toward licensure in
28 accordance with ORS 675.510 to 675.600 and rules adopted by the board.

29 [(4) "*Impaired clinical social worker*" means a person unable to perform the practice of clinical
30 social work by reason of mental illness, physical illness or alcohol or other drug abuse.]

31 [(5)] (4) "Licensed clinical social worker" means a person licensed under the provisions of ORS
32 675.510 to 675.600 to practice clinical social work.

33 [(6)] (5) "Unprofessional conduct" includes, but is not limited to, any conduct or practice con-
34 trary to recognized standards of ethics of the social work profession or any conduct that constitutes
35 or might constitute a danger to the health or safety of a client or the public or in any other manner
36 fails or might fail to adhere to the recognized standards of the profession.

37 **SECTION 13.** ORS 675.540 is amended to read:

38 675.540. (1) The State Board of Clinical Social Workers may impose any or all of the sanctions
39 specified in subsection (2) of this section, upon proof, after a hearing pursuant to the provisions of
40 ORS chapter 183 relating to a contested case, that a person:

41 (a) Has been convicted in this or any other state of a crime that is a felony in this state;

42 (b) Has been convicted of a felony in a federal court;

43 (c) Is unable to perform the practice of clinical social work by reason of [*mental illness, physical*
44 *illness or alcohol or other drug abuse;*] **physical illness;**

45 **(d) Has an impairment as defined in section 1 of this 2009 Act;**

1 [(d)] (e) Has been grossly negligent or has engaged in unprofessional conduct in the practice
2 of clinical social work; or

3 [(e)] (f) Has violated one or more of the rules of the board pertaining to the certification or li-
4 censing of clinical social workers.

5 (2) Pursuant to the provisions of subsection (1) of this section, the board may:

6 (a) Deny, suspend, revoke or refuse to renew any certificate or license issued under ORS 675.510
7 to 675.600.

8 (b) Place a licensed clinical social worker on probation and impose conditions or limits on the
9 scope of practice of a licensed clinical social worker.

10 (c) Impose a civil penalty not to exceed \$1,000.

11 (3) The expiration of a license or the voluntary surrender of a license by the licensee shall not
12 deprive the board of jurisdiction to proceed with any investigation of, or any action or disciplinary
13 proceedings against, the licensee.

14 (4) Information that the board obtains as part of an investigation into licensee or applicant
15 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
16 licensee or applicant conduct is confidential as provided under ORS 676.175.

17 (5) Upon receipt of a complaint under ORS 675.510 to 675.600, the board shall conduct an in-
18 vestigation as described under ORS 676.165.

19 **SECTION 14.** ORS 675.583 is amended to read:

20 675.583. (1) A licensed clinical social worker shall report to the State Board of Clinical Social
21 Workers any information the licensed clinical social worker has that appears to show that a licensed
22 clinical social worker *[is or may be an impaired clinical social worker, or]* **has or may have a**
23 **physical illness that makes the clinical social worker unable to practice, or** may be guilty of
24 unprofessional conduct according to the guidelines of the code of ethics, to the extent that disclo-
25 sure does not conflict with the requirements of ORS 675.580.

26 (2) Any information that the board obtains pursuant to subsection (1) of this section is confi-
27 dential as provided under ORS 676.175.

28 (3) Any person who reports or provides information to the board under subsection (1) of this
29 section in good faith shall not be subject to an action for civil damages as a result thereof.

30 **SECTION 15.** ORS 675.590 is amended to read:

31 675.590. (1) There is established a State Board of Clinical Social Workers. **The board shall**
32 **consist of seven members appointed by the Governor and subject to confirmation by the**
33 **Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must**
34 **be residents of this state. Of the members of the board:**

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

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

39 (A) **Licensed clinical social workers; or**

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

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

44 (2)(a) **Board members required to be licensed clinical social workers may be appointed**
45 **from a list of three to five nominees for each vacancy, submitted by any professional or-**

1 **ganization that represents clinical social workers.**

2 **(b) In selecting the members of the board, the Governor shall strive to balance the rep-**
3 **resentation on the board according to:**

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

5 **(B) Ethnic group.**

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

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

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

14 *[(b) Three members shall be public citizens who have demonstrated an interest in the field of clin-*
15 *ical social work.]*

16 *[(5)] (4) Members of the board are entitled to compensation and expenses as provided in ORS*
17 *292.495.*

18 **SECTION 16.** ORS 675.600 is amended to read:

19 675.600. *[(1)]* The State Board of Clinical Social Workers shall:

20 *[(a)] (1)* Pursuant to ORS chapter 183, make rules necessary to carry out the provisions of ORS
21 675.510 to 675.600;

22 *[(b)] (2)* Publish annually a list of the names and addresses of all persons who have been certi-
23 fied or licensed under ORS 675.510 to 675.600;

24 *[(c)] (3)* Establish a program for *[impaired]* clinical social workers **who have an impairment**
25 **as defined in section 1 of this 2009 Act or who are unable to practice due to physical illness,**
26 to assist licensed clinical social workers to regain or retain their certification or licensure and im-
27 pose the requirement of participation as a condition to reissuance or retention of the certificate or
28 license;

29 *[(d)] (4)* Establish a voluntary arbitration procedure that may be invoked with the consent of
30 clients and the licensed clinical social workers whereby disputes between clients and workers may
31 be resolved; and

32 *[(e)] (5)* Report to the Legislative Assembly on its activities regarding the certification or
33 licensure of clinical social workers during the preceding biennium.

34 *[(2) The board may appoint an administrator who shall not be a member of the board. The board*
35 *shall fix the compensation for the administrator.]*

36
37 **OREGON BOARD OF LICENSED PROFESSIONAL**
38 **COUNSELORS AND THERAPISTS**
39

40 **SECTION 17.** ORS 675.745 is amended to read:

41 675.745. (1) The Oregon Board of Licensed Professional Counselors and Therapists may deny,
42 suspend, revoke or refuse to issue or to renew any license issued under ORS 675.715 to 675.835 upon
43 proof that the applicant for licensure or the licensee:

44 (a) Has been convicted of violating ORS 675.825 or of a crime in this or any other state or ter-
45 ritory or against the federal government that brings into question the competence of the licensee

1 in the role of a counselor or a therapist;

2 (b) Is unable to perform the practice of professional counseling or marriage and family therapy
3 by reason of [*mental illness, physical illness, drug addiction or alcohol abuse*] **physical illness**;

4 (c) **Has an impairment as defined in section 1 of this 2009 Act.**

5 [(c)] (d) Has been grossly negligent in the practice of professional counseling or marriage and
6 family therapy;

7 [(d)] (e) Has violated one or more of the rules of the board pertaining to the licensure of pro-
8 fessional counselors or licensed marriage and family therapists;

9 [(e)] (f) Has failed to file a professional disclosure statement or has filed a false, incomplete or
10 misleading professional disclosure statement;

11 [(f)] (g) Has practiced outside the scope of activities, including administering, constructing or
12 interpreting tests, for which the licensee has individual training and qualification; or

13 [(g)] (h) Has been disciplined by a state mental health licensing board or program in this or any
14 other state for violation of competency or conduct standards.

15 (2)(a) The board may reprimand or impose probation on a licensee or an intern registered under
16 ORS 675.720 upon proof of any of the grounds for discipline provided in subsection (1) of this section.

17 (b) If the board elects to place a licensee or a registered intern on probation, the board may
18 impose:

19 (A) Restrictions on the scope of practice of the licensee or intern;

20 (B) Requirements for specific training;

21 (C) Supervision of the practice of the licensee or intern; or

22 (D) Other conditions the board finds necessary for the protection of the public.

23 (3) The board may initiate action against persons violating any provision of ORS 675.715 to
24 675.835 or any rules adopted by the board.

25 (4) Pursuant to ORS 183.745, the board may impose a civil penalty of not more than \$1,000 for
26 each violation of subsection (1) or (2) of this section.

27 (5) Information that the board obtains as part of an investigation into licensee or applicant
28 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
29 licensee or applicant conduct is confidential as provided under ORS 676.175.

30 (6) In addition to the actions authorized by subsections (1) and (2) of this section, the board may
31 take such disciplinary action as the board in its discretion finds proper, including but not limited
32 to the assessment of the costs of the disciplinary process.

33 **SECTION 18.** ORS 675.775 is amended to read:

34 675.775. (1) The Oregon Board of Licensed Professional Counselors and Therapists is established.

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

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

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

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

43 (d) **One must be a member of the public who has demonstrated an interest in the fields**
44 **of professional counseling and marriage and family therapy but who is not a:**

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

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

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

5 [(3)] **(b)** In selecting the members of the board, the Governor shall strive to balance the repre-
6 sentation according to:

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

8 **(B)** Ethnic group.

9 [(4) *The board shall consist of:*]

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

11 [(b) *Two members who are persons licensed as marriage and family therapists under ORS*
12 *675.715;*]

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

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

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

19 [(6)] **(3)** The term of office of each member is three years, but a member serves at the pleasure
20 of the Governor. By October 1 of each year, the Governor shall appoint persons to fill positions on
21 the board that are due to become vacant on October 1 of that year. A member is eligible for one
22 consecutive reappointment. If there is a vacancy for any cause, the Governor shall make an ap-
23 pointment to become immediately effective for the unexpired term.

24 **SECTION 19.** ORS 675.785 is amended to read:

25 675.785. The Oregon Board of Licensed Professional Counselors and Therapists has the following
26 powers:

27 (1) In accordance with the applicable provisions of ORS chapter 183, the board shall adopt rules
28 necessary for the administration of the laws the board is charged with administering.

29 (2) Subject to any applicable provisions of the State Personnel Relations Law, the board may
30 appoint, prescribe the duties and fix the compensation of [*an administrator and other*] employees of
31 the board necessary to carry out the duties of the board.

32 (3) The board may impose nonrefundable fees in an amount set by rule for the following:

33 (a) License application.

34 (b) First issuance of a license.

35 (c) Renewal of a license.

36 (d) Late filing of a license renewal.

37 (e) Renewal of registration as an intern.

38 (f) Examinations. Examination fees shall not exceed the costs incurred in administering the
39 particular examination. Fees established under this subsection are subject to prior approval of the
40 Oregon Department of Administrative Services and a report to the Emergency Board prior to
41 adopting the fees and shall be within the budget authorized by the Legislative Assembly as that
42 budget may be modified by the Emergency Board.

43 (4) The board shall:

44 (a) Maintain a register of all current licensed professional counselors and marriage and family
45 therapists.

1 (b) Annually publish a directory listing all current licensed professional counselors and marriage
2 and family therapists. The directory shall be available to the public, for which the board may collect
3 a publication fee.

4 (5) The board shall:

5 (a) Investigate alleged violations of the provisions of ORS 675.715 to 675.835 or rules adopted
6 under authority of the board.

7 (b) Establish procedures to review the complaints of clients of licensees of the board. Upon re-
8 ceipt of a complaint under ORS 675.715 to 675.835 against any licensed or unlicensed person, the
9 board shall conduct an investigation as described under ORS 676.165.

10 (6) The board shall report to the Legislative Assembly concerning the activities of the board
11 during the preceding biennium.

12 (7) The board shall form standards committees to establish, examine and pass on the qualifica-
13 tions of applicants to practice professional counseling or marriage and family therapy in this state.
14 The standards committee for professional counselors shall be made up of the professional counselors
15 on the board, the faculty member and the public member. The standards committee for marriage and
16 family therapists shall be made up of the marriage and family members of the board, the faculty
17 member and the public member.

18 (8) The board shall grant licenses to applicants who qualify to practice professional counseling
19 or marriage and family therapy in this state upon compliance with ORS 675.715 to 675.835 and the
20 rules of the board.

21 (9) The board may administer oaths, take depositions, defray legal expenses and issue subpoenas
22 to compel the attendance of witnesses and the production of documents or written information nec-
23 essary to carry out ORS 675.715 to 675.835.

24 (10) The board may adopt a seal to be affixed to all licenses.

25 (11) The board shall adopt a code of ethics for licensees. The board may use the ethical codes
26 of professional counseling and marriage and family therapy associations as models for the code es-
27 tablished by the board.

28 (12) The board may set academic and training standards necessary under ORS 675.715 to 675.835,
29 including, but not limited to, the adoption of rules to establish semester hour equivalents for quali-
30 fication for licensing where quarter hours are required under ORS 675.715 to 675.835.

31 (13) The board shall require the applicant for a professional counselor license or a marriage and
32 family therapy license to receive a passing score on an examination of competency in counseling
33 or marriage and family therapy. The examination may be the examination given nationally to certify
34 counselors, or in the case of marriage and family therapy, the examination approved by the Associ-
35 ation of Marital and Family Therapy Regulatory Boards.

36 (14) The standards committee shall establish standards and requirements for continuing educa-
37 tion and supervision, as appropriate. [*The standards and requirements shall be in effect July 1,*
38 *1992.*]

39 (15) The board shall establish a program for licensees whose ability to perform professional
40 counseling is impaired to assist those licensees in regaining or retaining their licensure and shall
41 impose the requirement of participation as a condition to reissuance or retention of the license.

42 (16) For the purpose of requesting a state or nationwide criminal records check under ORS
43 181.534, the board may require the fingerprints of a person who is:

44 (a) Applying for a license that is issued by the board;

45 (b) Applying for renewal of a license that is issued by the board; or

1 (c) Under investigation by the board.

2
3 **OREGON MEDICAL BOARD**

4
5 **SECTION 20.** ORS 426.385 is amended to read:

6 426.385. (1) Every mentally ill person committed to the Department of Human Services shall
7 have the right to:

8 (a) Communicate freely in person and by reasonable access to telephones;

9 (b) Send and receive sealed mail, except that this right may be limited for security reasons in
10 state institutions as described in ORS 426.010;

11 (c) Wear the clothing of the person;

12 (d) Keep personal possessions, including toilet articles;

13 (e) Religious freedom;

14 (f) A private storage area with free access thereto;

15 (g) Be furnished with a reasonable supply of writing materials and stamps;

16 (h) A written treatment plan, kept current with the progress of the person;

17 (i) Be represented by counsel whenever the substantial rights of the person may be affected;

18 (j) Petition for a writ of habeas corpus;

19 (k) Not be required to perform routine labor tasks of the facility except those essential for
20 treatment;

21 (L) Be given reasonable compensation for all work performed other than personal housekeeping
22 duties;

23 (m) Daily access to fresh air and the outdoors, except that this right may be limited when it
24 would create significant risk of harm to the person or others;

25 (n) Such other rights as may be specified by rule; and

26 (o) Exercise all civil rights in the same manner and with the same effect as one not admitted
27 to the facility, including, but not limited to, the right to dispose of real property, execute instru-
28 ments, make purchases, enter contractual relationships, and vote, unless the person has been adju-
29 dicated incompetent and has not been restored to legal capacity. Disposal of personal property in
30 possession of the person in a state institution described in ORS 426.010 is subject to limitation for
31 security reasons.

32 (2)(a) A person must be immediately informed, verbally and in writing, of any limitation:

33 (A) Of the right to send or receive sealed mail under subsection (1)(b) of this section;

34 (B) Regarding the disposal of personal property under subsection (1)(o) of this section; and

35 (C) Of the right to daily access to fresh air and the outdoors under subsection (1)(m) of this
36 section.

37 (b) Any limitation under this subsection and the reasons for the limitation must be stated in the
38 person's written treatment plan.

39 (c) The person has the right to challenge any limitation under this subsection pursuant to rules
40 adopted by the department. The person must be informed, verbally and in writing, of this right.

41 (3) Mentally ill persons committed to the department shall have the right to be free from po-
42 tentially unusual or hazardous treatment procedures, including convulsive therapy, unless they have
43 given their express and informed consent or authorized the treatment pursuant to ORS 127.700 to
44 127.737. This right may be denied to such persons for good cause as defined in administrative rule
45 only by the director of the facility in which the person is confined, but only after consultation with

1 and approval of an independent examining physician. Any denial shall be entered into the patient's
2 treatment record and shall include the reasons for the denial. No patient shall be subjected to
3 psychosurgery, as defined in ORS 677.190 [(22)(b)] **(21)(b)**.

4 (4) Mechanical restraints shall not be applied to a person admitted to a facility unless it is de-
5 termined by the chief medical officer of the facility or designee to be required by the medical needs
6 of the person. Every use of a mechanical restraint and the reasons therefor shall be made a part
7 of the clinical record of the person over the signature of the chief medical officer of the facility or
8 designee.

9 (5) Nothing in this section prevents the department from acting to exclude contraband from its
10 facilities and to prevent possession or use of contraband in its facilities.

11 (6) As used in this section:

12 (a) "Contraband" has the meaning given that term in ORS 162.135.

13 (b) "Security reasons" means the protection of the mentally ill person from serious and imme-
14 diate harm and the protection of others from threats or harassment as defined by rule of the de-
15 partment.

16 **SECTION 21.** ORS 677.010 is amended to read:

17 677.010. As used in this chapter, subject to the exemptions in ORS 677.060 and unless the con-
18 text requires otherwise:

19 (1) "Approved internship" means the first year of post-graduate training served in a hospital that
20 is approved by the board or by the Accreditation Council of Graduate Medical Education, the
21 American Osteopathic Association or the Royal College of Physicians and Surgeons of Canada.

22 (2) "Approved school of medicine" means a school offering a full-time resident program of study
23 in medicine or osteopathy leading to a degree of Doctor of Medicine or Doctor of Osteopathy, such
24 program having been fully accredited or conditionally approved by the Liaison Committee on Med-
25 ical Education, or its successor agency, or the American Osteopathic Association, or its successor
26 agency, or having been otherwise determined by the board to meet the association standards as
27 specifically incorporated into board rules.

28 (3) "Board" means the Oregon Medical Board.

29 (4) "Diagnose" means to examine another person in any manner to determine the source or na-
30 ture of a disease or other physical or mental condition, or to hold oneself out or represent that a
31 person is so examining another person. It is not necessary that the examination be made in the
32 presence of such other person; it may be made on information supplied either directly or indirectly
33 by such other person.

34 (5) "Dispense" means the preparation and delivery of a prescription drug, pursuant to a lawful
35 order of a practitioner, in a suitable container appropriately labeled for subsequent administration
36 to or use by a patient or other individual entitled to receive the prescription drug.

37 (6) "Dispensing physician" means a physician or podiatric physician and surgeon who purchases
38 prescription drugs for the purpose of dispensing them to patients or other individuals entitled to
39 receive the prescription drug and who dispenses them accordingly.

40 (7) "Drug" means all medicines and preparations for internal or external use of humans, in-
41 tended to be used for the cure, mitigation or prevention of diseases or abnormalities of humans,
42 which are recognized in any published United States Pharmacopoeia or National Formulary, or
43 otherwise established as a drug.

44 (8) "Fellow" means an individual who has not qualified under ORS 677.100 (1) and (2) and who
45 is pursuing some special line of study as part of a supervised program of a school of medicine, a

1 hospital approved for internship or residency training, or an institution for medical research or ed-
2 ucation that provides for a period of study under the supervision of a responsible member of that
3 hospital or institution, such school, hospital or institution having been approved by the board.

4 (9) "Intern" means an individual who has entered into a hospital or hospitals for the first year
5 of post-graduate training.

6 (10) "License" means permission to practice, whether by license, registration or certification.

7 (11) "Licensee" means an individual holding a valid license issued by the board.

8 [(12) "*Licensee with an impairment*" means an individual licensed under this chapter who is unable
9 to practice the profession for which the individual is licensed with reasonable skill and safety by reason
10 of mental illness; physical illness, including, but not limited to, physical deterioration that adversely
11 affects cognition, motor or perceptive skill; or habitual or excessive use or abuse of drugs, alcohol or
12 other substances that impair ability.]

13 **(12) "Physical incapacity" means a condition that renders an individual licensed under**
14 **this chapter unable to practice under that license with professional skill and safety by reason**
15 **of physical illness or physical deterioration that adversely affects cognition, motor or per-**
16 **ceptive skill.**

17 (13) "Physician" means any person who holds a degree of Doctor of Medicine or Doctor of
18 Osteopathy.

19 (14) "Podiatric physician and surgeon" means a podiatric physician and surgeon licensed under
20 ORS 677.805 to 677.840 to treat ailments of the human foot, ankle and tendons directly attached to
21 and governing the function of the foot and ankle.

22 (15) "Prescribe" means to direct, order or designate the use of or manner of using by spoken
23 or written words or other means.

24 (16) "Resident" means an individual who, after the first year of post-graduate training, in order
25 to qualify for some particular specialty in the field of medicine, pursues a special line of study as
26 part of a supervised program of a hospital approved by the board.

27 **SECTION 22.** ORS 677.188 is amended to read:

28 677.188. As used in ORS 677.190, unless the context requires otherwise:

29 (1) "Fraud or misrepresentation" means the intentional misrepresentation or misstatement of a
30 material fact, concealment of or failure to make known any material fact, or any other means by
31 which misinformation or a false impression knowingly is given.

32 (2) "Fraudulent claim" means a claim submitted to any patient, insurance or indemnity associ-
33 ation, company or individual for the purpose of gaining compensation, which the person making the
34 claim knows to be false.

35 (3) "Manifestly incurable condition, sickness, disease or injury" means one that is declared to
36 be incurable by competent physicians and surgeons or by other recognized authority.

37 (4) "Unprofessional or dishonorable conduct" means conduct unbecoming a person licensed to
38 practice medicine or podiatry, or detrimental to the best interests of the public, and includes:

39 (a) Any conduct or practice contrary to recognized standards of ethics of the medical or
40 podiatric profession or any conduct or practice which does or might constitute a danger to the
41 health or safety of a patient or the public or any conduct, practice or condition which does or might
42 [impair] **adversely affect** a physician's or podiatric physician and surgeon's ability safely and
43 skillfully to practice medicine or podiatry;

44 (b) Willful performance of any surgical or medical treatment which is contrary to acceptable
45 medical standards; and

1 (c) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic
2 studies; administration of unnecessary treatment; employment of outmoded, unproved or unscientific
3 treatments; failure to obtain consultations when failing to do so is not consistent with the standard
4 of care; or otherwise utilizing medical service for diagnosis or treatment which is or may be con-
5 sidered inappropriate or unnecessary.

6 **SECTION 23.** ORS 677.190 is amended to read:

7 677.190. The Oregon Medical Board may refuse to grant, or may suspend or revoke a license to
8 practice for any of the following reasons:

9 (1)(a) Unprofessional or dishonorable conduct.

10 (b) For purposes of this subsection, the use of an alternative medical treatment shall not by it-
11 self constitute unprofessional conduct. For purposes of this paragraph:

12 (A) "Alternative medical treatment" means:

13 (i) A treatment that the treating physician, based on the physician's professional experience, has
14 an objective basis to believe has a reasonable probability for effectiveness in its intended use even
15 if the treatment is outside recognized scientific guidelines, is unproven, is no longer used as a gen-
16 erally recognized or standard treatment or lacks the approval of the United States Food and Drug
17 Administration;

18 (ii) A treatment that is supported for specific usages or outcomes by at least one other physician
19 licensed by the Oregon Medical Board; and

20 (iii) A treatment that poses no greater risk to a patient than the generally recognized or
21 standard treatment.

22 (B) "Alternative medical treatment" does not include use by a physician of controlled substances
23 in the treatment of a person for chemical dependency resulting from the use of controlled sub-
24 stances.

25 (2) Employing any person to solicit patients for the licensee. However, a managed care organ-
26 ization, independent practice association, preferred provider organization or other medical service
27 provider organization may contract for patients on behalf of physicians.

28 (3) Representing to a patient that a manifestly incurable condition of sickness, disease or injury
29 can be cured.

30 (4) Obtaining any fee by fraud or misrepresentation.

31 (5) Willfully or negligently divulging a professional secret without the written consent of the
32 patient.

33 (6) Conviction of any offense punishable by incarceration in a Department of Corrections insti-
34 tution or in a federal prison, subject to ORS 670.280. A copy of the record of conviction, certified
35 to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

36 (7) [*Habitual or excessive use of intoxicants, drugs or controlled substances.*] **Impairment as de-**
37 **defined in section 1 of this 2009 Act.**

38 (8) Fraud or misrepresentation in applying for or procuring a license to practice in this state,
39 or in connection with applying for or procuring registration.

40 (9) Making statements that the licensee knows, or with the exercise of reasonable care should
41 know, are false or misleading, regarding skill or the efficacy or value of the medicine, treatment or
42 remedy prescribed or administered by the licensee or at the direction of the licensee in the treat-
43 ment of any disease or other condition of the human body or mind.

44 (10) Impersonating another licensee licensed under this chapter or permitting or allowing any
45 person to use the license.

1 (11) Aiding or abetting the practice of medicine or podiatry by a person not licensed by the
2 board, when the licensee knows, or with the exercise of reasonable care should know, that the per-
3 son is not licensed.

4 (12) Using the name of the licensee under the designation “doctor,” “Dr.,” “D.O.” or “M.D.,”
5 “D.P.M.,” “Acupuncturist,” “P.A.” or any similar designation in any form of advertising that is
6 untruthful or is intended to deceive or mislead the public.

7 [(13) *Insanity or mental disease as evidenced by an adjudication or voluntary commitment to an*
8 *institution for the treatment of a mental disease that affects the ability of the licensee to safely practice*
9 *medicine, or as determined by an examination conducted by three impartial psychiatrists retained by*
10 *the board.*]

11 [(14)] (13) Gross negligence or repeated negligence in the practice of medicine or podiatry.

12 [(15)] (14) Incapacity to practice medicine or podiatry. If the board has evidence indicating in-
13 capacity, the board may order a licensee to submit to a standardized competency examination. The
14 licensee shall have access to the result of the examination and to the criteria used for grading and
15 evaluating the examination. If the examination is given orally, the licensee shall have the right to
16 have the examination recorded.

17 [(16)] (15) Disciplinary action by another state of a license to practice, based upon acts by the
18 licensee similar to acts described in this section. A certified copy of the record of the disciplinary
19 action of the state is conclusive evidence thereof.

20 [(17)] (16) Failing to designate the degree appearing on the license under circumstances de-
21 scribed in ORS 677.184 (3).

22 [(18)] (17) Willfully violating any provision of this chapter or any rule adopted by the board,
23 board order, or failing to comply with a board request pursuant to ORS 677.320.

24 [(19)] (18) Failing to report the change of the location of practice of the licensee as required by
25 ORS 677.172.

26 [(20)] (19) [*Adjudication of or admission to a hospital for mental illness or*] Imprisonment as pro-
27 vided in ORS 677.225.

28 [(21)] (20) Making a fraudulent claim.

29 [(22)(a)] (21)(a) Performing psychosurgery.

30 (b) For purposes of this subsection and ORS 426.385, “psychosurgery” means any operation de-
31 signed to produce an irreversible lesion or destroy brain tissue for the primary purpose of altering
32 the thoughts, emotions or behavior of a human being. “Psychosurgery” does not include procedures
33 which may produce an irreversible lesion or destroy brain tissues when undertaken to cure well-
34 defined disease states such as brain tumor, epileptic foci and certain chronic pain syndromes.

35 [(23)] (22) Refusing an invitation for an informal interview with the board requested under ORS
36 677.415.

37 [(24)] (23) Violation of the federal Controlled Substances Act.

38 [(25)] (24) Prescribing controlled substances without a legitimate medical purpose, or prescribing
39 controlled substances without following accepted procedures for examination of patients, or pre-
40 scribing controlled substances without following accepted procedures for record keeping.

41 [(26)] (25) Failure by the licensee to report to the board any adverse action taken against the
42 licensee by another licensing jurisdiction or any peer review body, health care institution, profes-
43 sional or medical society or association, governmental agency, law enforcement agency or court for
44 acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as
45 described in this section.

1 [(27)] **(26)** Failure by the licensee to notify the board of the licensee’s voluntary resignation from
2 the staff of a health care institution or voluntary limitation of a licensee’s staff privileges at the
3 institution if that action occurs while the licensee is under investigation by the institution or a
4 committee thereof for any reason related to medical incompetence, unprofessional conduct, **physical**
5 **incapacity** or [*mental or physical*] impairment.

6 **SECTION 24.** ORS 677.235 is amended to read:

7 677.235. (1) The Oregon Medical Board consists of 12 members appointed by the Governor[.] **and**
8 **subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.**
9 **All members of the board must be residents of this state. Of the members of the board:**

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

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

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

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

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

20 (B) **A spouse, domestic partner, child, parent or sibling of an individual having the degree**
21 **of Doctor of Medicine, Doctor of Osteopathy or Doctor of Podiatric Medicine.**

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

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

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

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

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

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

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

44 [(2) *Not later than February 1 of each year, the Oregon Medical Association shall nominate three*
45 *qualified physicians for each physician member of the board whose term expires in that year, and shall*

1 certify its nominees to the Governor. Not later than February 1 of each odd-numbered year, the
 2 Osteopathic Physicians and Surgeons of Oregon, Inc., shall nominate three physicians possessing the
 3 degree of Doctor of Osteopathy and shall certify its nominees to the Governor. Not later than February
 4 1 of each third year, the Oregon Podiatric Medical Association shall nominate three podiatric physi-
 5 cians and surgeons possessing the degree of Doctor of Podiatric Medicine and shall certify its nominees
 6 to the Governor. The Governor shall consider these nominees in selecting successors to retiring board
 7 members.]

8 (3)(a) [Each member of the board shall serve for a term of three years beginning] **The term of**
 9 **office of each board member is three years, but a member serves at the pleasure of the**
 10 **Governor. A term begins** on March 1 of the year the member is appointed and [ending] **ends** on
 11 the last day of February of the third year thereafter. No member shall serve more than two con-
 12 secutive terms.

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

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

18 **SECTION 25.** ORS 677.250 is amended to read:

19 677.250. The **executive director of the** Oregon Medical Board shall keep a record of all [the]
 20 **board** proceedings [thereof], and also a record of all applicants for a license, together with their
 21 ages, the time such applicants have spent in the study and practice of medicine, the name and lo-
 22 cation of all institutions granting to applicants degrees in medicine and such other information as
 23 the board may deem advisable. The record also shall show whether such applicants were rejected
 24 or licensed under this chapter. The record is prima facie evidence of all the matters therein re-
 25 corded, and failure of a person's name to appear in the record is prima facie evidence that such
 26 person does not have a license to practice medicine in this state.

27 **SECTION 26.** ORS 677.270 is amended to read:

28 677.270. If any licensee fails to comply with any lawful rule or order of the Oregon Medical
 29 Board, or fails to obey any subpoena issued by the board, or refuses to testify concerning any matter
 30 on which the licensee may lawfully be interrogated by the board, the board may apply to any circuit
 31 court of this state, or the judge thereof, to compel obedience. The court or judge, upon such appli-
 32 cation, shall institute proceedings for contempt. The remedy provided in this section is in addition
 33 to, and not exclusive of, the authority of the board to discipline licensees for violations of ORS
 34 677.190 [(18) and (23)] **(17) and (22)**.

35 **SECTION 27.** ORS 677.275 is amended to read:

36 677.275. [(1) The Oregon Medical Board may appoint an executive director, who need not be a
 37 member of the board, and fix the compensation. The executive director shall be under the supervision
 38 and control of the board, and may discharge all duties as provided in the rules of the board or as di-
 39 rected by the board.]

40 [(2)] Each administrative law judge conducting hearings on behalf of the board is vested with
 41 the full authority of the board to schedule and conduct hearings on behalf and in the name of the
 42 board on all matters referred by the board, including issuance of licenses, proceedings for placing
 43 licensees on probation and for suspension and revocation of licenses, and shall cause to be prepared
 44 and furnished to the board, for decision thereon by the board, the complete written transcript of the
 45 record of the hearing. This transcript shall contain all evidence introduced at the hearing and all

1 pleas, motions and objections, and all rulings of the administrative law judge. Each administrative
2 law judge may administer oaths and issue summonses, notices and subpoenas, but may not place any
3 licensee on probation or issue, refuse, suspend or revoke a license.

4 **SECTION 28.** ORS 677.415 is amended to read:

5 677.415. (1) As used in this section:

6 (a) "Health care facility" means a facility licensed under ORS 441.015 to 441.087.

7 (b) "Official action" means a restriction, limitation, loss or denial of privileges of a licensee to
8 practice medicine, or any formal action taken against a licensee by a government agency or a health
9 care facility based on a finding of medical incompetence, unprofessional conduct, **physical inca-**
10 **capacity** or [*licensee*] impairment.

11 (2) The Oregon Medical Board on the board's own motion may investigate any evidence that
12 appears to show that a licensee licensed by the board is or may be medically incompetent or is or
13 may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with a **physical**
14 **incapacity or an impairment as defined in section 1 of this 2009 Act.**

15 (3) A licensee licensed by the Oregon Medical Board, the Oregon Medical Association, Inc., or
16 any component society thereof, the Osteopathic Physicians and Surgeons of Oregon, Inc. or the
17 Oregon Podiatric Medical Association shall report within 10 working days, and any other person
18 may report, to the board any information such licensee, association, society or person may have that
19 appears to show that a licensee is or may be medically incompetent or is or may be guilty of un-
20 professional or dishonorable conduct or is or may be a licensee with a **physical incapacity.** [*an*
21 *impairment. However, a licensee who is treating another licensee for a mental disability has a duty to*
22 *report within 10 working days the licensee patient unless, in the opinion of the treating licensee, the*
23 *patient is not impaired.*]

24 (4) A licensee shall self-report within 10 working days any official action taken against the
25 licensee.

26 (5) A health care facility shall report to the Oregon Medical Board any official action taken
27 against a licensee within 10 business days of the date of the official action.

28 (6) A licensee's voluntary withdrawal from the practice of medicine or podiatry, voluntary res-
29 ignation from the staff of a health care facility or voluntary limitation of the licensee's staff privi-
30 leges at such a health care facility shall be promptly reported to the Oregon Medical Board by the
31 health care facility and the licensee if the licensee's voluntary action occurs while the licensee is
32 under investigation by the health care facility or a committee thereof for any reason related to
33 possible medical incompetence, unprofessional conduct or [*mental or*] **physical incapacity or**
34 **impairment as defined in section 1 of this 2009 Act.**

35 (7)(a) A report made in accordance with subsection (3) of this section shall contain:

36 (A) The name, title, address and telephone number of the person making the report; and

37 (B) Information that appears to show that a licensee is or may be medically incompetent, is or
38 may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with [*an*
39 *impairment*] **a physical incapacity.**

40 (b) The Oregon Medical Board may not require in a report made in accordance with subsection
41 (5) or (6) of this section more than:

42 (A) The name, title, address and telephone number of the licensee making the report or the
43 name, address and telephone number of the health care facility making the report;

44 (B) The date of an official action taken against the licensee or the licensee's voluntary action
45 under subsection (6) of this section; and

1 (C) A description of the official action or the licensee's voluntary action, as appropriate to the
2 report, including:

3 (i) The specific restriction, limitation, suspension, loss or denial of the licensee's medical staff
4 privileges and the effective date or term of the restriction, limitation, suspension, loss or denial; or

5 (ii) The fact that the licensee has voluntarily withdrawn from the practice of medicine or
6 podiatry, voluntarily resigned from the staff of a health care facility or voluntarily limited the
7 licensee's privileges at a health care facility and the effective date of the withdrawal, resignation
8 or limitation.

9 (c) The Oregon Medical Board may not require in a report made in accordance with subsection
10 (4) of this section more than:

11 (A) The name, title, address and telephone number of the licensee making the report; and

12 (B) The specific restriction, limitation, suspension, loss or denial of the licensee's staff privileges
13 and the effective date or term of the restriction, limitation, suspension, loss or denial.

14 (8) A report made in accordance with this section may not include any data that is privileged
15 under ORS 41.675.

16 (9) If, in the opinion of the Oregon Medical Board, it appears that information provided to it
17 under this section is or may be true, the board may order an informal interview with the licensee
18 subject to the notice requirement of ORS 677.320.

19 (10)(a) A health care facility's failure to report an official action as required under subsection
20 (5) of this section constitutes a violation of this section. The health care facility is subject to a
21 penalty of not more than \$10,000 for each violation. The Oregon Medical Board may impose the
22 penalty in accordance with ORS 183.745 and, in addition to the penalty, may assess reasonable costs
23 the board incurs in enforcing the requirements of this section against the health care facility if the
24 enforcement results in the imposition of a civil penalty.

25 (b) The Attorney General may bring an action in the name of the State of Oregon in a court
26 of appropriate jurisdiction to recover a civil penalty and costs assessed under this subsection.

27 (c) A civil penalty assessed or recovered in accordance with this subsection shall be paid to the
28 State Treasury and the State Treasurer shall credit the amount of the payment to the Rural Health
29 Services Fund established under ORS 442.570.

30 (11) A person who reports in good faith to the Oregon Medical Board as required by this section
31 is immune from civil liability by reason of making the report.

32 **SECTION 29.** ORS 677.417 is amended to read:

33 677.417. The Oregon Medical Board shall determine by rule what constitutes medical incompe-
34 tence, unprofessional conduct, **physical incapacity** or [*licensee*] impairment for the purposes of ORS
35 chapter 677.

36 **SECTION 30.** ORS 677.655, as amended by section 5, chapter 796, Oregon Laws 2007, is
37 amended to read:

38 677.655. (1) All records and meetings of the Health Professionals Program Supervisory Council
39 are confidential and shall not be subject to public disclosure, nor shall the records be admissible
40 as evidence in any judicial, administrative, arbitration or mediation proceeding except proceedings
41 between the licensee or applicant and the Oregon Medical Board. Case reviews, deliberations and
42 communications regarding any participant in the program are exempt from the provisions of ORS
43 192.610 to 192.690.

44 (2) The members, employees, contractors and past or present clients of the council shall not be
45 subject to the disclosure requirements in ORS 677.415.

1 (3) Any licensee who in good faith voluntarily participates in an approved diversion program
2 and successfully completes the program shall not be subject to disciplinary investigation or sanc-
3 tions unless the licensee is suspected of a violation described in ORS 677.190, except for ORS 677.190
4 (1)(a), by the manner of obtaining or self-administration of intoxicants, drugs or controlled sub-
5 stances or a violation described in ORS 677.190 (7), [~~13~~, ~~20~~ or ~~24~~] **(19) or (23)**.

6 (4) Except as otherwise provided in ORS 677.615 to 677.677, disclosures of client records, in-
7 cluding but not limited to mental health records, by members, employees, contractors and past or
8 present clients of the council are subject to 42 C.F.R. part 2, sections 2.1 through 2.67. For the
9 purposes of this subsection, medical health records and communications regarding mental health
10 treatment shall be treated with the same confidentiality protections as alcohol and drug abuse pa-
11 tient records under 42 C.F.R. part 2, sections 2.1 through 2.67.

12
13 **OREGON STATE BOARD OF NURSING**

14
15 **SECTION 31.** ORS 678.111 is amended to read:

16 678.111. In the manner prescribed in ORS chapter 183 for a contested case:

17 (1) Issuance of the license to practice nursing, whether by examination or by indorsement, of
18 any person may be refused or the license may be revoked or suspended or the licensee may be
19 placed on probation for a period specified by the Oregon State Board of Nursing and subject to such
20 condition as the board may impose or may be issued a limited license or may be reprimanded or
21 censured by the board, for any of the following causes:

22 (a) Conviction of the licensee of crime where such crime bears demonstrable relationship to the
23 practice of nursing. A copy of the record of such conviction, certified to by the clerk of the court
24 entering the conviction, shall be conclusive evidence of the conviction.

25 (b) Gross incompetence or gross negligence of the licensee in the practice of nursing at the level
26 for which the licensee is licensed.

27 (c) Any willful fraud or misrepresentation in applying for or procuring a license or renewal
28 thereof.

29 (d) Fraud or deceit of the licensee in the practice of nursing or in admission to such practice.

30 (e) [*Use of any controlled substance or intoxicating liquor to an extent or in a manner dangerous*
31 *or injurious to the licensee or others or to an extent that such use impairs the ability to conduct safely*
32 *the practice for which the licensee is licensed.*] **Impairment as defined in section 1 of this 2009**
33 **Act.**

34 (f) Conduct derogatory to the standards of nursing.

35 (g) Violation of any provision of ORS 678.010 to 678.445 or rules adopted thereunder.

36 (h) Revocation or suspension of a license to practice nursing by any state or territory of the
37 United States, or any foreign jurisdiction authorized to issue nursing credentials whether or not that
38 license or credential was relied upon in issuing that license in this state. A certified copy of the
39 order of revocation or suspension shall be conclusive evidence of such revocation or suspension.

40 (i) Physical [*or mental*] condition that makes the licensee unable to conduct safely the practice
41 for which the licensee is licensed.

42 (j) Violation of any condition imposed by the board when issuing a limited license.

43 (2) A certificate of special competence may be denied or suspended or revoked for the reasons
44 stated in subsection (1) of this section.

45 (3) A license or certificate in inactive status may be denied or suspended or revoked for the

1 reasons stated in subsection (1) of this section.

2 (4) A license or certificate in retired status may be denied or suspended or revoked for any
3 cause stated in subsection (1) of this section.

4 **SECTION 32.** ORS 678.112 is amended to read:

5 678.112. (1) When a person licensed to practice nursing voluntarily seeks treatment for [*chemical*
6 *dependency or an emotional*] **an impairment** or physical problem that otherwise may lead to formal
7 disciplinary action under ORS 678.111, the Oregon State Board of Nursing may abstain from taking
8 such formal disciplinary action if the board finds that the licensee can be treated effectively and
9 that there is no danger to the public health, safety or welfare.

10 (2) If the board abstains from taking such formal disciplinary action, it may require the licensee
11 to be subject to the voluntary monitoring program as established by the board.

12 (3) All records of the voluntary monitoring program are confidential and shall not be subject to
13 public disclosure, nor shall the records be admissible as evidence in any judicial proceedings.

14 (4) A licensee voluntarily participating in the voluntary monitoring program shall not be subject
15 to investigation or disciplinary action by the board for the same offense, if the licensee complies
16 with the terms and conditions of the monitoring program.

17 (5) The board shall establish by rule criteria for eligibility to participate in the voluntary mon-
18 itoring program and criteria for successful completion of the program.

19 (6) Licensees who elect not to participate in the voluntary monitoring program or who fail to
20 comply with the terms of participation shall be reported to the board for formal disciplinary action
21 under ORS 678.111.

22 **NOTE:** Section 33 was deleted by amendment. Subsequent sections were not renumbered.

23 **SECTION 34.** ORS 678.140 is amended to read:

24 678.140. (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**
25 **in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the**
26 **members of the board:**

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

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

29 (c) Two [*of whom shall*] **must** be members of the public who are otherwise not eligible for ap-
30 pointment to the board.

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

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

36 (B) **The Oregon Licensed Practical Nurses Association or any other professional organ-**
37 **ization representing licensed practical nurses, if the vacancy is in a licensed practical nurse**
38 **position.**

39 (b) **Each nurse member must:**

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

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

44 (c) **The public members and any person who is a spouse, domestic partner, child, parent**
45

1 **or sibling of a public member may not be employed as a health professional or in any**
2 **health-related industry.**

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

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

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

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

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

10 (3) The members of the board shall be appointed by the Governor for terms of three years, be-
11 ginning on January 1. No member shall be eligible to appointment for more than two consecutive
12 terms. **A member serves at the pleasure of the Governor.** An unexpired term of a board member
13 shall be filled in the same manner as an original appointment is made. The appointment shall be for
14 the remainder of the unexpired term. [*All appointments of members of the board by the Governor are*
15 *subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution.*]

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

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

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

30 **SECTION 35.** ORS 678.150 is amended to read:

31 678.150. (1) The Oregon State Board of Nursing shall elect annually from its number a president,
32 a president-elect and a secretary, each of whom shall serve until a successor is elected and qualified.
33 The board shall meet on the call of the president or as the board may require. Special meetings of
34 the board may be called by the secretary upon the request of any three members. Five members
35 shall constitute a quorum.

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

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

40 (4) The board shall keep a record of all its proceedings and of all persons licensed and schools
41 or programs accredited or approved under ORS 678.010 to 678.445. The records shall at all reason-
42 able times be open to public scrutiny.

43 (5) [*Subject to the State Personnel Relations Law, the board shall hire, define the duties and fix*
44 *the salary of an executive director who shall hire and define the duties of such other*] **The executive**
45 **director of the board may hire and define the duties of** employees as [*are*] necessary to carry

1 into effect the provisions of ORS 678.010 to 678.445. The executive director, with approval of the
2 board, may [also] employ special consultants. All salaries, compensation and expenses incurred or
3 allowed shall be paid out of funds received by the board.

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

7 (7) The board shall:

8 (a) Exercise general supervision over the practice of nursing in this state.

9 (b) Prescribe standards and approve curricula for nursing education programs preparing persons
10 for licensing under ORS 678.010 to 678.445.

11 (c) Provide for surveys of nursing education programs at such times as may be necessary.

12 (d) Accredite such nursing education programs as meet the requirements of ORS 678.010 to
13 678.445 and of the board.

14 (e) Deny or withdraw accreditation from nursing education programs for failure to meet pre-
15 scribed standards.

16 (f) Examine, license and renew the licenses of duly qualified applicants and administer exam-
17 inations for other states where requested to do so by the other state.

18 (g) Issue subpoenas for any records relevant to a board investigation, including patient and
19 other medical records, personnel records applicable to nurses and nursing assistants, records of
20 schools of nursing and nursing assistant training records and any other relevant records; issue
21 subpoenas to persons for personal interviews relating to board investigations; compel the attendance
22 of witnesses; and administer oaths or affirmations to persons giving testimony during an investi-
23 gation or at hearings. In any proceeding under this subsection, when a subpoena is issued to an
24 applicant, certificate holder or licensee of the board, a claim of nurse-patient privilege under ORS
25 40.240 or of psychotherapist-patient privilege under ORS 40.230 is not grounds for quashing the
26 subpoena or for refusing to produce the material that is subject to the subpoena.

27 (h) Enforce the provisions of ORS 678.010 to 678.445, and incur necessary expenses therefor.

28 (i) Prescribe standards for the delegation of special tasks of patient care to nursing assistants
29 and for the supervision of nursing assistants. The standards must include rules governing the dele-
30 gation of administration of noninjectable medication by nursing assistants and must include rules
31 prescribing the types of noninjectable medication that can be administered by nursing assistants,
32 and the circumstances, if any, and level of supervision under which nursing assistants can adminis-
33 ter noninjectable medication. In formulating the rules governing the administration of noninjectable
34 medication by nursing assistants, the board shall consult with nurses, physicians, gerontologists and
35 pharmacologists. Notwithstanding any other provision of this paragraph, however, determination of
36 the appropriateness of the delegation of a special task of patient care shall remain with the regis-
37 tered nurse issuing the order.

38 (j) Notify licensees at least annually of changes in legislative or board rules that affect the
39 licensees. Notice may be by newsletter or other appropriate means.

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

42 (9) For local correctional facilities, lockups and juvenile detention facilities, as defined in ORS
43 169.005, youth correction facilities as defined in ORS 420.005, for facilities operated by a public
44 agency for detoxification of persons who use alcohol excessively, for homes or facilities licensed
45 under ORS 443.705 to 443.825 for adult foster care, and for facilities licensed under ORS 443.400 to

1 443.455 for residential care, training or treatment, the board shall adopt rules pertaining to the
2 provision of nursing care, and to the various tasks relating to the administration of noninjectable
3 medication including administration of controlled substances. The rules must provide for delegation
4 of nursing care and tasks relating to the administration of medication to other than licensed nursing
5 personnel by a physician licensed by the Oregon Medical Board or by a registered nurse, designated
6 by the facility. Such delegation must occur under the procedural guidance, initial direction and pe-
7 riodic inspection and evaluation of the physician or registered nurse. However, the provision of
8 nursing care may be delegated only by a registered nurse.

9 (10) The [board] **Oregon State Board of Nursing** may require applicants, licensees and certif-
10 icate holders under ORS 678.010 to 678.445 to provide to the board data concerning the individual's
11 nursing employment and education.

12 (11) For the purpose of requesting a state or nationwide criminal records check under ORS
13 181.534, the board may require the fingerprints of a person who is:

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

17 (12) Pursuant to ORS chapter 183, the board shall adopt rules necessary to carry out the pro-
18 visions of ORS 678.010 to 678.445.

19 **SECTION 36.** ORS 678.442 is amended to read:

20 678.442. (1) The Oregon State Board of Nursing shall establish standards for certifying and shall
21 certify as a nursing assistant any person who applies therefor, shows completion of an approved
22 training program for nursing assistants and passes a board approved examination.

23 (2) In the manner prescribed in ORS chapter 183, the board may revoke or suspend a certificate
24 issued under this section or may reprimand a nursing assistant for the following reasons:

25 (a) Conviction of the certificate holder of a crime where such crime bears demonstrable re-
26 lationship to the duties of a nursing assistant. A copy of the record of such conviction, certified to
27 by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

28 (b) Any willful fraud or misrepresentation in applying for or procuring a certificate or renewal
29 thereof.

30 (c) *[Use of any controlled substance or intoxicating liquor to an extent or in a manner dangerous*
31 *or injurious to the certificate holder or others or to an extent that such use impairs the ability to con-*
32 *duct safely the duties of a nursing assistant.]* **Impairment as defined in section 1 of this 2009 Act.**

33 (d) Violation of any provisions of ORS 678.010 to 678.445 or rules adopted thereunder.

34 (e) Physical [*or mental*] condition that makes the certificate holder unable to perform safely the
35 duties of a nursing assistant.

36 (f) Conduct unbecoming a nursing assistant in the performance of duties.

37 (3) The board shall establish by rule a procedure for the biennial renewal of nursing assistant
38 certificates. The certificate renewal procedure shall be substantially like the procedure established
39 for the licensing of nurses under ORS 678.101.

40
41 **BOARD OF EXAMINERS OF**
42 **NURSING HOME ADMINISTRATORS**
43

44 **SECTION 37.** ORS 678.780 is amended to read:

45 678.780. (1) The sanctions authorized by subsection (2) of this section may be imposed upon the

1 following grounds:

2 (a) The employment of fraud or deception in applying for or obtaining a nursing home adminis-
3 trator's license.

4 (b) Engaging in conduct in the course of acting as a nursing home administrator involving fraud,
5 dishonesty, malfeasance, cheating or other conduct as the Board of Examiners of Nursing Home
6 Administrators of the State of Oregon may prohibit by rule.

7 (c) Conviction of a crime involving circumstances that relate to the licensee's fitness to continue
8 practicing as a nursing home administrator.

9 (d) Mistake or inadvertence in the issuance of the license by the board.

10 (e) Physical [*or mental*] incapacity that presents an unreasonable risk of harm to the licensee
11 or to the person or property of others in the course of performing the duties of a nursing home ad-
12 ministrator.

13 (f) [*Use of any controlled substance or intoxicating liquor in a manner that impairs the licensee's*
14 *ability to conduct safely the practice for which the licensee is licensed.*] **Impairment as defined in**
15 **section 1 of this 2009 Act.**

16 (g) The licensee has engaged in conduct that would justify denying a license to an applicant.

17 (h) Violation of or noncompliance with any applicable provisions of ORS 678.710 to 678.780,
18 678.800 to 678.840 and 678.990 (2) or of any lawful rule or order of the board or continuous or sub-
19 stantial violations of the rules adopted under ORS 441.055.

20 (i) Discipline imposed by any other licensing body in this or any other state based on conduct
21 that would be grounds for discipline under this section or rules adopted by the board.

22 (j) Incompetence in performing the duties of a nursing home administrator as demonstrated by
23 evidence that the licensee either lacks or did not use the knowledge or skill necessary to perform
24 the administrator's duties in a minimally adequate manner.

25 (k) Employing or otherwise assisting another person to act as a nursing home administrator with
26 knowledge that the person does not hold a valid license to practice as a nursing home administrator.

27 (L) Failure to pay a civil penalty imposed against the licensee in a timely manner.

28 (m) Unprofessional conduct as defined in rules adopted by the board.

29 (2) Subject to ORS chapter 183, the board may impose any or all of the following sanctions:

30 (a) Suspend, revoke or refuse to renew any license required by ORS 678.720.

31 (b) A civil penalty not to exceed \$1,000.

32 (c) Probation, with authority to limit or restrict a license.

33 (d) Participation in a treatment program for intoxicating liquor or controlled substances.

34 (3) Hearings under this section must be conducted by an administrative law judge assigned from
35 the Office of Administrative Hearings established by ORS 183.605.

36 (4) Information that the board obtains as part of an investigation into licensee or applicant
37 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
38 licensee or applicant conduct is confidential as provided under ORS 676.175.

39 **SECTION 38.** ORS 678.800 is amended to read:

40 678.800. (1) There is hereby created a Board of Examiners of Nursing Home Administrators [*in*
41 *the Department of Human Services*]. **The board consists of nine members appointed by the**
42 **Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562**
43 **and 171.565. All members of the board must be concerned with the care and treatment of the**
44 **chronically ill or infirm elderly patients and must be residents of this state. Of the members**
45 **of the board:**

1 **SECTION 39.** ORS 679.140 is amended to read:

2 679.140. (1) The Oregon Board of Dentistry may discipline as provided in this section any person
3 licensed to practice dentistry in this state for any of the following causes:

4 (a) Conviction of any violation of the law for which the court could impose a punishment if the
5 board makes the finding required by ORS 670.280. The record of conviction or a certified copy
6 thereof, certified by the clerk of the court or by the judge in whose court the conviction is entered,
7 is conclusive evidence of the conviction.

8 (b) Renting or lending a license or diploma of the dentist to be used as the license or diploma
9 of another person.

10 (c) Unprofessional conduct.

11 (d) Any violation of this chapter or ORS 680.010 to 680.205, of rules adopted pursuant to this
12 chapter or ORS 680.010 to 680.205 or of an order issued by the board.

13 (e) Engaging in or permitting the performance of unacceptable patient care by the dentist or by
14 any person working under the supervision of the dentist due to a deliberate or negligent act or
15 failure to act by the dentist, regardless of whether actual injury to the patient is established.

16 (f) Incapacity to practice safely.

17 (2) "Unprofessional conduct" as used in this chapter includes but is not limited to the following:

18 (a) Obtaining any fee by fraud or misrepresentation.

19 (b) Willfully betraying confidences involved in the patient-dentist relationship.

20 (c) Employing, aiding, abetting or permitting any unlicensed personnel to practice dentistry or
21 dental hygiene.

22 (d) Making use of any advertising statements of a character tending to deceive or mislead the
23 public or that are untruthful.

24 (e) [*Addiction, dependency upon or self-abuse of alcohol or other drugs.*] **Impairment as defined**
25 **in section 1 of this 2009 Act.**

26 (f) Obtaining or attempting to obtain a controlled substance in any manner proscribed by the
27 rules of the board.

28 (g) Prescribing or dispensing drugs outside the scope of the practice of dentistry or in a manner
29 that impairs the health and safety of an individual.

30 (h) Disciplinary action by a state licensing or regulatory agency of this or another state re-
31 garding a license to practice dentistry, dental hygiene or any other health care profession when, in
32 the judgment of the board, the act or conduct resulting in the disciplinary action bears a demon-
33 strable relationship to the ability of the licensee or applicant to practice dentistry or dental hygiene
34 in accordance with the provisions of this chapter. A certified copy of the record of the disciplinary
35 action is conclusive evidence of the disciplinary action.

36 (3) The proceedings under this section may be taken by the board from the matters within its
37 knowledge or may be taken upon the information of another, but if the informant is a member of the
38 board, the other members of the board shall constitute the board for the purpose of finding judgment
39 of the accused.

40 (4) In determining what constitutes unacceptable patient care, the board may take into account
41 all relevant factors and practices, including but not limited to the practices generally and currently
42 followed and accepted by persons licensed to practice dentistry in this state, the current teachings
43 at accredited dental schools, relevant technical reports published in recognized dental journals and
44 the desirability of reasonable experimentation in the furtherance of the dental arts.

45 (5) In disciplining a person as authorized by subsection (1) of this section, the board may use

1 any or all of the following methods:

- 2 (a) Suspend judgment.
- 3 (b) Place a licensee on probation.
- 4 (c) Suspend a license to practice dentistry in this state.
- 5 (d) Revoke a license to practice dentistry in this state.
- 6 (e) Place limitations on a license to practice dentistry in this state.
- 7 (f) Refuse to renew a license to practice dentistry in this state.
- 8 (g) Accept the resignation of a licensee to practice dentistry in this state.
- 9 (h) Assess a civil penalty.
- 10 (i) Reprimand a licensee.
- 11 (j) Impose any other disciplinary action the board in its discretion finds proper, including as-
- 12 sessment of the costs of the disciplinary proceedings as a civil penalty.

13 (6) If the board places any person upon probation as set forth in subsection (5)(b) of this section,
14 the board may determine and may at any time modify the conditions of the probation and may in-
15 clude among them any reasonable condition for the purpose of protection of the public and for the
16 purpose of the rehabilitation of the probationer or both. Upon expiration of the term of probation,
17 further proceedings shall be abated by the board if the person holding the license furnishes the
18 board with evidence that the person is competent to practice dentistry and has complied with the
19 terms of probation. If the evidence fails to establish competence to the satisfaction of the board or
20 if the evidence shows failure to comply with the terms of the probation, the board may revoke or
21 suspend the license.

22 (7) If a license to practice dentistry in this state is suspended, the person holding the license
23 may not practice during the term of suspension. Upon the expiration of the term of suspension, the
24 license shall be reinstated by the board if the board finds, based upon evidence furnished by the
25 person, that the person is competent to practice dentistry and has not practiced dentistry in this
26 state during the term of suspension. If the evidence fails to establish to the satisfaction of the board
27 that the person is competent or if any evidence shows the person has practiced dentistry in this
28 state during the term of suspension, the board may revoke the license after notice and hearing.

29 (8) Upon receipt of a complaint under this chapter or ORS 680.010 to 680.205, the board shall
30 conduct an investigation as described under ORS 676.165.

31 (9) Information that the board obtains as part of an investigation into licensee or applicant
32 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
33 licensee or applicant conduct is confidential as provided under ORS 676.175. Notwithstanding ORS
34 676.165 to 676.180, the board may disclose confidential information regarding a licensee or an ap-
35 plicant to persons who may evaluate or treat the licensee or applicant for drug abuse, alcohol abuse
36 or any other health related conditions.

37 (10) The board may impose against any person who violates the provisions of this chapter or
38 ORS 680.010 to 680.205 or rules of the board a civil penalty of up to \$5,000 for each violation. Any
39 civil penalty imposed under this section shall be imposed in the manner provided in ORS 183.745.

40 (11) Notwithstanding the expiration, suspension, revocation or surrender of the license, or the
41 resignation or retirement of the licensee, the board may:

- 42 (a) Proceed with any investigation of, or any action or disciplinary proceedings against, the
- 43 dentist or dental hygienist; or
- 44 (b) Revise or render void an order suspending or revoking the license.

45 (12)(a) The board may continue with any proceeding or investigation for a period not to exceed

1 four years from the date of the expiration, suspension, revocation or surrender of the license, or the
2 resignation or retirement of the licensee; or

3 (b) If the board receives a complaint or initiates an investigation within that four-year period,
4 the board's jurisdiction continues until the matter is concluded by a final order of the board fol-
5 lowing any appeal.

6 (13) Withdrawing the application for license does not close any investigation, action or pro-
7 ceeding against an applicant.

8 **SECTION 40.** ORS 679.230 is amended to read:

9 679.230. (1) The Oregon Board of Dentistry [*shall consist*] **consists** of nine members[. *A member*
10 *shall be*] appointed [*to the board*] by the Governor [*upon the expiration of the term of office of each*
11 *of the preceding board members. Appointments to the board by the Governor are*] **and** subject to con-
12 firmation by the Senate in the manner provided in ORS 171.562 and 171.565. [*Each member shall hold*
13 *the office for four years and until the member's successor is appointed and qualified.*] **All members**
14 **of the board must be residents of this state. Of the members of the board:**

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

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

18 (c) **One must be a member of the public who is not:**

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

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

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

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

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

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

29 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
30 **resentation on the board according to:**

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

32 (B) **Ethnic group.**

33 (3) **The term of office of each member is four years, but a member serves at the pleasure**
34 **of the Governor.** Terms of office begin on the first Monday of April after the time of appointment.
35 [*No person is eligible to membership on the board who is not a citizen of the United States or a resi-*
36 *dent of the State of Oregon. Six members shall be Oregon active licensed dentists, of which at least*
37 *one shall be a dentist practicing in a dental specialty recognized by the American Dental Association,*
38 *one member shall be a public member and two members shall be Oregon active licensed dental*
39 *hygienists. Appointments of dentists made by the Governor to the Oregon Board of Dentistry may be*
40 *selected by the Governor from a list of five names for each appointment suggested by the Oregon Dental*
41 *Association. Appointments of dental hygienists made by the Governor to the Oregon Board of Dentistry*
42 *may be selected by the Governor from a list of five names suggested by the Oregon Dental Hygienists'*
43 *Association. Appointments of dental specialists by the Governor to the Oregon Board of Dentistry may*
44 *be selected by the Governor from one name suggested by each of the organizations representing a dental*
45 *specialty.*]

1 (4) Members **of the board** are entitled to compensation and expenses as provided in ORS
2 292.495.

3 **SECTION 41.** ORS 679.250 is amended to read:

4 679.250. The powers and duties of the Oregon Board of Dentistry are as follows:

5 (1) To, during the month of April of each year, organize and elect from its membership a presi-
6 dent who shall hold office for one year, or until the election and qualification of a successor. [*The*
7 *board shall appoint an administrative officer who shall discharge such duties as the board shall, from*
8 *time to time, prescribe.*]

9 (2) To authorize all necessary disbursements to carry out the provisions of this chapter, includ-
10 ing but not limited to, payment for necessary supplies, office equipment, books and expenses for the
11 conduct of examinations, payment for legal and investigative services rendered to the board, and
12 such other expenditures as are provided for in this chapter.

13 (3) To employ such inspectors, examiners, special agents, investigators, clerical assistants, as-
14 sistants and accountants as are necessary for the investigation and prosecution of alleged violations
15 and the enforcement of this chapter and for such other purposes as the board may require. Nothing
16 in this chapter shall be construed to prevent assistance being rendered by an employee of the board
17 in any hearing called by it. However, all obligations for salaries and expenses incurred under this
18 chapter shall be paid from the fees accruing to the board under this chapter and not otherwise.

19 (4)(a) To conduct examinations of applicants for license to practice dentistry and dental hygiene
20 at least twice in each year.

21 (b) In conducting examinations for licensure, the board may enter into a compact with other
22 states for conducting regional examinations with other board of dental examiners concerned, or by
23 a testing service recognized by such boards.

24 (5) To meet for the transaction of other business at the call of the president. A majority of board
25 members shall constitute a quorum. A majority vote of those present shall be a decision of the entire
26 board. The board's proceedings shall be open to public inspection in all matters affecting public in-
27 terest.

28 (6) To keep an accurate record of all proceedings of the board and of all its meetings, of all
29 receipts and disbursements, of all prosecutions for violation of this chapter, of all examinations for
30 license to practice dentistry, with the names and qualifications for examination of any person ex-
31 amined, together with the addresses of those licensed and the results of such examinations, a record
32 of the names of all persons licensed to practice dentistry in Oregon together with the addresses of
33 all such persons having paid the license fee prescribed in ORS 679.120 and the names of all persons
34 whose license to practice has been revoked or suspended.

35 (7) To make and enforce rules necessary for the procedure of the board, for the conduct of ex-
36 aminations, for regulating the practice of dentistry, and for regulating the services of dental
37 hygienists and dental auxiliary personnel not inconsistent with the provisions of this chapter. As
38 part of such rules, the board may require the procurement of a permit or other certificate. Any
39 permit issued may be subject to periodic renewal. In adopting rules, the board shall take into ac-
40 count all relevant factors germane to an orderly and fair administration of this chapter and of ORS
41 680.010 to 680.205, the practices and materials generally and currently used and accepted by persons
42 licensed to practice dentistry in this state, dental techniques commonly in use, relevant technical
43 reports published in recognized dental journals, the curriculum at accredited dental schools, the
44 desirability of reasonable experimentation in the furtherance of the dental arts, and the desirability
45 of providing the highest standard of dental care to the public consistent with the lowest economic

1 cost.

2 (8) Upon its own motion or upon any complaint, to initiate and conduct investigations of and
3 hearings on all matters relating to the practice of dentistry, the discipline of licensees, or pertaining
4 to the enforcement of any provision of this chapter. In the conduct of investigations or upon the
5 hearing of any matter of which the board may have jurisdiction, the board may take evidence, ad-
6 minister oaths, take the depositions of witnesses, including the person charged, in the manner pro-
7 vided by law in civil cases, and compel their appearance before it in person the same as in civil
8 cases, by subpoena issued over the signature of an employee of the board and in the name of the
9 people of the State of Oregon, require answers to interrogatories, and compel the production of
10 books, papers, accounts, documents and testimony pertaining to the matter under investigation or
11 to the hearing. In all investigations and hearings, the board and any person affected thereby may
12 have the benefit of counsel, and all hearings shall be held in compliance with ORS chapter 183.
13 Notwithstanding ORS 676.165, 676.175 and 679.320, if a licensee who is the subject of an investi-
14 gation or complaint is to appear before members of the board investigating the complaint, the board
15 shall provide the licensee with a current summary of the complaint or the matter being investigated
16 not less than five days prior to the date that the licensee is to appear. At the time the summary of
17 the complaint or the matter being investigated is provided, the board shall provide to the licensee
18 a current summary of documents or alleged facts that the board has acquired as a result of the in-
19 vestigation. The name of the complainant or other information that reasonably may be used to
20 identify the complainant may be withheld from the licensee.

21 (9) To require evidence as determined by rule of continuing education or to require satisfactory
22 evidence of operative competency before reissuing or renewing licenses for the practice of dentistry
23 or dental hygiene.

24 (10) To adopt and enforce rules regulating administration of general anesthesia and conscious
25 sedation by a dentist or under the supervision of a dentist in the office of the dentist. As part of
26 such rules, the board may require the procurement of a permit which must be periodically renewed.

27 (11) To order an applicant or licensee to submit to a physical examination, mental examination
28 or a competency examination when the board has evidence indicating the incapacity of the applicant
29 or licensee to practice safely.

30 **SECTION 42.** ORS 679.290 is amended to read:

31 679.290. (1) If a person fails to comply with any subpoena issued under ORS 679.250 (8), a judge
32 of the circuit court of any county, on application of the [*administrative officer*] **executive director**
33 of the Oregon Board of Dentistry, shall compel obedience by proceedings for contempt as in the case
34 of disobedience of the requirements of a subpoena issued from the circuit court.

35 (2) In any proceeding under subsection (1) of this section and where the subpoena is addressed
36 to a licensee of the board it shall not be a defense that:

37 (a) No witness or mileage fee was paid; or

38 (b) The material that is subject to the subpoena is protected under a patient and dentist privi-
39 lege.

40

41 **STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE**
42 **PATHOLOGY AND AUDIOLOGY**

43

44 **SECTION 43.** ORS 681.350 is amended to read:

45 681.350. (1) The State Board of Examiners for Speech-Language Pathology and Audiology may

1 refuse to issue or renew any license or conditional license, may suspend or revoke any license or
2 conditional license, may reprimand any licensee or conditional licensee or may place any licensee
3 or conditional licensee on probation if the applicant, licensee or conditional licensee has:

4 (a) Obtained or attempted to obtain a license or conditional license by means of fraud, misrep-
5 resentation, or concealment of material facts.

6 (b) Violated any ethical standards of practice established under ORS 681.420.

7 (c) Violated any lawful order or rule of the board.

8 (d) Violated any provisions of this chapter.

9 (e) Been disciplined by a professional licensing board in another state or in this state.

10 (f) **An impairment as defined in section 1 of this 2009 Act.**

11 (2) An applicant, a licensee or a conditional licensee is entitled to an opportunity for a hearing
12 that complies with all applicable requirements of ORS chapter 183 before the board takes final
13 action under subsection (1) of this section.

14 (3) A person whose license has been revoked or whose application for a license has been denied
15 may apply for reinstatement or licensure only under conditions, if any, set forth in the board's final
16 order of revocation or denial of license.

17 (4) In disciplining a licensee or a conditional licensee, the board may impose any disciplinary
18 action the board finds proper, including assessment of costs of the disciplinary proceedings as a civil
19 penalty.

20 **SECTION 43a.** ORS 681.400 is amended to read:

21 681.400. (1) There is established a State Board of Examiners for Speech-Language Pathology and
22 Audiology [*consisting*]. **The board consists** of seven members appointed by the Governor[,] **and**
23 **subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.**
24 **All members of the board must be residents of this state. Of the members of the board:**

25 (a) **Two must be audiologists licensed under this chapter.**

26 (b) **Two must be speech-language pathologists licensed under this chapter.**

27 (c) **One must be a person licensed to practice medicine who also holds board certification**
28 **from the American Board of Otolaryngology.**

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

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

31 (B) **A spouse, domestic partner, child, parent or sibling of an audiologist, speech-language**
32 **pathologist or a person licensed to practice medicine who also holds board certification from**
33 **the American Board of Otolaryngology.**

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

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

39 (B) **Any professional organization representing speech-language pathologists, if the va-**
40 **cancy on the board is for a speech-language pathologist position.**

41 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
42 **resentation on the board according to:**

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

44 (B) **Ethnic group.**

45 [(2)] (3) The term of office of each member is three years, but a member serves at the pleasure

1 of the Governor. Before the expiration of the term of a member, the Governor shall appoint a suc-
2 cessor whose term begins on July 1 next following. A member is eligible for reappointment. If there
3 is a vacancy for any cause, the Governor shall make an appointment to become immediately effec-
4 tive for the unexpired term.

5 **SECTION 44.** ORS 681.410 is amended to read:

6 681.410. *[(1) Of the membership of the State Board of Examiners for Speech-Language Pathology*
7 *and Audiology:]*

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

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

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

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

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

15 *[(2)]* A member of the *[board]* **State Board of Examiners for Speech-Language Pathology and**
16 **Audiology** shall receive compensation and expenses as provided in ORS 292.495.

17 **SECTION 45.** ORS 681.450 is amended to read:

18 681.450. *[(1) Subject to applicable provisions of the State Personnel Relations Law, the State Board*
19 *of Examiners for Speech-Language Pathology and Audiology may appoint an executive director and*
20 *prescribe the duties and fix the compensation of the executive director.]*

21 *[(2) The executive director shall keep all records of the board and discharge any other duties that*
22 *the board may prescribe.]*

23 *[(3)]* The executive director **of the State Board of Examiners for Speech-Language**
24 **Pathology and Audiology** may, within guidelines established by the Oregon Department of Admin-
25 istrative Services, hire employees and enter into contracts for specific services necessary to carry
26 out the administration of this chapter.

27
28 **OREGON BOARD OF OPTOMETRY**

29
30 **SECTION 46.** ORS 683.140 is amended to read:

31 683.140. (1) The Oregon Board of Optometry may discipline as provided in this section any
32 optometrist or person, where appropriate, for the following causes:

33 (a) Conviction of a felony or misdemeanor where such an offense bears a demonstrable re-
34 lationship to the duties of an optometrist. The record of conviction, or a certified copy thereof cer-
35 tified by the clerk of the court or by the judge in whose court the conviction is had, shall be
36 conclusive evidence of such conviction.

37 (b) Securing a license by practicing fraud or deceit upon the board.

38 (c) Unprofessional conduct, or for gross ignorance or inefficiency in the profession.

39 (d) Obtaining any fee by fraud or misrepresentation.

40 (e) Employing directly or indirectly any suspended or unlicensed optometrist to perform any
41 work covered by ORS 683.010 to 683.335.

42 (f) Advertising optometric services or treatment or advice in which untruthful, improbable, mis-
43 leading or deceitful statements are made.

44 (g) *[Habitual or excessive use of intoxicants, drugs or controlled substances.]* **Impairment as de-**
45 **defined in section 1 of this 2009 Act.**

1 (h) Permitting another person to use the optometrist's license.

2 (i) Using advertisements that do not indicate that a licensed optometrist is practicing at the
3 advertised location or locations or advertising optometric services without having a licensed
4 optometrist at the location or locations.

5 (j) Advertising professional methods or professional superiority.

6 (k) Failing to comply with the requirements for continuing education.

7 (L) Violating the federal Controlled Substances Act.

8 (m) Prescribing controlled substances without a legitimate optometric purpose, or without fol-
9 lowing accepted procedures for examination of patients or for record keeping.

10 (n) Failing to report to the board any adverse action taken against the optometrist or person
11 by another licensing jurisdiction, health regulatory board, peer review body, health care institution,
12 professional optometric society or association, governmental agency, law enforcement agency or
13 court for acts similar to conduct that would constitute grounds for disciplinary action as described
14 in this section.

15 (o) Having been disciplined by any health regulatory board of another state based on acts sim-
16 ilar to acts described in this section. A certified copy of the record of disciplinary action of the
17 health regulatory board taking the disciplinary action is considered conclusive evidence of the
18 action.

19 (p) Any violation of the provisions of ORS 683.010 to 683.335.

20 (2) When disciplining an optometrist or other person as authorized by subsection (1) of this
21 section, the Oregon Board of Optometry may do any or all of the following:

22 (a) Deny an initial license;

23 (b) Revoke, suspend or refuse to renew a license;

24 (c) Place the optometrist on probation;

25 (d) Impose limitations on the optometrist; or

26 (e) Take other disciplinary action as the board in its discretion finds proper, including the as-
27 sessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil
28 penalty not to exceed \$10,000 for each violation, or both.

29 **SECTION 47.** ORS 683.250 is amended to read:

30 683.250. (1) The Oregon Board of Optometry [*shall operate*] **operates** as a semi-independent state
31 agency subject to ORS 182.456 to 182.472, for the purpose of carrying out this chapter. The board
32 [*shall consist*] **consists** of five members appointed by the Governor[. *Each member of the board shall*
33 *qualify by taking and subscribing the oath of office required by the Constitution, which shall be filed*
34 *in the office of the Secretary of State.*] **and subject to confirmation by the Senate in the manner**
35 **provided in ORS 171.562 and 171.565. All members of the board must be residents of this**
36 **state. Of the members of the board:**

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

39 (b) **One member must be a member of the public who** [*representing*] **represents** health
40 consumers[. *Each of the members shall hold office for a term of three years or until a successor is*
41 *appointed and qualified and shall be so classified*] **and who:**

42 (A) **Is not otherwise eligible for appointment to the board;**

43 (B) **Is not the spouse, domestic partner, child, parent or sibling of a doctor of optometry;**
44 **and**

45 (C) **Does not have a direct or indirect relationship to health care professionals, to the**

1 health care industry or to the ophthalmic optical industry.

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

5 (b) In selecting the members of the board, the Governor shall strive to balance the rep-
6 resentation on the board according to:

7 (A) Geographic areas of this state; and

8 (B) Ethnic group.

9 (3) The term of office of each member is three years, but a member serves at the pleas-
10 ure of the Governor. The terms must be staggered so that at least one optometrist member of
11 the board retires each year.

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

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

16 **SECTION 48.** ORS 683.260 is amended to read:

17 683.260. (1) *[No person is eligible to membership on the Oregon Board of Optometry who]* **A per-**
18 **son may not be a member of the Oregon Board of Optometry if the person** is a stockholder
19 in, or owner of, or a member of the faculty of or of the board of trustees of any school of optometry.
20 *[The person appointed to represent health consumers and any person in the immediate family of the*
21 *person shall not have any direct or indirect relationships to health care professionals, to the health care*
22 *industry or to the ophthalmic optical industry.]*

23 (2) *[No]* **A** member of the board *[shall]* **may not** be financially interested in any purchase or
24 contract in which the board is interested. *[No]* **A** member of the board *[shall]* **may not** be financially
25 interested in the sale of any property or optical supplies to any prospective candidate for examina-
26 tion before the board.

27
28 **STATE BOARD OF CHIROPRACTIC EXAMINERS**

29
30 **SECTION 49.** ORS 684.010 is amended to read:

31 684.010. As used in this chapter:

32 (1) "Active senior" means a person who:

33 (a) Is licensed under ORS 684.054;

34 (b) Is at least 60 years of age; and

35 (c) Has been in practice for 25 years or more.

36 (2) "Chiropractic" is defined as:

37 (a) That system of adjusting with the hands the articulations of the bony framework of the hu-
38 man body, and the employment and practice of physiotherapy, electrotherapy, hydrotherapy and
39 minor surgery.

40 (b) The chiropractic diagnosis, treatment and prevention of body dysfunction; correction, main-
41 tenance of the structural and functional integrity of the neuro-musculoskeletal system and the ef-
42 fects thereof or interferences therewith by the utilization of all recognized and accepted chiropractic
43 diagnostic procedures and the employment of all rational therapeutic measures as taught in ap-
44 proved chiropractic colleges.

45 (3) "Chiropractic physician" means a person licensed by ORS 677.060, 684.025, 684.100, 684.155

1 or 688.010 to 688.201 and this section as an attending physician.

2 (4) “Drugs” means all medicines and preparations and all substances, except over-the-counter
3 nonprescription substances, food, water and nutritional supplements taken orally, used or intended
4 to be used for the diagnosis, cure, treatment, mitigation or prevention of diseases or abnormalities
5 of humans, which are recognized in the latest editions of the official United States Pharmacopoeia,
6 official Homeopathic Pharmacopoeia, official National Formulary, or any supplement to any of them,
7 or otherwise established as drugs.

8 [(5) “*Impaired chiropractic physician*” means a chiropractic physician unable to practice
9 chiropractic with reasonable skill and safety by reason of habitual or excessive use or abuse of drugs,
10 alcohol or other substances that impair ability.]

11 [(6)] (5) “Minor surgery” means the use of electrical or other methods for the surgical repair
12 and care incident thereto of superficial lacerations and abrasions, benign superficial lesions, and the
13 removal of foreign bodies located in the superficial structures; and the use of antiseptics and local
14 anesthetics in connection therewith.

15 **SECTION 50.** ORS 684.100 is amended to read:

16 684.100. (1) The State Board of Chiropractic Examiners may refuse to grant a license to any
17 applicant or may discipline a person upon any of the following grounds:

18 (a) Fraud or misrepresentation.

19 (b) The practice of chiropractic under a false or assumed name.

20 (c) The impersonation of another practitioner of like or different name.

21 (d) A conviction of a felony or misdemeanor involving moral turpitude. A copy of the record of
22 conviction, certified to by the clerk of the court entering the conviction, is conclusive evidence of
23 the conviction.

24 [(e) *Commitment to a mental institution. A copy of the record of commitment, certified to by the*
25 *clerk of the court entering the commitment, is conclusive evidence of the commitment.*]

26 [(f) *Habitual intemperance in the use of intoxicants or controlled substances to such an extent as*
27 *to incapacitate the person from the performance of professional duties.*]

28 (e) **Impairment as defined in section 1 of this 2009 Act.**

29 [(g)] (f) Unprofessional or dishonorable conduct, including but not limited to:

30 (A) Any conduct or practice contrary to recognized standard of ethics of the chiropractic pro-
31 fession or any conduct or practice that does or might constitute a danger to the health or safety
32 of a patient or the public or any conduct, practice or condition that does or might [*impair*] **ad-**
33 **versely affect** a physician’s ability safely and skillfully to practice chiropractic.

34 (B) Willful ordering or performance of unnecessary laboratory tests or studies; administration
35 of unnecessary treatment; failure to obtain consultations or perform referrals when failing to do so
36 is not consistent with the standard of care; or otherwise ordering or performing any chiropractic
37 service, X-ray or treatment that is contrary to recognized standards of practice of the chiropractic
38 profession.

39 (C) Gross malpractice or repeated malpractice.

40 [(h)] (g) Failing to notify the board of a change in location of practice as provided in ORS
41 684.054.

42 [(i)] (h) Representing to a patient that a manifestly incurable condition of sickness, disease or
43 injury can be permanently cured.

44 [(j)] (i) The use of any advertising making untruthful, improper, misleading or deceptive state-
45 ments.

1 *[(k)]* **(j)** The advertising of techniques or modalities to infer or imply superiority of treatment
2 or diagnosis by the use thereof that cannot be conclusively proven to the satisfaction of the board.

3 *[(L)]* **(k)** Knowingly permitting or allowing any person to use the license of the person in the
4 practice of any system or mode of treating the sick.

5 *[(m)]* **(L)** Advertising either in the name of the person or under the name of another person,
6 clinic or concern, actual or pretended, in any newspaper, pamphlet, circular or other written or
7 printed paper or document, professing superiority to or a greater skill than that possessed by other
8 chiropractic physicians that cannot be conclusively proven to the satisfaction of the board.

9 *[(n)]* **(m)** Aiding or abetting the practice of any of the healing arts by an unlicensed person.

10 *[(o)]* **(n)** The use of the name of the person under the designation, “Doctor,” “Dr.,” “D.C.,”
11 “Chiropractor,” “Chiropractic D.C.,” “Chiropractic Physician,” or “Ph.C.,” or any similar desig-
12 nation with reference to the commercial exploitation of any goods, wares or merchandise.

13 *[(p)]* **(o)** The advertising or holding oneself out to treat diseases or other abnormal conditions
14 of the human body by any secret formula, method, treatment or procedure.

15 *[(q)]* **(p)** Violation of any provision of this chapter or any rule adopted thereunder.

16 *[(r)]* **(q)** Gross incompetency or gross negligence.

17 *[(s)]* **(r)** The suspension or revocation by another state of a license to practice chiropractic,
18 based upon acts by the licensee similar to acts described in this section. A certified copy of the
19 record of suspension or revocation of the state making the suspension or revocation is conclusive
20 evidence thereof.

21 *[(t)]* **(s)** Failing to give prior notice to patients of the permanent or temporary closure of the
22 physician’s practice or failing to give reasonable access to the records and files of the physician’s
23 patients at any time.

24 *[(u)]* **(t)** The suspension or revocation by another licensing board in the state of a license to
25 practice as another type of health care provider.

26 *[(v)]* **(u)** An act or conduct that results in a judgment of wrongdoing by a court of competent
27 jurisdiction in any state or a finding of wrongdoing in an administrative proceeding in any state.
28 The act or conduct must be rationally connected to the ability to practice chiropractic or
29 chiropractic assisting.

30 (2) The board may, at any time two years or more after the refusal, revocation or cancellation
31 of registration under this section, by a majority vote, issue a license restoring to or conferring on
32 the person all the rights and privileges of the practice of chiropractic as defined and regulated by
33 this chapter. Any person to whom those rights have been restored shall pay to the board the annual
34 registration fee for the license category plus one-half thereof.

35 (3) If the board determines that a chiropractic physician’s continuation in practice would con-
36 stitute a serious danger to the public, the board may suspend the license of the chiropractic physi-
37 cian without a hearing. Simultaneously with the order of suspension, the board must institute
38 proceedings for a hearing provided under this section and the suspension may continue unless
39 injunctive relief is obtained from a court of competent jurisdiction showing just cause or undue
40 burden under the circumstances existing.

41 (4) If a physician refuses a written request for an informal interview with the board, the board
42 shall have grounds to suspend or revoke the license of a physician pursuant to this section.

43 (5) Prior to or following an informal interview as described in this section, the board may re-
44 quest any Oregon licensed chiropractic physician in good standing to assist the board in preparing
45 for or conducting any professional competency examination as the board may deem appropriate.

1 (6) Notwithstanding any other provisions of ORS 684.010, 684.040, 684.050, 684.090, 684.100,
2 684.112, 684.130, 684.150 and 684.155, the board may at any time direct and order a professional
3 competency examination limited to the area of practice out of which a specific complaint has arisen
4 and make an investigation, including the taking of depositions or otherwise in order to fully inform
5 itself with respect to the performance or conduct of a physician licensed under ORS 684.010, 684.040,
6 684.050, 684.090, 684.100, 684.112, 684.130, 684.150 and 684.155.

7 (7) If the board has reasonable cause to believe that any:

8 (a) Chiropractic physician is or may be unable to practice with reasonable skill and safety to
9 patients, the board may:

10 (A) Cause a competency examination of the physician for purposes of determining the physi-
11 cian's fitness to practice chiropractic with reasonable skill and safety to patients; or

12 (B) Require the fingerprints and relevant personal history data of the physician for the purpose
13 of requesting a state or nationwide criminal records check under ORS 181.534.

14 (b) Person certified to provide physiotherapy, electrotherapy or hydrotherapy pursuant to ORS
15 684.155 (1)(c) is or may be unable to provide the therapies with reasonable skill and safety to pa-
16 tients, the board may:

17 (A) Cause a competency examination of the person for purposes of determining the person's fit-
18 ness to provide the therapies with reasonable skill and safety to patients; or

19 (B) Require the fingerprints and relevant personal history data of the person for the purpose of
20 requesting a state or nationwide criminal records check under ORS 181.534.

21 (8) Refusal by any person to take or appear for a competency examination scheduled by the
22 board or to submit fingerprints and relevant personal history data as required by the board under
23 subsection (7) of this section shall constitute grounds for disciplinary action.

24 (9) In disciplining a person as authorized by subsection (1) of this section, the board may use
25 any or all of the following methods:

26 (a) Suspend judgment.

27 (b) Place the person on probation.

28 (c) Suspend the license of the person to practice chiropractic in this state.

29 (d) Revoke the license of the person to practice chiropractic in this state.

30 (e) Place limitations on the license of the person to practice chiropractic in this state.

31 (f) Impose a civil penalty not to exceed \$10,000.

32 (g) Take other disciplinary action as the board in its discretion finds proper, including assess-
33 ment of the costs of the disciplinary proceedings.

34 (10)(a) Any information that the board obtains pursuant to ORS 684.100, 684.112 and 684.155 (9)
35 is confidential as provided under ORS 676.175.

36 (b) Any person who reports or provides information to the board under ORS 684.090, 684.100,
37 684.112, 684.150 and 684.155 and who provides information in good faith shall not be subject to an
38 action for civil damages as a result thereof.

39 **SECTION 51.** ORS 684.103 is amended to read:

40 684.103. (1) In addition to or instead of any disciplinary action under ORS 684.100, the State
41 Board of Chiropractic Examiners may refer [*an impaired*] a chiropractic physician **who has an**
42 **impairment as defined in section 1 of this 2009 Act** to a board-approved diversion program.

43 (2) The program administrator shall report to the board and provide all pertinent information
44 concerning an impaired chiropractic physician who is referred to the program.

45 **SECTION 52.** ORS 684.130 is amended to read:

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

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

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

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

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

14 (c) **In selecting the members of the board, the Governor shall strive to balance the rep-**
15 **resentation on the board according to:**

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

17 (B) **Ethnic group.**

18 (3) Annually, upon the expiration of the term of any [*members*] **member** of the board, the Gov-
19 ernor shall appoint one or more qualified persons to the board to serve for a period of three years.
20 **A member serves at the pleasure of the Governor.**

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

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

26 **SECTION 53.** ORS 684.140 is amended to read:

27 684.140. The State Board of Chiropractic Examiners shall annually elect a president, a vice
28 president and a secretary-treasurer from its membership. The **executive director of the board** shall
29 keep a record of the proceedings of the board which shall be open to public inspection at all times
30 during business hours.

31 **SECTION 54.** ORS 684.157 is amended to read:

32 684.157. The State Board of Chiropractic Examiners may enter into contracts to make services
33 available to [*impaired*] chiropractic physicians **who have an impairment as defined in section 1**
34 **of this 2009 Act** and may, in accordance with ORS chapter 183, adopt rules for the administration
35 of a diversion program for impaired chiropractic physicians.

36 **NOTE:** Section 55 was deleted by amendment. Subsequent sections were not renumbered.

37
38 **BOARD OF NATUROPATHIC EXAMINERS**
39

40 **SECTION 56.** ORS 685.110 is amended to read:

41 685.110. The Board of Naturopathic Examiners may refuse to grant a license, may suspend or
42 revoke a license, may limit a license, may impose probation, may issue a letter of reprimand and
43 may impose a civil penalty not to exceed \$1,000 for each offense for any of the following reasons:

44 (1) The use of fraud or deception in securing a license.

45 (2) The impersonation of another physician.

- 1 (3) Practicing naturopathic medicine under an assumed name.
- 2 (4) The performance of an abortion.
- 3 (5) The conviction of a crime involving moral turpitude.
- 4 (6) Any other reason that renders the applicant or licensee unfit to perform the duties of a
- 5 naturopathic physician.
- 6 (7) Conviction of a crime relating to practice of naturopathic medicine.
- 7 (8) Negligence related to the practice of naturopathic medicine.
- 8 (9) [*Habitual or excessive use of intoxicants, drugs or controlled substances.*] **Impairment as de-**
- 9 **defined in section 1 of this 2009 Act.**
- 10 (10) Prescribing or dispensing drugs outside the scope of practice.
- 11 [(11) *Commitment to a mental institution for the treatment of a mental disease that affects the*
- 12 *ability of the applicant or licensee to safely practice naturopathic medicine.*]
- 13 [(12)] (11) Obtaining a fee through fraud or misrepresentation.
- 14 [(13)] (12) Gross or repeated malpractice.
- 15 [(14)] (13) Representing to a patient that a manifestly incurable condition of sickness, disease
- 16 or injury can be permanently cured.
- 17 [(15)] (14) Any conduct or practice contrary to a recognized standard of ethics of the profession
- 18 or any conduct or practice that does or might constitute a danger to the health or safety of a pa-
- 19 tient or the public or any conduct, practice or condition that does or might [*impair*] **adversely af-**
- 20 **fect** a physician's ability safely and skillfully to practice naturopathic medicine.
- 21 [(16)] (15) Willful and consistent utilization of any naturopathic service, X-ray equipment or
- 22 treatment that is contrary to recognized standards of practice of the naturopathic profession.
- 23 [(17)] (16) Failure to notify the board within 30 days of a change in the location of practice or
- 24 of mailing address.
- 25 [(18)] (17) Attempting to practice naturopathic medicine or practicing or claiming to practice
- 26 naturopathic medicine or any of its components in this state without first complying with the pro-
- 27 visions of this chapter.
- 28 [(19)] (18) Suspension or revocation of a license to practice naturopathic medicine in another
- 29 jurisdiction.
- 30 [(20)] (19) Employing unlicensed persons to practice naturopathic medicine.
- 31 [(21)] (20) Practicing natural childbirth without first obtaining a certificate of special compe-
- 32 tency.
- 33 [(22)] (21) Representing that the licensee is a medical specialist or practices a medical specialty.
- 34 [(23)] (22) Failure to respond in a timely manner to a request for information regarding a com-
- 35 plaint or the investigation of a complaint by the board.
- 36 [(24)] (23) Failure to pay a civil penalty in the time specified by the order imposing the penalty.
- 37 [(25)] (24) Violation of any provision of this chapter or rules adopted by the board.

38 **SECTION 57.** ORS 685.160 is amended to read:

39 685.160. (1) There hereby is created the Board of Naturopathic Examiners [*in the Department of*

40 *Human Services*]. The board [*shall consist*] **consists** of seven members appointed by the Governor

41 [*for terms of three years commencing*] **and subject to confirmation by the Senate in the manner**

42 **provided in ORS 171.562 and 171.565. All members of the board must be residents of this**

43 **state. Of the members of the board:**

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

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

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

6 **(b) In selecting the members of the board, the Governor shall strive to balance the rep-**
7 **resentation on the board according to:**

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

9 **(B) Ethnic group.**

10 **(3) The term of office of each member is three years, but a member serves at the pleas-**
11 **ure of the Governor. A term of office commences July 1[, and]. Unless a member is removed**
12 **prior to the end of the term, a member continues to serve on the board until [their successors**
13 **are] a successor is appointed and qualified. A majority of the members of the board constitutes a**
14 **quorum. If there is a vacancy for any cause, the Governor shall appoint a member to serve for the**
15 **remainder of the unexpired term. [All appointments of members of the board by the Governor are**
16 **subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.]**

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

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

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

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

23 **[(3)] (4) The board shall carry into effect the provisions of this chapter and is authorized to issue**
24 **licenses to practice naturopathic medicine in this state. The possession of a common seal by the**
25 **board hereby is authorized.**

26 **SECTION 58. ORS 685.170 is amended to read:**

27 685.170. Annually, the Board of Naturopathic Examiners shall elect one of its members chair.
28 The chair shall have power during the term of office to summon witnesses, administer oaths and
29 take testimony and affidavits. The executive director of the board or a designee of the executive
30 director shall keep a record of all actions of the board, including a detailed register of applicants
31 for a license. *[The board shall employ or appoint a person to act as executive director of the board*
32 *and perform such duties and functions as may be prescribed by the board.]*

33
34 **OREGON STATE VETERINARY MEDICAL EXAMINING BOARD**

35
36 **SECTION 59. ORS 686.120 is amended to read:**

37 686.120. (1) With the consent of five members, the Oregon State Veterinary Medical Examining
38 Board may discipline in accordance with ORS 686.150 any permit or license holder under this
39 chapter for unprofessional or dishonorable conduct.

40 (2) The board may discipline in accordance with ORS 686.150 any permit or license holder who:

41 (a) After undergoing a physical or mental health evaluation ordered by the board, has been de-
42 termined to have a physical *[or mental]* condition that makes the permit or license holder unable to
43 safely conduct the practice of veterinary medicine;

44 **(b) Has an impairment as defined in section 1 of this 2009 Act;**

45 **[(b)] (c) Publicly professes to cure or treat diseases of a highly contagious, infectious and**

1 incurable nature;

2 [(c)] (d) In any way cares or treats injury and deformity in such a way as to deceive the public;
3 or

4 [(d)] (e) Tests any horse, mule or ass for glanders, or cow or cattle for tuberculosis, and know-
5 ingly, wrongfully and maliciously states verbally or in writing that the animals are diseased or in
6 a disease-free condition contrary to the indication of the test made.

7 **SECTION 60.** ORS 686.130 is amended to read:

8 686.130. "Unprofessional or dishonorable conduct," as used in this chapter, includes:

9 (1) The fraudulent use or misuse of any health certificate, shipping certificate, brand inspection
10 certificate, or other blank forms used in practice, that might lead to the dissemination of disease
11 or the transportation of diseased animals or the sale of inedible food products of animal origin for
12 human consumption.

13 (2) Dilatory methods, willful neglect or misrepresentation in the inspection of meat.

14 (3) Misrepresentation of services rendered.

15 (4) Failure to report, or the negligent handling of the serious epidemic diseases of animals, such
16 as anthrax, rabies, glanders, brucellosis, tuberculosis, foot and mouth disease, hog cholera, blackleg,
17 and any other communicable disease known to medical science as being a menace to human and
18 animal health.

19 (5) The dispensing or giving to anyone live culture or attenuated live virus vaccine to be ad-
20 ministered by a layperson without providing instruction as to its administration and use and without
21 prior written authorization from the State Veterinarian when such product is declared to be pro-
22 hibited under ORS 596.075.

23 (6) Having professional connection with, or lending one's name to any illegal practitioner of
24 veterinary medicine and the various branches thereof.

25 (7) [*Chronic alcohol abuse or habitual use of controlled substances.*] **Impairment as defined in**
26 **section 1 of this 2009 Act.**

27 (8) Fraud or dishonesty in applying or reporting on any test for disease in animals.

28 (9) False or misleading advertising.

29 (10) Conviction of a crime involving moral turpitude or conviction of a felony. The record of the
30 conviction is conclusive evidence.

31 (11) Conviction of a charge of cruelty to animals in Oregon or any other state, county, or mu-
32 nicipal court. The record of conviction is conclusive evidence.

33 (12) The revocation, suspension or refusal to issue or renew a license or practice credential to
34 practice veterinary medicine in any other state, territory or foreign jurisdiction if the cause of that
35 revocation, suspension or refusal to issue or renew is cause in this state. The record of revocation,
36 suspension or refusal to issue or renew is conclusive evidence.

37 (13) Failure to keep one's premises and equipment therein in a clean and sanitary condition.

38 (14) Gross ignorance, incompetence or inefficiency in the profession. In determining what con-
39 stitutes "gross ignorance, incompetence or inefficiency in the profession," the Oregon State
40 Veterinary Medical Examining Board may take into account all relevant factors, and practices, in-
41 cluding but not limited to the practices generally and currently followed and accepted by the per-
42 sons licensed to practice veterinary medicine in this state, the current teaching at accredited
43 veterinary schools, relevant technical reports published in recognized veterinary medical journals
44 and the desirability of reasonable experimentation in the furtherance of the veterinary medicine
45 arts.

1 (15) Permitting the veterinary technician, preceptee, or student intern to perform a duty, task
2 or procedure not specifically permitted by the board.

3 **SECTION 61.** ORS 686.210 is amended to read:

4 686.210. (1) There is created the Oregon State Veterinary Medical Examining Board, which shall
5 carry out the purposes and enforce the provisions of this chapter. The board shall consist of eight
6 members appointed by the Governor for a term of four years. [*Appointments made by the Governor*
7 *to the board may be selected from a list of five names for each appointment suggested by the Oregon*
8 *Veterinary Medical Association.*] Five members shall be licensed to practice veterinary medicine,
9 surgery and dentistry in this state. Two members shall be public members. One member shall be a
10 certified veterinary technician.

11 **(2) All members of the board must be residents of this state. A public member may not**
12 **be a person licensed under this chapter or a person who has a spouse, domestic partner,**
13 **child, parent or sibling who is licensed under this chapter.**

14 **(3) A statewide professional association for veterinarians may submit a list of suggested**
15 **nominees for appointment to veterinarian and public member positions on the board. A**
16 **statewide professional association for veterinary technicians may submit a list of suggested**
17 **nominees for appointment to veterinary technician and public member positions on the**
18 **board. In making appointments to the board, the Governor shall give consideration to the**
19 **nominees suggested by an association. To the extent practicable, the Governor shall attempt**
20 **to make board appointments that are broadly representative of the geographic and cultural**
21 **diversity of the state.**

22 (4) Any appointments to fill vacancies by reason of death, resignation or removal shall be made
23 by the Governor for the residue of the term of the retiring member. All appointments of members
24 of the board by the Governor are subject to confirmation by the Senate in the manner provided in
25 ORS 171.562 and 171.565.

26 [(2)] (5) [*The board may appoint an executive director.*] Nothing in this chapter shall be construed
27 to prevent assistance being rendered by the executive director of the board in any hearing called
28 by it.

29 [(3)] (6) Pursuant to ORS chapter 183 the board may adopt rules necessary for the adminis-
30 tration of this chapter.

31
32 **STATE BOARD OF MASSAGE THERAPISTS**

33
34 **SECTION 62.** ORS 687.051 is amended to read:

35 687.051. (1) To be eligible for issuance of an initial license in this state as a massage therapist
36 [*after January 1, 1999*], the applicant shall:

37 (a) Furnish the State Board of Massage Therapists with any personal references required by rule
38 of the board.

39 (b) Have attained the age of 18 years.

40 (c) Furnish the board with educational certificates or transcripts required by law or rule of the
41 board including but not limited to proof of certification in cardiopulmonary resuscitation and the
42 subjects listed in paragraph (d) of this subsection.

43 (d) Have completed a minimum of 500 contact hours of certified classes in the following subjects:
44 Anatomy and physiology, kinesiology, pathology, hydrotherapy, theory and hands-on practice of
45 massage and bodywork techniques and professional practices, including client communication and

1 boundaries, professional and business ethics and sanitation. The board by rule may set the minimum
2 number of required hours for each subject.

3 (e) Pass an examination prepared and conducted by the board or its authorized representative
4 establishing competency and ability to engage in the practice of massage. The examination shall be
5 administered in the English language and may be in written, oral or practical form and may test the
6 applicant for the required level of knowledge and skill in any subject related to massage and
7 bodywork. The board may accept passage of a board-approved national standardized examination as
8 meeting the written examination requirement contained in this paragraph.

9 (f) Submit the application with payment for licensing within one year after notification of having
10 passed the qualifying examination.

11 (2) An applicant must be a person of good moral character. For purposes of this section, the
12 lack of good moral character may be established by reference to acts or conduct reflecting moral
13 turpitude or to acts or conduct that would cause a reasonable person to have substantial doubts
14 about the applicant's ability to practice massage in accordance with ORS 687.011 to 687.250, 687.895
15 and 687.991 and rules of the board.

16 (3) The board may require that an applicant furnish evidence satisfactory to the board that the
17 applicant can safely and competently practice the profession of massage. The board may consider
18 evidence including, but not limited to, indications of impairment [*by alcohol or controlled*
19 *substances*] **as defined in section 1 of this 2009 Act** or of behavior, practices or conduct that would
20 be considered unprofessional or dishonorable conduct if engaged in by a person licensed under ORS
21 687.011 to 687.250, 687.895 and 687.991.

22 (4) To be eligible for biennial renewal, a renewal applicant shall submit evidence to the board,
23 as determined by the board by rule, that the applicant has completed a minimum of 12 hours of
24 board-approved continuing education.

25 (5) To be eligible for inactive status, a licensed massage therapist must not be practicing mas-
26 sage in this state.

27 **SECTION 63.** ORS 687.081 is amended to read:

28 687.081. (1) The State Board of Massage Therapists may discipline a licensee, deny, suspend,
29 revoke or refuse to renew a license, issue a reprimand, censure a licensee or place a licensee on
30 probation if the licensee:

31 (a) Has violated any provision of ORS 687.011 to 687.250, 687.895 and 687.991 or any rule of the
32 board adopted under ORS 687.121.

33 (b) Has made any false representation or statement to the board in order to induce or prevent
34 action by the board.

35 (c) Has a physical [*or mental*] condition that makes the licensee unable to conduct safely the
36 practice of massage.

37 (d) [*Is habitually intemperate in the use of alcoholic beverages or is addicted to the use of habit-*
38 *forming drugs or controlled substances*] **Has an impairment as defined in section 1 of this 2009**
39 **Act.**

40 (e) Has misrepresented to any patron any services rendered.

41 (f) Has been convicted of a crime that bears a demonstrable relationship to the practice of
42 massage.

43 (g) Fails to meet with any requirement under ORS 687.051.

44 (h) Violates any provision of ORS 167.002 to 167.027.

45 (i) Engages in unprofessional or dishonorable conduct.

1 (j) Has been the subject of disciplinary action as a massage therapist by any other state or
2 territory of the United States or by a foreign country and the board determines that the cause of
3 the disciplinary action would be a violation under ORS 687.011 to 687.250, 687.895 and 687.991 or
4 rules of the board if it occurred in this state.

5 (2) If the board places a licensee on probation pursuant to subsection (1) of this section, the
6 board may impose and at any time modify the following conditions of probation:

7 (a) Limitation on the allowed scope of practice.

8 (b) If the board finds that the licensee [*is physically or mentally impaired*] **has a physical in-**
9 **capacity to practice with reasonable competence and safety**, a requirement for successful com-
10 pletion of appropriate treatment as determined by the board.

11 (c) Individual or peer supervision.

12 (d) Such other conditions as the board may deem necessary for the protection of the public and
13 the rehabilitation of the licensee.

14 (3) If the board determines that a licensee's continued practice constitutes a serious danger to
15 the public, the board may impose an emergency suspension of the license without a hearing. Si-
16 multaneous with the order of suspension, the board shall institute proceedings for a hearing as
17 provided under ORS 687.011 to 687.250, 687.895 and 687.991. The suspension shall continue unless
18 and until the licensee obtains injunctive relief from a court of competent jurisdiction or the board
19 determines that the suspension is no longer necessary for the protection of the public.

20 (4) In addition to the discipline described in subsection (1) of this section, the board may impose
21 a civil penalty as provided under ORS 687.250. Civil penalties under this subsection shall be imposed
22 pursuant to ORS 183.745.

23 (5) Prior to imposing any of the sanctions authorized under this section, the board shall con-
24 sider, but is not limited to, the following factors:

25 (a) The person's past history in observing the provisions of ORS 687.011 to 687.250, 687.895 and
26 687.991 and the rules adopted pursuant thereto;

27 (b) The effect of the violation on public safety and welfare;

28 (c) The degree to which the action subject to sanction violates professional ethics and standards
29 of practice;

30 (d) The economic and financial condition of the person subject to sanction; and

31 (e) Any mitigating factors that the board may choose to consider.

32 (6) In addition to the sanctions authorized by this section, the board may assess against a
33 licensee the costs associated with the disciplinary action taken against the licensee.

34 (7) The board shall adopt a code of ethical standards for practitioners of massage and shall take
35 appropriate measures to ensure that all applicants and practitioners of massage are aware of those
36 standards.

37 (8) Upon receipt of a complaint under ORS 687.011 to 687.250, 687.895 and 687.991, the board
38 shall conduct an investigation as described under ORS 676.165.

39 (9) Information that the board obtains as part of an investigation into licensee or applicant
40 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
41 licensee or applicant conduct is confidential as provided under ORS 676.175.

42 **SECTION 64.** ORS 687.115 is amended to read:

43 687.115. (1) The State Board of Massage Therapists [*shall operate*] **operates** as a semi-
44 independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the pro-
45 visions of ORS 687.011 to 687.250, 687.895 and 687.991. The board [*shall be composed of*] **consists**

1 of seven members[,] appointed by the Governor and subject to confirmation by the Senate in
2 the manner provided in ORS 171.562 and 171.565. All members of the board must be residents
3 of this state. Of the members of the board:

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

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

8 (A) Massage therapists; or

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

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

13 (b) In selecting the members of the board, the Governor shall strive to balance the rep-
14 resentation on the board according to:

15 (A) Geographic areas of this state; and

16 (B) Ethnic group.

17 (3) The term of office of each member is four years, but a member serves at the pleasure
18 of the Governor.

19 [(2)] (4) Members are entitled to compensation and expenses as determined by the board.

20 [(3)] (5) The board may:

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

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

27 **NOTE:** Section 65 was deleted by amendment. Subsequent sections were not renumbered.

28
29 **PHYSICAL THERAPIST LICENSING BOARD**

30
31 **SECTION 66.** ORS 688.140 is amended to read:

32 688.140. (1) The Physical Therapist Licensing Board, after notice and hearing as provided in
33 ORS 688.145, may impose any or all of the following sanctions or take any of the following actions
34 upon any of the grounds specified in subsection (2) of this section:

35 (a) Refuse to license any applicant.

36 (b) Refuse to renew the license of any physical therapist or physical therapist assistant.

37 (c) Suspend or revoke the license of any physical therapist or physical therapist assistant.

38 (d) Suspend or revoke a temporary permit issued under ORS 688.110.

39 (e) Impose a civil penalty not to exceed \$5,000.

40 (f) Impose probation with authority to limit or restrict a license.

41 (g) Impose conditions, restrictions or limitations on practice.

42 (h) Issue letters of reprimand.

43 (i) Impose any other appropriate sanction, including assessment of the reasonable costs of a
44 proceeding under ORS 688.145 as a civil penalty. Costs include, but are not limited to, the costs of
45 investigation, attorney fees, hearing officer costs and the costs of discovery.

1 (2) Grounds exist for the imposition of sanctions as specified in subsection (1) of this section
2 when a person:

3 (a) Violates any provision of ORS 688.010 to 688.201, board rules or a written order from the
4 board.

5 (b) Practices or offers to practice beyond the scope of practice of physical therapy.

6 (c) Obtains or attempts to obtain or renew a license or temporary permit by fraud or misrepresentation.
7

8 (d) Provides substandard care as a physical therapist through a deliberate or negligent act or
9 failure to act, regardless of whether injury to the patient occurs.

10 (e) Provides substandard care as a physical therapist assistant by exceeding the authority to
11 perform components of physical therapy interventions selected by the supervising physical therapist
12 or through a deliberate or negligent act or failure to act, regardless of whether injury to the patient
13 occurs.

14 (f) Fails as a physical therapist to supervise physical therapist assistants in accordance with
15 board rules.

16 (g) Fails as a physical therapist or physical therapist assistant to supervise physical therapist
17 aides in accordance with board rules.

18 (h) Subject to the provisions of ORS 670.280, has been convicted of a crime in Oregon or any
19 other state, territory or country. For purposes of this paragraph, conviction includes a verdict of
20 guilty, a plea of guilty or a plea of no contest.

21 (i) [*Uses controlled substances or intoxicating liquors to an extent or in a manner that is illegal,*
22 *dangerous or injurious to the licensee or others or that impairs the person's ability to safely practice*
23 *physical therapy.*] **Has an impairment as defined in section 1 of this 2009 Act.**

24 (j) Has had an application for licensure refused because of conduct or circumstances that would
25 be grounds for sanctions by the board, or a license revoked or suspended, or other disciplinary
26 action taken by the proper authorities of another state, territory or country.

27 (k) Engages in sexual misconduct. For purposes of this paragraph, sexual misconduct includes
28 but is not limited to:

29 (A) Engaging in sexual conduct or soliciting a sexual relationship with a current patient,
30 whether consensual or nonconsensual.

31 (B) Intentionally exposing or viewing a completely or partially disrobed patient in the course
32 of treatment if the exposure or viewing is not related to patient diagnosis or treatment under current
33 practice standards.

34 (L) Directly or indirectly requests, receives, pays or participates in dividing, transferring or as-
35 signing an unearned fee or profits by a means of a credit or other valuable consideration such as
36 an unearned commission, discount or gratuity in connection with the furnishing of physical therapy
37 services. This paragraph does not prohibit the members of any regularly and properly organized
38 business entity recognized by law and comprised of physical therapists from dividing fees received
39 for professional services among themselves as they determine.

40 (m) Fails to adhere to the standards of ethics of the physical therapy profession established by
41 board rule.

42 (n) Obtains or attempts to obtain a fee for physical therapy services by fraud or misrepresentation.
43

44 (o) Makes misleading, deceptive or fraudulent representations in the course of providing physical
45 therapy services.

1 (p) Fails to report to the board, when the person has direct knowledge of an unprofessional,
2 incompetent or illegal act that reasonably appears to be in violation of ORS 688.010 to 688.201 or
3 any rules of the board.

4 (q) Interferes with an investigation or disciplinary proceeding of the board.

5 (r) Aids or abets a person who is not licensed in this state to practice physical therapy.

6 (s) Fails to maintain adequate patient records.

7 (t) Fails to maintain patient confidentiality.

8 (u) Provides treatment intervention that is not warranted by the patient's condition or continues
9 treatment beyond the point of reasonable benefit to the patient.

10 (v) Provides physical therapy services or participates in physical therapy services solely for
11 reasons of personal or institutional financial gain.

12 (w) Aids or causes another person, directly or indirectly, to violate ORS 688.010 to 688.201 or
13 rules of the board, fraudulently uses or permits the use of a license number in any way, or acts with
14 the intent to violate ORS 688.010 to 688.201 or rules of the board.

15 (3) To enforce the provisions of this section, the board is authorized to initiate an investigation
16 and take the following actions:

17 (a) Receive complaints filed against persons and conduct timely investigations.

18 (b) Initiate its own investigation if the board has reason to believe that there may have been a
19 violation of ORS 688.010 to 688.201.

20 (c) Issue a subpoena to compel the attendance of any witness or the production of any doc-
21 umentation relating to a matter under investigation. In addition to the board, the executive director
22 or the executive director's designee may issue a subpoena. When the board, in the course of an in-
23 vestigation, requires the production of patient records for inspection and copying by subpoena, or
24 otherwise, the records shall be produced without regard to whether patient consent has been ob-
25 tained and without regard to any claim of confidentiality or privilege.

26 (d) Take the deposition of a witness, including a physical therapist or physical therapist assist-
27 ant being investigated, in the manner provided by law in civil cases.

28 (e) Take emergency action to suspend a person's license or restrict the person's practice or
29 employment pending proceedings by the board.

30 (f) Report to the appropriate district attorney all cases that, in the judgment of the board,
31 warrant prosecution.

32 (g) Require a person to undergo a mental, physical, chemical dependency or competency evalu-
33 ation at the person's expense when the board has objectively reasonable grounds to believe that the
34 person is or may be unable to practice physical therapy with reasonable skill and safety, with the
35 results being reported to the board. The report shall not be disclosed to the public but may be re-
36 ceived into evidence in a proceeding between the board and the person when the mental, physical,
37 chemical dependency or competency of the person is at issue, notwithstanding any claim of privilege
38 by the person.

39 (4) If the board finds that the information received in a complaint or an investigation does not
40 merit disciplinary action against a person, nondisciplinary actions may ensue. The board may then
41 take the following actions:

42 (a) Dismiss the complaint.

43 (b) Issue a confidential advisory letter to the person that is nondisciplinary and that notifies the
44 physical therapist or physical therapist assistant that certain conduct or practices must be modified
45 or eliminated.

1 (5) The board may apply for injunctive relief in any court of competent jurisdiction to enjoin
2 any person from committing any act in violation of ORS 688.010 to 688.201. Injunction proceedings
3 are in addition to, and not in lieu of, penalties or other sanctions prescribed in ORS 688.010 to
4 688.201.

5 **SECTION 67.** ORS 688.160 is amended to read:

6 688.160. (1) The Physical Therapist Licensing Board [*shall operate*] **operates** as a semi-
7 independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the pro-
8 visions of ORS 688.010 to 688.201 and 688.990 (1). The Physical Therapist Licensing Board [*shall*
9 *consist*] **consists** of seven members appointed by the Governor [*who may be appointed from a list of*
10 *not fewer than nine names, submitted by the Oregon Physical Therapy Association.*] **and subject to**
11 **confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members**
12 **of the board must be residents of this state. Of the members of the board:**

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

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

18 (c) One [*member shall*] **must** be a public member who has an interest in consumer rights[,] **and**
19 **who is not:**

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

21 (B) **The spouse, domestic partner, child, parent or sibling of a physical therapist or**
22 **physical therapist assistant.** [*All members shall have equal voting privileges.*]

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

26 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
27 **resentation on the board according to:**

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

29 (B) **Ethnic group.**

30 (3)(a) [*Upon the expiration of the term of a member of the board, the Governor shall appoint a*
31 *successor who may be appointed from a list of three names submitted to the Governor by the Oregon*
32 *Physical Therapy Association to serve a term of four years. A member may not serve for more than two*
33 *consecutive four-year terms.*] **The term of office of each member is four years, but a member**
34 **serves at the pleasure of the Governor.**

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

41 (4) Each member of the board is entitled to compensation and expenses as provided in ORS
42 292.495.

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

45 (6) The board shall have power to:

- 1 (a) Establish matters of policy affecting administration of ORS 688.010 to 688.201;
- 2 (b) Provide for examinations for physical therapists and physical therapist assistants and adopt
3 passing scores for the examinations;
- 4 (c) Adopt rules necessary to carry out and enforce the provisions of ORS 688.010 to 688.201;
- 5 (d) Establish standards and tests to determine the qualifications of applicants for licenses to
6 practice physical therapy in this state;
- 7 (e) Issue licenses to persons who meet the requirements of ORS 688.010 to 688.201;
- 8 (f) Adopt rules relating to the supervision and the duties of physical therapist aides who assist
9 in performing routine work under supervision;
- 10 (g) Adopt rules establishing minimum continuing education requirements for all licensees;
- 11 (h) Exercise general supervision over the practice of physical therapy within this state;
- 12 (i) Establish and collect fees for the application or examination for, or the renewal, rein-
13 statement or duplication of, a license under ORS 688.040, 688.080 or 688.100 or for the issuance of
14 a temporary permit under ORS 688.110; and
- 15 (j) Establish and collect fees to carry out and enforce the provisions of ORS 688.010 to 688.201.
- 16 (7) The board shall meet as determined by the board and at any other time at the call of the
17 board chairperson, who shall be elected by the members of the board.
- 18 (8) The board may appoint and fix the compensation of [*an executive director and other*] staff as
19 necessary to carry out the operations of the board.
- 20 (9) The board shall:
 - 21 (a) Maintain a current list of all persons regulated under ORS 688.010 to 688.201, including the
22 persons' names, current business and residential addresses, telephone numbers, electronic mail ad-
23 dresses and license numbers.
 - 24 (b) Provide information to the public regarding the procedure for filing a complaint against a
25 physical therapist or physical therapist assistant.
 - 26 (c) Publish at least annually, and in a format or place determined by the board, final disciplinary
27 actions taken against physical therapists and physical therapist assistants and other information,
28 including rules, in order to guide physical therapists and physical therapist assistants regulated
29 pursuant to ORS 688.010 to 688.201.

30
31 **BOARD OF RADIOLOGIC TECHNOLOGY**

32
33 **SECTION 68.** ORS 688.525 is amended to read:

34 688.525. (1) The Board of Radiologic Technology, after notice of and hearing as required under
35 the contested case procedures of ORS chapter 183, may refuse to license any applicant, may refuse
36 to renew the license or permit of any radiologic technologist or may suspend or revoke the license
37 or permit of a person who:

- 38 (a) [*Is chemically dependent.*] **Has an impairment as defined in section 1 of this 2009 Act.**
- 39 (b) In the judgment of the board is guilty of unethical or unprofessional conduct in the practice
40 of radiologic technology.
- 41 (c) Has been convicted of any crime where the crime bears a demonstrable relationship to the
42 practice of radiologic technology.
- 43 (d) In the judgment of the board, is guilty of gross negligence in the practice of radiologic
44 technology.
- 45 [*e*] *Has been adjudged incompetent by a court of law and thereafter has not been lawfully declared*

1 *competent.*]

2 [(f)] (e) Has undertaken to act as a radiologic technologist independently of the supervision of
3 a practitioner licensed by the State of Oregon to practice one of the healing arts.

4 [(g)] (f) Has obtained or attempted to obtain a license or permit under ORS 688.405 to 688.605
5 by fraud or material misrepresentation.

6 (2) Upon receipt of a complaint under ORS 688.405 to 688.605, the board shall conduct an in-
7 vestigation as described under ORS 676.165.

8 (3) Information that the board obtains as part of an investigation into licensee or applicant
9 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
10 licensee or applicant conduct is confidential as provided under ORS 676.175.

11 **SECTION 69.** ORS 688.545 is amended to read:

12 688.545. (1)[(a)] There is created [*in the Department of Human Services*] a Board of Radiologic
13 Technology [*consisting of nine members who shall be appointed by the Governor*]. **The board consists**
14 **of nine members appointed by the Governor and subject to confirmation by the Senate in the**
15 **manner provided in ORS 171.562 and 171.565.** Each member of the board [*shall be a citizen of the*
16 *United States and*] **must be** a resident of [*the*] **this** state [*of Oregon. Each appointed member is en-*
17 *titled to vote*].

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

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

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

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

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

24 (d) **At least one must be a member of the public. A public member appointed under this**
25 **paragraph may not be:**

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

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

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

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

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

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

38 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
39 **resentation on the board according to:**

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

41 (B) **Ethnic group.**

42 [(2)] (3) The section manager of the Radiation Protection Services Section of the Department
43 of Human Services, or a person appointed by the section manager, shall be an advisory member of
44 the board for the purpose of providing counsel and [*shall not be*] **is not** entitled to vote.

45 [(3)] (4) The term of office of the members of the board [*shall be*] **is** three years [*and*], **but a**

1 **member serves at the pleasure of the Governor.** A member may be reappointed to serve not
2 more than two full terms.

3 [(4)] (5) Members of the board [shall be] **are** entitled to compensation and expenses as provided
4 in ORS 292.495.

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

7 [(6)] (7) For the purpose of transacting its business, the board shall meet at least once every
8 three months at times and places designated by resolution. Special meetings may also be held at
9 such times as the board may elect or at the call of the chairperson. Notification of the time, place
10 and purpose of any special meeting shall be sent to all members of the board at least 15 days before
11 the date of the meeting. All meetings are subject to ORS 192.610 to 192.690.

12 [(7)] (8) Five members of the board [shall] constitute a quorum for the transaction of business
13 at any meeting. Five affirmative votes [shall be] **are** required to take action.

14 **NOTE:** Section 70 was deleted by amendment. Subsequent sections were not renumbered.

15
16 **STATE BOARD OF PHARMACY**

17
18 **SECTION 71.** ORS 689.005 is amended to read:

19 689.005. As used in this chapter:

20 (1) "Administer" means the direct application of a drug or device whether by injection,
21 inhalation, ingestion, or any other means, to the body of a patient or research subject by:

22 (a) A practitioner or the authorized agent thereof; or

23 (b) The patient or research subject at the direction of the practitioner.

24 (2) "Approved continuing pharmacy education program" means those seminars, classes,
25 meetings, workshops and other educational programs on the subject of pharmacy approved by the
26 board.

27 (3) "Board of pharmacy" or "board" means the State Board of Pharmacy.

28 (4) "Continuing pharmacy education" means professional, pharmaceutical post-graduate educa-
29 tion in the general areas of socio-economic and legal aspects of health care; the properties and
30 actions of drugs and dosage forms; and the etiology, characteristics and therapeutics of the disease
31 state.

32 (5) "Continuing pharmacy education unit" means the unit of measurement of credits for ap-
33 proved continuing education courses and programs.

34 (6) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or
35 device other than by administration from one person to another, whether or not for a consideration.

36 (7) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro
37 reagent or other similar or related article, including any component part or accessory, which is re-
38 quired under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

39 (8) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pur-
40 suant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent
41 administration to or use by a patient or other individual entitled to receive the prescription drug.

42 (9) "Distribute" means the delivery of a drug other than by administering or dispensing.

43 (10) "Drug" means:

44 (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National
45 Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any

1 of them;

2 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of dis-
3 ease in a human or other animal;

4 (c) Articles (other than food) intended to affect the structure or any function of the body of
5 humans or other animals; and

6 (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c)
7 of this subsection.

8 (11) "Drug order" means a written order, in a hospital or other inpatient care facility, for an
9 ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by
10 other means of communication from a practitioner, that is immediately reduced to writing by a
11 pharmacist, licensed nurse or other practitioner.

12 (12) "Drug outlet" means any pharmacy, nursing home, shelter home, convalescent home, ex-
13 tended care facility, drug abuse treatment center, penal institution, hospital, family planning clinic,
14 student health center, retail store, wholesaler, manufacturer, mail-order vendor or other establish-
15 ment with facilities located within or out of this state that is engaged in dispensing, delivery or
16 distribution of drugs within this state.

17 (13) "Drug room" means a secure and lockable location within an inpatient care facility that
18 does not have a licensed pharmacy.

19 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or
20 received through technological apparatuses, including computer terminals or other equipment or
21 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
22 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

23 (15) "Institutional drug outlet" means hospitals and inpatient care facilities where medications
24 are dispensed to another health care professional for administration to patients served by the hos-
25 pitals or facilities.

26 (16) "Intern" means any person who has completed the junior or third academic year of a course
27 of study at an approved college of pharmacy and is licensed with the board as an intern.

28 (17) "Internship" means a professional [*and practical experience*] **experiential** program approved
29 by the board under the supervision of a licensed pharmacist registered with the board as a
30 preceptor.

31 (18) "Itinerant vendor" means all persons who sell or otherwise distribute nonprescription drugs
32 by passing from house to house, or by haranguing the people on the public streets or in public
33 places, or who use the customary devices for attracting crowds and therewith recommending their
34 wares and offering them for sale.

35 (19) "Labeling" means the process of preparing and affixing of a label to any drug container
36 exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription
37 drug or commercially packaged legend drug or device. Any such label shall include all information
38 required by federal and state law or regulation.

39 (20) "Manufacture" means the production, preparation, propagation, compounding, conversion
40 or processing of a device or a drug, either directly or indirectly by extraction from substances of
41 natural origin or independently by means of chemical synthesis or by a combination of extraction
42 and chemical synthesis and includes any packaging or repackaging of the substances or labeling or
43 relabeling of its container, except that this term does not include the preparation or compounding
44 of a drug by an individual for their own use or the preparation, compounding, packaging or labeling
45 of a drug:

1 (a) By a practitioner as an incident to administering or dispensing of a drug in the course of
2 professional practice; or

3 (b) By a practitioner or by the practitioner's authorization under supervision of the practitioner
4 for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

5 (21) "Manufacturer" means a person engaged in the manufacture of drugs.

6 (22) "Nonprescription drug outlet" means shopkeepers and itinerant vendors registered under
7 ORS 689.305.

8 (23) "Nonprescription drugs" means drugs which may be sold without a prescription and which
9 are prepackaged for use by the consumer and labeled in accordance with the requirements of the
10 statutes and regulations of this state and the federal government.

11 (24) "Person" means an individual, corporation, partnership, association or any other legal en-
12 tity.

13 (25) "Pharmacist" means an individual licensed by this state to engage in the practice of phar-
14 macy.

15 (26) "Pharmacy" means a place that meets the requirements of rules of the board, is licensed
16 and approved by the board where the practice of pharmacy may lawfully occur and includes
17 apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and
18 prescription laboratories but does not include a place used by a manufacturer or wholesaler.

19 (27) "Pharmacy technician" means a person licensed by the State Board of Pharmacy who assists
20 the pharmacist in the practice of pharmacy pursuant to rules of the board.

21 (28) "Practitioner" means a person licensed and operating within the scope of such license to
22 prescribe, dispense, conduct research with respect to or administer drugs in the course of profes-
23 sional practice or research:

24 (a) In this state; or

25 (b) In another state or territory of the United States not residing in Oregon and registered un-
26 der the federal Controlled Substances Act.

27 (29) "Preceptor" means a pharmacist licensed and in good standing, registered by the board to
28 supervise the internship training of a licensed intern.

29 (30) "Prescription drug" or "legend drug" means a drug which is:

30 (a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of
31 the following statements:

32 (A) "Caution: Federal law prohibits dispensing without prescription"; or

33 (B) "Caution: Federal law restricts this drug to use by or on the order of a licensed
34 veterinarian"; or

35 (b) Required by any applicable federal or state law or regulation to be dispensed on prescription
36 only or is restricted to use by practitioners only.

37 (31) "Prescription" or "prescription drug order" means a written, oral or electronically trans-
38 mitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use
39 of a drug. When the context requires, "prescription" also means the drug prepared under such
40 written, oral or electronically transmitted direction.

41 (32) "Retail drug outlet" means a place used for the conduct of the retail sale, administering or
42 dispensing or compounding of drugs or chemicals or for the administering or dispensing of pre-
43 scriptions and licensed by the board as a place wherein the practice of pharmacy may lawfully oc-
44 cur.

45 (33) "Shopkeeper" means a business or other establishment, open to the general public, for the

1 sale or nonprofit distribution of drugs.

2 (34) "Unit dose" means a sealed single-unit container so designed that the contents are admin-
3 istered to the patient as a single dose, direct from the container. Each unit dose container must bear
4 a separate label, be labeled with the name and strength of the medication, the name of the man-
5 ufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the
6 medication.

7 (35) "Wholesale drug outlet" means any person who imports, stores, distributes or sells for re-
8 sale any drugs including legend drugs and nonprescription drugs.

9 (36) "Class I wholesaler" means any person operating or maintaining a wholesale distribution
10 center, wholesale business or any other business in which drugs, medicinal chemicals, or poisons are
11 sold, dispensed, stocked, exposed or offered for sale at wholesale to a pharmacy or other legally li-
12 censed drug outlets or persons.

13 (37) "Class II wholesaler" means any person operating or maintaining a wholesale distribution
14 center, wholesale business or any other business in which nonprescription drugs are offered for sale
15 at wholesale to a drug outlet legally authorized to resell.

16 **SECTION 72.** ORS 689.115 is amended to read:

17 689.115. (1) The State Board of Pharmacy [*shall consist*] **consists** of [*seven*] **eight** members[, *two*
18 *of whom shall be representatives of the public, and the remaining Five of whom shall*] **appointed by**
19 **the Governor and subject to confirmation by the Senate in the manner provided in ORS**
20 **171.562 and 171.565. All members of the board must be residents of this state. Of the mem-**
21 **bers of the board:**

22 (a) **Five must** be licensed pharmacists. [*The members shall possess the qualifications specified*
23 *in subsections (2) and (3) of this section.*]

24 (b) **One must be a pharmacy technician licensed under ORS 689.486.**

25 (c) **Two must be members of the public who are not licensed under this chapter or a**
26 **spouse, domestic partner, child, parent or sibling of a person licensed under this chapter.**

27 (2)(a) **Board members required to be licensed pharmacists may be selected by the Gov-**
28 **ernor from a list of three to five nominees for each vacancy, submitted by a task force as-**
29 **sembled by the Oregon State Pharmacy Association to represent all of the interested**
30 **pharmacy groups.**

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

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

35 (B) **Are not former members** of the profession of pharmacy[, *or persons who have any imme-*
36 *diante family in the profession of pharmacy or persons who have ever had*];

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

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

40 [(3)] (c) The licensed pharmacist members of the board [*shall*] **must**, at the time of their ap-
41 pointment:

42 [(a) *Be residents of this state*];

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

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

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

1 **(d) In selecting the members of the board, the Governor shall strive to balance the rep-**
2 **resentation on the board according to:**

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

4 **(B) Ethnic group.**

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

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

12 *[(6) (3) [Any vacancy which occurs in the membership of the board for any reason, including ex-*
13 *piration of term, removal, resignation, death, disability or disqualification, shall be filled by the Gov-*
14 *ernor in the manner prescribed by subsections (4) and (5) of this section.]* **The term of office of each**
15 **member is three years, but a member serves at the pleasure of the Governor.** The Governor
16 shall fill vacancies which occur by expiration of full terms within 90 days prior to each date of ex-
17 piration, and shall fill vacancies which occur for any other reason within 60 days after each such
18 vacancy occurs.

19 **SECTION 73. ORS 689.125 is repealed.**

20 **NOTE:** Section 74 was repealed. Subsequent sections were not renumbered.

21 **SECTION 75.** ORS 689.165 is amended to read:

22 689.165. (1) The State Board of Pharmacy shall elect from its members a president and vice
23 president and such other officers as it deems appropriate and necessary to the conduct of its busi-
24 ness. The President of the State Board of Pharmacy shall preside at all meetings of the board and
25 shall be responsible for the performance of all of the duties and functions of the board required or
26 permitted by this chapter. If the president is absent or unable to preside, the vice president shall
27 preside. Each additional officer elected by the board shall perform those duties normally associated
28 with their position and such other duties assigned from time to time by the board.

29 (2) Officers elected by the board shall serve terms of one year commencing with the day of their
30 election, and ending upon election of their successors and shall serve no more than one consecutive
31 full term in each office to which they are elected.

32 (3) *[The board shall employ a licensed pharmacist who shall be an ex officio member of the board*
33 *without vote to serve as a full-time employee of the board in the position of executive director.]* The
34 executive director **of the board** shall be responsible for the performance of the regular administra-
35 tive functions of the board and such other duties as the board may direct. The executive director
36 shall not perform any discretionary or decision-making functions for which the board is solely re-
37 sponsible.

38 **SECTION 76.** ORS 689.195 is amended to read:

39 689.195. (1) The State Board of Pharmacy may, in its discretion, employ persons in *[addition to*
40 *the executive director in such other]* positions or capacities as it deems necessary to the proper con-
41 duct of board business and to the fulfillment of the board's responsibilities as defined by this chap-
42 ter.

43 (2) The employees of the board other than the executive director shall receive, as compensation,
44 an annual salary payable monthly, the amount of which shall be determined by law, and reimburse-
45 ment for expenses incurred in connection with performance of their official duties.

1 **SECTION 77.** ORS 689.255 is amended to read:

2 689.255. (1) To obtain a license to engage in the practice of pharmacy, an applicant for licensure
3 by examination shall:

4 (a) Have submitted a written application in the form prescribed by the State Board of Pharmacy.

5 (b) Have attained the age of 18 years.

6 (c) Be of good moral character and temperate habits.

7 (d) Have completed requirements for the first professional undergraduate degree as certified by
8 a school or college of pharmacy which has been approved by the board.

9 (e) Have completed an internship or other program which has been approved by the board, or
10 demonstrated to the board's satisfaction experience in the practice of pharmacy which meets or ex-
11 ceeds the minimum internship requirements of the board.

12 (f) Have successfully passed an examination [*given*] **approved** by the board.

13 (g) Have paid the fees specified by the board for examination and issuance of license.

14 (2)(a) [*The examination for licensure required under subsection (1)(f) of this section shall be given*
15 *by the board at least two times during each fiscal year of the state.*] The board shall [*determine*] **ap-**
16 **prove** the content and subject matter of each examination[, *the place, time and date of administration*
17 *of the examination and those persons who shall*] **and determine which persons** have successfully
18 passed the examination.

19 (b) The examination shall be prepared to measure the competence of the applicant to engage in
20 the practice of pharmacy. The board may employ and cooperate with any organization or consultant
21 in the preparation and grading of an appropriate examination, but shall retain the sole discretion
22 and responsibility of determining which applicants have successfully passed such an examination.

23 (3)(a) All applicants for licensure by examination shall obtain professional and practical experi-
24 ence in the practice of pharmacy concurrent with or after college attendance, or both, under such
25 terms and conditions as the board shall determine.

26 (b) The board shall establish standards for internship or any other program necessary to qualify
27 an applicant for the licensure examination based on nationally recognized standards of practice and
28 shall also determine the necessary qualifications of any preceptors used in any internship or other
29 program.

30 (4) Any person who has received a [*first*] professional [*undergraduate*] degree from a school or
31 college of pharmacy located outside the United States which has not been approved by the board,
32 but who is otherwise qualified to apply for a license to practice pharmacy in the State of Oregon
33 may be deemed to have satisfied the degree requirements of subsection (1)(d) of this section by
34 verification to the board of the academic record and graduation of the person and by meeting such
35 other requirements as the board may establish. The board may require such person to successfully
36 pass an examination or examinations given or approved by the board to establish proficiency in
37 English and equivalency of education of such person with qualified graduates of a degree program
38 referred to in subsection (1)(d) of this section as a prerequisite of taking the licensure examination
39 provided for in subsection (1)(f) of this section.

40 **SECTION 78.** ORS 689.265 is amended to read:

41 689.265. (1) To obtain a license as a pharmacist by reciprocity, an applicant for licensure shall:

42 (a) Have submitted a written application in the form prescribed by the State Board of Pharmacy.

43 (b) Have attained the age of 18 years.

44 (c) Have good moral character and temperate habits.

45 (d) Have possessed at the time of initial licensure as a pharmacist such other qualifications

1 necessary to have been eligible for licensure at that time in this state.

2 (e) Have engaged in the practice of pharmacy for a period of at least one year or have met the
3 internship requirements of this state within the one-year period immediately previous to the date
4 of such application.

5 (f) Have presented to the board proof of initial licensure by examination and proof that such
6 license and any other license or licenses granted to the applicant by any other state or states have
7 not been suspended, revoked, canceled or otherwise restricted for any reason except nonrenewal or
8 the failure to obtain required continuing education credits in any state where the applicant is li-
9 censed but not engaged in the practice of pharmacy.

10 (g) Have successfully passed an examination in jurisprudence [*given*] **approved** by the board.

11 (h) Have paid the fees specified by the board for issuance of a license.

12 (i) Have submitted to the board proof of a professional [*undergraduate*] degree that meets the
13 requirements of ORS 689.255 (4), if the applicant has received a [*first*] professional [*undergraduate*]
14 degree from a school or college of pharmacy located outside the United States.

15 (2) No applicant shall be eligible for licensure by reciprocity unless the state in which the ap-
16 plicant was initially licensed as a pharmacist also grants reciprocal licensure to pharmacists duly
17 licensed by examination in this state, under like circumstances and conditions.

18 **SECTION 79.** ORS 689.405 is amended to read:

19 689.405. (1) The State Board of Pharmacy may refuse to issue or renew, or may suspend, revoke
20 or restrict the license of any person or the certificate of registration of any drug outlet upon one
21 or more of the following grounds:

22 (a) Unprofessional conduct as that term is defined by the rules of the board.

23 (b) Repeated or gross negligence.

24 (c) Incapacity of a nature that prevents a person from engaging in the activity for which the
25 person is licensed with reasonable skill, competence and safety to the public.

26 (d) [*Habitual or excessive use of intoxicants, drugs or controlled substances.*] **Impairment as de-**
27 **defined in section 1 of this 2009 Act.**

28 (e) Being found guilty by the board of a violation of subparagraph (B) of this paragraph, or by
29 a court of competent jurisdiction of one or more of the following:

30 (A) A felony, as defined by the laws of this state; or

31 (B) Violations of the pharmacy or drug laws of this state or rules pertaining thereto, or of
32 statutes, rules or regulations of any other state, or of the federal government.

33 (f) Fraud or intentional misrepresentation by a licensee or registrant in securing or attempting
34 to secure the issuance or renewal of a license.

35 (g) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without
36 a license, or falsely using the title of pharmacist.

37 (h) Aiding and abetting an individual in performing the duties of a pharmacy technician without
38 licensing.

39 (i) Being found by the board to be in violation of any of the provisions of ORS 435.010 to 435.130,
40 453.025, 453.045, 475.035 to 475.190, 475.805, 475.840 to 475.980 or this chapter or rules adopted
41 pursuant to ORS 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.840 to 475.980
42 and this chapter.

43 (j) Disciplinary action by another state regarding a license, based upon acts by the licensee
44 similar to acts described in this subsection. A certified copy of the record of disciplinary action of
45 the state taking the disciplinary action is conclusive evidence thereof.

1 (2) Upon receipt of a complaint under this chapter, the board shall conduct an investigation as
2 described under ORS 676.165.

3 (3) Actions taken under subsection (1) of this section shall be considered a contested case under
4 ORS chapter 183.

5 **SECTION 80.** ORS 689.508 is amended to read:

6 689.508. The original record of every prescription filled by a pharmacy must be kept on file **for**
7 **three years** at the pharmacy **or as specified by State Board of Pharmacy rule**. The prescription
8 record must contain the date of the transaction and the brand name, or if the drug has no brand
9 name, the generic name and the name of the manufacturer of any drug substituted pursuant to ORS
10 689.515. If the prescription may be communicated to the pharmacy by oral or electronic means, the
11 prescription information may be recorded and stored in an electronic form that allows for ready
12 retrieval. Prescriptions maintained in the file required under this section must be readily accessible
13 to the [*State Board of Pharmacy*] **board** for inspection.

14
15 **BOARD OF EXAMINERS OF LICENSED DIETITIANS**

16
17 **SECTION 81.** ORS 691.485 is amended to read:

18 691.485. (1) There is established a Board of Examiners of Licensed Dietitians [*within the De-*
19 *partment of Human Services*] for the purpose of carrying out and enforcing the provisions of ORS
20 691.405 to 691.585. **The board consists of seven members appointed by the Governor and sub-**
21 **ject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All**
22 **members of the board must be residents of this state. Of the members of the board:**

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

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

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

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

30 **(2)(a) Board members required to be licensed dietitians may be selected by the Governor**
31 **from a list of three to five nominees for each vacancy, submitted by a professional organ-**
32 **ization representing dietitians.**

33 **(b) In selecting the members of the board, the Governor shall strive to balance the rep-**
34 **resentation on the board according to:**

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

36 **(B) Ethnic group.**

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

39 **(3) The term of office of each member is three years, but a member serves at the pleas-**
40 **ure of the Governor.**

41 (4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495.

42 **SECTION 82.** ORS 691.505 is amended to read:

43 691.505. The Board of Examiners of Licensed Dietitians shall:

44 [*(1) Hire and prescribe the duties of an executive secretary who shall serve at the direction of the*
45 *board.]*

1 [(2)] (1) Determine the qualifications and fitness of applicants for licensure, renewal of license
2 and reciprocal licenses.

3 [(3)] (2) Subject to the provisions of ORS chapter 183, adopt rules that are necessary to conduct
4 its business, carry out its duties and administer ORS 691.405 to 691.585.

5 [(4)] (3) Examine, approve, issue, deny, revoke, suspend and renew licenses of dietitian appli-
6 cants and licensees under ORS 691.405 to 691.585 and conduct hearings in connection with these
7 actions.

8 [(5)] (4) Maintain a public record of every dietitian licensed in this state including places of
9 business, residence and the date and number of their license.

10 [(6)] (5) Establish standards of professional responsibility and practice for persons licensed under
11 ORS 691.405 to 691.585 that are consistent with those standards of professional responsibility and
12 practice adopted by the American Dietetic Association.

13 [(7)] (6) Select a licensing examination offered by the Commission on Dietetic Registration or
14 other examination.

15 [(8)] (7) Establish continuing education requirements for renewal of a license consistent with the
16 requirements adopted by the Commission on Dietetic Registration.

17 [(9)] (8) Establish additional educational requirements for applicants for the previous five years
18 of licensure.

19 [(10)] (9) Conduct hearings on complaints concerning violations of ORS 691.405 to 691.585 and
20 the rules adopted under ORS 691.405 to 691.585.

21 [(11)] (10) Provide for examinations or waiver of examination for applicants.

22 [(12)] (11) Establish examination and licensing fees.

23 [(13)] (12) Request and receive the assistance of state educational institutions or other state
24 agencies.

25 [(14)] (13) Prepare information of consumer interest describing the regulatory functions of the
26 board and describing the procedures by which consumer complaints are filed with and resolved by
27 the board. The board shall make the information available to the general public and appropriate
28 state agencies.

29 **SECTION 83.** ORS 691.535 is amended to read:

30 691.535. The Board of Examiners of Licensed Dietitians may deny or refuse to renew a
31 [licensee] **license** or may suspend or revoke a license or may impose probationary conditions where
32 the licensee or applicant has [been guilty of]:

33 (1) **Committed** unprofessional conduct as defined by the standards of practice established by the
34 board;

35 (2) [Obtaining] **Obtained** or [attempting] **attempted** to obtain a license by fraud, misrepresen-
36 tation or concealment of material facts;

37 (3) [Violating] **Violated** any lawful order or rule adopted by the board which may affect the
38 health, welfare or safety of the public; [or]

39 (4) **Committed** gross negligence or incompetence in the performance of professional duties[.];
40 **or**

41 (5) **An impairment as defined in section 1 of this 2009 Act.**

42
43 **STATE MORTUARY AND CEMETERY BOARD**

44
45 **SECTION 84.** ORS 692.180 is amended to read:

1 692.180. (1) Upon complaint or upon its own motion, the State Mortuary and Cemetery Board
2 may investigate any complaint concerning any person, licensee or holder of a certificate of authority
3 made by any person or by the board. If the board finds any of the causes described in this section
4 in regard to any person, licensee or applicant or the holder of a certificate of authority, the board
5 may impose a civil penalty of not more than \$1,000 for each violation, suspend or revoke a license
6 to practice or to operate under this chapter or refuse to grant or renew a license. The causes are
7 as follows:

8 (a) Misrepresentation in the conduct of business or in obtaining a license.

9 (b) Fraudulent or dishonest conduct, when the conduct bears a demonstrable relationship to fu-
10 neral service practice, embalming practice or the operation of cemeteries or crematoriums.

11 (c) Except as provided in this paragraph, solicitation of human dead bodies by the licensee or
12 any agent, assistant or employee of the licensee, either before or after death. This paragraph does
13 not apply to:

14 (A) Activities permissible under ORS 97.923 to 97.949; or

15 (B) The sale, in accordance with provisions of the Insurance Code, of prearranged funeral or
16 cemetery merchandise or services, or any combination thereof, to be funded by the contemporaneous
17 or subsequent assignment of a life insurance policy or an annuity contract.

18 (d) Offensive treatment of dead human bodies or a body in the person's custody has been dis-
19 posed of in violation of ORS chapter 432 or rules adopted pursuant thereto.

20 (e) Aiding or abetting a person who is not a licensee or an apprentice in any act involving the
21 disposition of dead human bodies before the bodies undergo cremation, entombment or burial or
22 before the bodies are transported out of the State of Oregon.

23 (f) Sale or reuse of any casket or body container that has been previously utilized for the
24 placement of a deceased human body. This does not include use of a rental cover as defined in ORS
25 692.010.

26 (g) Violation of any of the provisions of this chapter or any rules adopted under this chapter.

27 (h) Violation of any provision of ORS 97.929 or 97.937 or regulations adopted by the Federal
28 Trade Commission regulating funeral industry practices.

29 (i) Conviction of a crime, when the crime bears a demonstrable relationship to funeral service
30 practice, embalming practice or the operation of cemeteries or crematoriums. A copy of the record
31 of the conviction certified to by the clerk of the court entering the conviction shall be conclusive
32 evidence of the conviction.

33 (j) Violation of ORS chapter 97 as it relates to disposition of human bodies and to cemeteries.

34 (k) Refusing to surrender promptly the custody of a dead human body, upon the express order
35 of the person lawfully entitled to the custody of the body.

36 (L) Acting as the legal representative of any deceased person for whom the licensee has ren-
37 dered services governed by this chapter. This subsection does not prohibit a licensee from acting
38 as the legal representative of a deceased relative or a deceased licensee if the deceased licensee
39 was a partner, employee or employer in the licensee's practice.

40 (m) Failure to pay any civil penalty imposed by the board within 10 days after the order is en-
41 tered or, if appealed, within 10 days after the order is sustained on appeal.

42 (n) **Impairment as defined in section 1 of this 2009 Act.**

43 (2) All amounts recovered under this section shall be deposited in accordance with ORS 692.375.

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

45 (4) Upon receipt of a complaint, the board shall conduct an investigation as described under

1 ORS 676.165.

2 (5) Information that the board obtains as part of an investigation into licensee or applicant
3 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
4 licensee or applicant conduct is confidential as provided under ORS 676.175.

5 **SECTION 85.** ORS 692.300 is amended to read:

6 692.300. (1) There is created the State Mortuary and Cemetery Board [*in the Department of Hu-*
7 *man Services*] to carry out the purposes and enforce the provisions of this chapter. [*The board shall*
8 *consist of 11 members. The members of the board shall be as follows:*] **The board consists of 11**
9 **members appointed by the Governor and subject to confirmation by the Senate in the man-**
10 **ner provided in ORS 171.562 and 171.565. All members of the board must be residents of this**
11 **state. Of the members of the board:**

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

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

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

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

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

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

24 **(A) Any professional organization representing funeral service practitioners, if the va-**
25 **cancy on the board is for a funeral service practitioner position; or**

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

28 **(b) In selecting the members of the board, the Governor shall strive to balance the rep-**
29 **resentation on the board according to:**

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

31 **(B) Ethnic group.**

32 [(2)] **(3) The term of office of the members of the board shall be four years ending on December**
33 **31, but a member serves at the pleasure of the Governor.** A member is eligible for no more than
34 two consecutive terms. [*They shall be appointed by the Governor and hold office until the appointment*
35 *and qualification of their successors.*]

36 **SECTION 86.** ORS 692.320 is amended to read:

37 692.320. (1) The State Mortuary and Cemetery Board has the power to adopt and enforce for the
38 protection of the public health, safety and welfare reasonable rules relating to the following:

39 (a) The licensing of funeral service practitioners, embalmers, funeral establishments,
40 crematoriums and cemeteries.

41 (b) The registration of apprentices.

42 (c) The practice of funeral service practitioners and embalmers, and the operation of funeral
43 establishments, immediate disposition companies, crematoriums and cemeteries.

44 (d) Sanitary conditions of funeral establishments, crematoriums, cemeteries and any location in
45 which dead human bodies are stored or processed prior to final disposition.

1 (e) Matters necessary to carry out the provisions of this chapter.

2 (2) Other than areas used as living quarters, the board shall inspect not less than once
3 biennially the facilities and records of funeral establishments, cemeteries and crematoriums and
4 immediate disposition companies and any location in which dead human bodies may be stored, tem-
5 porarily held or processed prior to final disposition. The inspection of the records of such locations
6 shall be limited to those records required to comply with this chapter or ORS chapter 432 or rules
7 adopted pursuant thereto. The board may make random inspections at other times. The board shall
8 employ one or more persons to perform such inspections and aid in the enforcement of this chapter
9 and rules adopted thereunder. No person employed under this subsection may be a member of the
10 board or actively engaged in a practice regulated by this chapter.

11 (3) The board may hold hearings, conduct investigations, subpoena witnesses, administer oaths
12 and take testimony in order to carry out the provisions of this chapter.

13 (4) The board shall have a common seal and, subject to any applicable provision of the State
14 Personnel Relations Law, may employ [*necessary administrative*] staff, fix the compensation for them
15 and incur other necessary expenses.

16
17 **CONFLICT AMENDMENTS**
18

19 **SECTION 87. If House Bill 2058 becomes law, sections 10 (amending ORS 675.310), 18**
20 **(amending ORS 675.775), 34 (amending ORS 678.140), 40 (amending ORS 679.230), 69 (amending**
21 **ORS 688.545) and 72 (amending ORS 689.115) of this 2009 Act are repealed.**

22 **SECTION 88. If Senate Bill 177 becomes law, section 12 of this 2009 Act (amending ORS**
23 **675.510) is repealed and ORS 675.510, as amended by section 1, chapter __, Oregon Laws 2009**
24 **(Enrolled Senate Bill 177), is amended to read:**

25 675.510. As used in ORS 675.510 to 675.600, unless the context requires otherwise:

26 (1) "Authorization to practice regulated social work" means a certificate or license issued by
27 the State Board of Licensed Social Workers under ORS 675.510 to 675.600.

28 (2) "Clinical social work" means the professional practice of applying principles and methods
29 with individuals, couples, families, children and groups, which include, but are not restricted to:

30 (a) Providing diagnostic, preventive and treatment services of a psychosocial nature pertaining
31 to personality adjustment, behavior problems, interpersonal dysfunctioning or deinstitutionalization;

32 (b) Developing a psychotherapeutic relationship to employ a series of problem solving techniques
33 for the purpose of removing, modifying, or retarding disrupted patterns of behavior, and for pro-
34 moting positive personality growth and development;

35 (c) Counseling and the use of psychotherapeutic techniques, such as disciplined interviewing
36 which is supportive, directive or insight oriented depending upon diagnosed problems, observation
37 and feedback, systematic analysis, and recommendations;

38 (d) Modifying internal and external conditions that affect a client's behavior, emotions, thinking,
39 or intrapersonal processes;

40 (e) Explaining and interpreting the psychosocial dynamics of human behavior to facilitate prob-
41 lem solving; and

42 (f) Supervising, administering or teaching clinical social work practice.

43 [(3) "*Impaired clinical social worker*" means a person who is unable to perform the practice of
44 clinical social work by reason of mental illness, physical illness or alcohol or other drug abuse.]

45 [(4)] (3) "Regulated social worker" means a clinical social work associate certified under ORS

1 675.537 or a clinical social worker licensed under ORS 675.530.

2 [(5)] (4) “Unprofessional conduct” includes, but is not limited to, any conduct or practice con-
3 trary to recognized standards of ethics of the social work profession or any conduct that constitutes
4 or might constitute a danger to the health or safety of a client or the public or in any other manner
5 fails or might fail to adhere to the recognized standards of the profession.

6 **SECTION 88a.** If Senate Bill 177 becomes law, section 2, chapter __, Oregon Laws 2009
7 (Enrolled Senate Bill 177) (amending ORS 675.510), is repealed and ORS 675.510, as amended
8 by section 1, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), and section 88 of this
9 2009 Act, is amended to read:

10 675.510. As used in ORS 675.510 to 675.600, unless the context requires otherwise:

11 (1) “Authorization to practice regulated social work” means a certificate or license issued by
12 the State Board of Licensed Social Workers under ORS 675.510 to 675.600.

13 (2) “Clinical social work” means the professional practice of applying principles and methods
14 with individuals, couples, families, children and groups, which include, but are not restricted to:

15 (a) Providing diagnostic, preventive and treatment services of a psychosocial nature pertaining
16 to personality adjustment, behavior problems, interpersonal dysfunctioning or deinstitutionalization;

17 (b) Developing a psychotherapeutic relationship to employ a series of problem solving techniques
18 for the purpose of removing, modifying, or retarding disrupted patterns of behavior, and for pro-
19 moting positive personality growth and development;

20 (c) Counseling and the use of psychotherapeutic techniques, such as disciplined interviewing
21 which is supportive, directive or insight oriented depending upon diagnosed problems, observation
22 and feedback, systematic analysis, and recommendations;

23 (d) Modifying internal and external conditions that affect a client’s behavior, emotions, thinking,
24 or intrapersonal processes;

25 (e) Explaining and interpreting the psychosocial dynamics of human behavior to facilitate prob-
26 lem solving; and

27 (f) Supervising, administering or teaching clinical social work practice.

28 (3) “Regulated social worker” means a **baccalaureate social worker registered under section**
29 **6, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), a master’s social worker licensed**
30 **under section 7, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), a clinical social**
31 **work associate certified under ORS 675.537 or a clinical social worker licensed under ORS 675.530.**

32 (4) “Unprofessional conduct” includes, but is not limited to, any conduct or practice contrary
33 to recognized standards of ethics of the social work profession or any conduct that constitutes or
34 might constitute a danger to the health or safety of a client or the public or in any other manner
35 fails or might fail to adhere to the recognized standards of the profession.

36 **SECTION 88b.** Section 50, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), is
37 amended to read:

38 **Sec. 50.** Sections 4a, 6, 7, 12a and 12b, **chapter __, Oregon Laws 2009 (Enrolled Senate Bill**
39 **177)**, [of this 2009 Act and] the amendments to ORS [675.510 and] 675.530 by [sections 2 and 9 of this
40 2009 Act] **section 9, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), and the**
41 **amendments to ORS 675.510 by section 88a of this 2009 Act** become operative on January 1,
42 2011.

43 **SECTION 89.** If House Bill 2345 becomes law and Senate Bill 177 does not become law, ORS
44 675.583, as amended by section 14 of this 2009 Act, is amended to read:

45 675.583. (1) A licensed clinical social worker shall report to the State Board of Clinical Social

1 Workers any information the licensed clinical social worker has that appears to show that a licensed
2 clinical social worker [*has or may have a physical illness that makes the clinical social worker unable*
3 *to practice*] **is or may be an impaired professional as defined in section 1, chapter __, Oregon**
4 **Laws 2009 (Enrolled House Bill 2345)**, or may be guilty of unprofessional conduct according to the
5 guidelines of the code of ethics, to the extent that disclosure does not conflict with the requirements
6 of ORS 675.580.

7 (2) Any information that the board obtains pursuant to subsection (1) of this section is confi-
8 dential as provided under ORS 676.175.

9 (3) Any person who reports or provides information to the board under subsection (1) of this
10 section in good faith [*shall not be*] **is not** subject to an action for civil damages as a result
11 [*thereof*] **of reporting or providing information to the board.**

12 **SECTION 89a. If Senate Bill 177 becomes law, section 14 of this 2009 Act (amending ORS**
13 **675.583) is repealed and ORS 675.583, as amended by section 18, chapter __, Oregon Laws 2009**
14 **(Enrolled Senate Bill 177), is amended to read:**

15 675.583. (1) A regulated social worker shall report to the State Board of Licensed Social Work-
16 ers any information the regulated social worker has that appears to show that a regulated social
17 worker [*is or may be an impaired social worker, or*] **has or may have a physical illness that makes**
18 **the regulated social worker unable to practice, or** may have engaged in unprofessional conduct
19 according to the guidelines of the code of ethics, to the extent that disclosure does not conflict with
20 the requirements of ORS 675.580.

21 (2) Notwithstanding ORS 676.175, any information that the board obtains pursuant to subsection
22 (1) of this section is confidential and may not be disclosed except as provided by the board by rule.

23 (3) A person who reports or provides information to the board under subsection (1) of this sec-
24 tion in good faith is not subject to an action for civil damages as a result thereof.

25 **SECTION 89b.** If both Senate Bill 177 and House Bill 2345 become law, ORS 675.583, as
26 amended by section 18, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), and section 89a
27 of this 2009 Act, is amended to read:

28 675.583. (1) A regulated social worker shall report to the State Board of Licensed Social Work-
29 ers any information the regulated social worker has that appears to show that a regulated social
30 worker [*has or may have a physical illness that makes the regulated social worker unable to*
31 *practice*] **is or may be an impaired professional as defined in section 1, chapter __, Oregon**
32 **Laws 2009 (Enrolled House Bill 2345)**, or may have engaged in unprofessional conduct according
33 to the guidelines of the code of ethics, to the extent that disclosure does not conflict with the re-
34 quirements of ORS 675.580.

35 (2) Notwithstanding ORS 676.175, any information that the board obtains pursuant to subsection
36 (1) of this section is confidential and may not be disclosed except as provided by the board by rule.

37 (3) A person who reports or provides information to the board under subsection (1) of this sec-
38 tion in good faith is not subject to an action for civil damages as a result thereof.

39 **SECTION 89c. The amendments to ORS 675.583 by sections 89 and 89b of this 2009 Act**
40 **become operative on July 1, 2010.**

41 **SECTION 90. If Senate Bill 177 becomes law and House Bill 2058 does not become law,**
42 **section 15 of this 2009 Act (amending ORS 675.590) is repealed and ORS 675.590, as amended**
43 **by section 20, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 177), is amended to read:**

44 675.590. (1) There is established a State Board of Licensed Social Workers. **The board shall**
45 **consist of seven members appointed by the Governor and subject to confirmation by the**

1 **Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must**
2 **be residents of this state. Of the members of the board:**

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

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

6 (A) **Licensed clinical social workers; or**

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

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

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

14 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
15 **resentation on the board according to:**

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

17 (B) **Ethnic group.**

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

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

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

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

27 [(5)] (4) **Members of the board** are entitled to compensation and expenses as provided in ORS
28 292.495.

29 **SECTION 90a. If both Senate Bill 177 and House Bill 2058 become law, section 15 of this**
30 **2009 Act (amending ORS 675.590) is repealed.**

31 **SECTION 91. If Senate Bill 177 becomes law, section 16 of this 2009 Act (amending ORS**
32 **675.600) is repealed and ORS 675.600, as amended by section 23, chapter __, Oregon Laws 2009**
33 **(Enrolled Senate Bill 177), is amended to read:**

34 675.600. (1) The State Board of Licensed Social Workers shall:

35 (a) Pursuant to ORS chapter 183, make rules necessary to carry out the provisions of ORS
36 675.510 to 675.600.

37 (b) Publish annually a list of the names and addresses of all persons who have been authorized
38 to practice regulated social work.

39 (c) Establish a program for *[impaired]* **regulated social workers who have an impairment as**
40 **defined in section 1 of this 2009 Act or who are unable to practice due to physical illness,** to
41 assist regulated social workers to regain or retain their authorizations to practice regulated social
42 work and impose the requirement of participation as a condition to reissuance or retention of the
43 authorization.

44 (d) Establish a voluntary arbitration procedure that may be invoked with the consent of clients
45 and regulated social workers whereby disputes between clients and workers may be resolved.

1 (e) Report to the Legislative Assembly on its activities regarding authorizations to practice
2 regulated social work during the preceding biennium.

3 [(2) *The board may appoint an administrator who may not be a member of the board. The board*
4 *shall fix the compensation for the administrator.*]

5 [(3)] (2) Any information obtained by the board as part of the [*impaired social workers*] program
6 **for regulated social workers who have an impairment** is confidential and may not be disclosed
7 except as provided by the board by rule.

8 **SECTION 91a.** If House Bill 2345 becomes law and Senate Bill 177 does not become law, ORS
9 675.600, as amended by section 16 of this 2009 Act, is amended to read:

10 675.600. The State Board of Clinical Social Workers shall:

11 (1) Pursuant to ORS chapter 183, make rules necessary to carry out the provisions of ORS
12 675.510 to 675.600;

13 (2) Publish annually a list of the names and addresses of all persons who have been certified or
14 licensed under ORS 675.510 to 675.600;

15 [(3) *Establish a program for clinical social workers who have an impairment as defined in section*
16 *1 of this 2009 Act or who are unable to practice due to physical illness, to assist licensed clinical social*
17 *workers to regain or retain their certification or licensure and impose the requirement of participation*
18 *as a condition to reissuance or retention of the certificate or license;*]

19 [(4)] (3) Establish a voluntary arbitration procedure that may be invoked with the consent of
20 clients and the licensed clinical social workers whereby disputes between clients and workers may
21 be resolved; and

22 [(5)] (4) Report to the Legislative Assembly on its activities regarding the certification or
23 licensure of clinical social workers during the preceding biennium.

24 **SECTION 91b.** If both House Bill 2345 and Senate Bill 177 become law, ORS 675.600, as
25 amended by section 23, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177), and section 91
26 of this 2009 Act, is amended to read:

27 675.600. [(1)] The State Board of Licensed Social Workers shall:

28 [(a)] (1) Pursuant to ORS chapter 183, make rules necessary to carry out the provisions of ORS
29 675.510 to 675.600.

30 [(b)] (2) Publish annually a list of the names and addresses of all persons who have been au-
31 thorized to practice regulated social work.

32 [(c) *Establish a program for regulated social workers who have an impairment as defined in section*
33 *1 of this 2009 Act or who are unable to practice due to physical illness, to assist regulated social*
34 *workers to regain or retain their authorizations to practice regulated social work and impose the re-*
35 *quirement of participation as a condition to reissuance or retention of the authorization.*]

36 [(d)] (3) Establish a voluntary arbitration procedure that may be invoked with the consent of
37 clients and regulated social workers whereby disputes between clients and workers may be resolved.

38 [(e)] (4) Report to the Legislative Assembly on its activities regarding authorizations to practice
39 regulated social work during the preceding biennium.

40 [(2) *Any information obtained by the board as part of the program for regulated social workers*
41 *who have an impairment is confidential and may not be disclosed except as provided by the board by*
42 *rule.*]

43 **SECTION 91c.** If both House Bill 2345 and Senate Bill 177 become law, ORS 675.600, as
44 amended by section 23, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 177), and section 20,
45 chapter ___, Oregon Laws 2009 (Enrolled House Bill 2345), is amended to read:

1 675.600. [(1)] The State Board of Licensed Social Workers shall:

2 [(a)] (1) Pursuant to ORS chapter 183, adopt rules necessary to carry out the provisions of ORS
3 675.510 to 675.600.

4 [(b)] (2) Publish annually a list of the names and addresses of all persons who have been au-
5 thorized to practice regulated social work.

6 [(c)] (3) Establish a voluntary arbitration procedure that may be invoked with the consent of
7 clients and regulated social workers whereby disputes between clients and workers may be resolved.

8 [(d)] (4) Report to the Legislative Assembly on its activities regarding authorizations to practice
9 regulated social work during the preceding biennium.

10 [(2) *The board may appoint an administrator who may not be a member of the board. The board*
11 *shall fix the compensation for the administrator.*]

12 **SECTION 91d. The amendments to ORS 675.600 by sections 91a, 91b and 91c of this 2009**
13 **Act become operative July 1, 2010.**

14 **SECTION 92.** If House Bill 3232 becomes law, ORS 676.608, as amended by section 5a of this
15 2009 Act, is amended to read:

16 676.608. (1)(a) Upon its own motion, the Oregon Health Licensing Agency may initiate and con-
17 duct investigations of matters relating to the practice of occupations or professions subject to the
18 authority of the boards, councils and programs listed in ORS 676.606.

19 (b) When the agency receives a complaint by any person against a holder [*of a certificate, permit,*
20 *license or registration to practice issued by the agency*], the agency shall investigate the complaint
21 as provided in ORS 676.165.

22 (2) While conducting an investigation authorized under subsection (1) of this section or a hear-
23 ing related to an investigation, the agency may:

24 (a) Take evidence;

25 (b) Administer oaths;

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

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

28 (e) Require answers to interrogatories;

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

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

33 (3) In exercising its authority under this section, the agency may issue subpoenas over the sig-
34 nature of the Director of the Oregon Health Licensing Agency or designated employee thereof and
35 in the name of the State of Oregon.

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

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

45 (6) In all investigations and hearings, the agency and any person affected thereby may have the

1 benefit of counsel.

2 **SECTION 93. If House Bill 2058 becomes law, section 24 of this 2009 Act (amending ORS**
3 **677.235) is repealed and ORS 677.235, as amended by section 5, chapter __, Oregon Laws 2009**
4 **(Enrolled House Bill 2058), is amended to read:**

5 677.235. (1) The Oregon Medical Board consists of 12 members appointed by the Governor and
6 subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All
7 members of the board must be residents of this state. Of the members of the board:

- 8 (a) Seven must have the degree of Doctor of Medicine;
- 9 (b) Two must have the degree of Doctor of Osteopathy;
- 10 (c) One must have the degree of Doctor of Podiatric Medicine; and
- 11 (d) Two must be members of the public representing health consumers **and** who are not:
 - 12 (A) Otherwise eligible for appointment to the board; **or**

13 **(B) A spouse, domestic partner, child, parent or sibling of an individual having the degree**
14 **of Doctor of Medicine, Doctor of Osteopathy or Doctor of Podiatric Medicine.**

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

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

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

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

29 (c) Neither the public members nor any person who is a spouse, domestic partner, child, parent
30 or sibling of a public member may be employed as a health professional. [*The public members are*
31 *members of the investigative committee of the board.*]

32 (d)(A) In selecting the members of the board, the Governor shall strive to balance the repre-
33 sentation on the board according to geographic areas of this state and ethnic group.

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

36 (3)(a) The term of office of each board member is three years, but a member serves at the
37 pleasure of the Governor. The terms must be staggered so that no more than four terms end each
38 year. A term begins on March 1 of the year the member is appointed and ends on the last day of
39 February of the third year thereafter. A member may not serve more than two consecutive terms.

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

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

- 45 (A) Is not a resident of this state;

1 (B) Has been absent from three consecutive board meetings, unless at least one absence is ex-
2 cused; or

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

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

8 **SECTION 94.** If House Bill 2345 becomes law, ORS 678.112, as amended by section 32 of this
9 2009 Act, is amended to read:

10 678.112. *[(1) When a person licensed to practice nursing voluntarily seeks treatment for an*
11 *impairment or physical problem that otherwise may lead to formal disciplinary action under ORS*
12 *678.111, the Oregon State Board of Nursing may abstain from taking such formal disciplinary action*
13 *if the board finds that the licensee can be treated effectively and that there is no danger to the public*
14 *health, safety or welfare.]*

15 *[(2) If the board abstains from taking such formal disciplinary action, it may require the licensee*
16 *to be subject to the voluntary monitoring program as established by the board.]*

17 *[(3) All records of the voluntary monitoring program are confidential and shall not be subject to*
18 *public disclosure, nor shall the records be admissible as evidence in any judicial proceedings.]*

19 *[(4) A licensee voluntarily participating in the voluntary monitoring program shall not be subject*
20 *to investigation or disciplinary action by the board for the same offense, if the licensee complies with*
21 *the terms and conditions of the monitoring program.]*

22 *[(5) The board shall establish by rule criteria for eligibility to participate in the voluntary moni-*
23 *toring program and criteria for successful completion of the program.]*

24 *[(6) Licensees] **Persons licensed to practice nursing** who elect not to participate in the [vol-*
25 *untary monitoring program] **impaired health professional program established under section 1b,***
26 ***chapter __, Oregon Laws 2009 (Enrolled House Bill 2345),** or who fail to comply with the terms*
27 *of participation shall be reported to the [board] **Oregon State Board of Nursing** for formal disci-*
28 *plinary action under ORS 678.111.*

29 **SECTION 94a.** The amendments to ORS 678.112 by section 94 of this 2009 Act become
30 operative on July 1, 2010.

31 **SECTION 95.** If House Bill 2243 becomes law, sections 37 (amending ORS 678.780) and 38
32 (amending ORS 678.800) of this 2009 Act are repealed.

33 **SECTION 96.** If House Bill 2058 becomes law, section 47 of this 2009 Act (amending ORS
34 683.250) is repealed and ORS 683.250, as amended by section 18, chapter __, Oregon Laws 2009
35 (Enrolled House Bill 2058), is amended to read:

36 683.250. (1) The Oregon Board of Optometry operates as a semi-independent state agency subject
37 to ORS 182.456 to 182.472, for the purpose of carrying out this chapter. The board consists of five
38 members appointed by the Governor and subject to confirmation by the Senate in the manner pro-
39 vided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the
40 members of the board:

41 (a) Four must be doctors of optometry licensed and in practice in Oregon; and

42 (b) One member must be a member of the public who represents health consumers and who [is
43 not]:

44 (A) **Is not** otherwise eligible for appointment to the board; [or]

45 (B) **Is not** the spouse, domestic partner, child, parent or sibling of a doctor of optometry; **and**

1 (C) Does not have a direct or indirect relationship to health care professionals, to the
2 health care industry or to the ophthalmic optical industry.

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

6 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
7 tation on the board according to:

8 (A) Geographic areas of this state; and

9 (B) Ethnic group.

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

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

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

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

20 (B) Has been absent from three consecutive board meetings, unless at least one absence is ex-
21 cused; or

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

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

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

29 **SECTION 97. If Senate Bill 131 becomes law, section 56 of this 2009 Act (amending ORS**
30 **685.110) is repealed and ORS 685.110, as amended by section 22, chapter 43, Oregon Laws 2009**
31 **(Enrolled Senate Bill 131), is amended to read:**

32 685.110. The Oregon Board of Naturopathic Medicine may refuse to grant a license, may suspend
33 or revoke a license, may limit a license, may impose probation, may issue a letter of reprimand and
34 may impose a civil penalty not to exceed \$1,000 for each offense for any of the following reasons:

35 (1) Using fraud or deception in securing a license.

36 (2) Impersonating another physician.

37 (3) Practicing naturopathic medicine under an assumed name.

38 (4) Performing an abortion.

39 (5) Being convicted of a crime involving moral turpitude.

40 (6) Any other reason that renders the applicant or licensee unfit to perform the duties of a
41 naturopathic physician.

42 (7) Being convicted of a crime relating to practice of naturopathic medicine.

43 (8) Committing negligence related to the practice of naturopathic medicine.

44 (9) [*Using intoxicants, drugs or controlled substances when the use is habitual or excessive*] **Hav-**
45 **ing an impairment as defined in section 1 of this 2009 Act.**

1 (10) Prescribing or dispensing drugs outside the scope of practice.

2 [(11) *Being committed to a mental institution for the treatment of a mental disease that affects the*
3 *ability of the applicant or licensee to safely practice naturopathic medicine.*]

4 [(12)] (11) Obtaining a fee through fraud or misrepresentation.

5 [(13)] (12) Committing gross or repeated malpractice.

6 [(14)] (13) Representing to a patient that a manifestly incurable condition of sickness, disease
7 or injury can be permanently cured.

8 [(15)] (14) Engaging in any conduct or practice contrary to a recognized standard of ethics of
9 the profession or any conduct or practice that does or might constitute a danger to the health or
10 safety of a patient or the public or any conduct, practice or condition that does or might [*impair*]
11 **adversely affect** a physician's ability safely and skillfully to practice naturopathic medicine.

12 [(16)] (15) Willfully and consistently utilizing any naturopathic service, X-ray equipment or
13 treatment contrary to recognized standards of practice of the naturopathic profession.

14 [(17)] (16) Failing to notify the board within 30 days of a change in the location of practice or
15 of mailing address.

16 [(18)] (17) Attempting to practice naturopathic medicine or practicing or claiming to practice
17 naturopathic medicine or any of its components in this state without first complying with the pro-
18 visions of this chapter.

19 [(19)] (18) Having a license to practice naturopathic medicine in another jurisdiction suspended
20 or revoked.

21 [(20)] (19) Employing unlicensed persons to practice naturopathic medicine.

22 [(21)] (20) Practicing natural childbirth without first obtaining a certificate of special compe-
23 tency.

24 [(22)] (21) Representing that the licensee is a medical specialist or practices a medical specialty.

25 [(23)] (22) Failing to respond in a timely manner to a request for information regarding a com-
26 plaint or the investigation of a complaint by the board.

27 [(24)] (23) Failing to pay a civil penalty in the time specified by the order imposing the penalty.

28 [(25)] (24) Violating any provision of this chapter or rules adopted by the board.

29 **SECTION 98. If House Bill 2009 becomes law and House Bill 2129 does not become law,**
30 **section 57 of this 2009 Act (amending ORS 685.160) is repealed and ORS 685.160, as amended**
31 **by section 1091, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:**

32 685.160. (1) There hereby is created the Board of Naturopathic Examiners [*in the Oregon Health*
33 *Authority*]. The board [*shall consist*] **consists** of seven members appointed by the Governor [*for terms*
34 *of three years commencing*] **and subject to confirmation by the Senate in the manner provided**
35 **in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the**
36 **members of the board:**

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

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

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

44 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
45 **resentation on the board according to:**

1 (A) Geographic areas of this state; and

2 (B) Ethnic group.

3 (3) The term of office of each member is three years, but a member serves at the pleas-
4 ure of the Governor. A term of office commences July 1[, and]. Unless a member is removed
5 prior to the end of the term, a member continues to serve on the board until [their successors
6 are] a successor is appointed and qualified. A majority of the members of the board constitutes a
7 quorum. If there is a vacancy for any cause, the Governor shall appoint a member to serve for the
8 remainder of the unexpired term. [All appointments of members of the board by the Governor are
9 subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.]

10 [(2) Of the membership of the Board of Naturopathic Examiners:]

11 [(a) All members must be citizens of this state.]

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

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

16 [(3)] (4) The board shall carry into effect the provisions of this chapter and is authorized to issue
17 licenses to practice naturopathic medicine in this state. The possession of a common seal by the
18 board hereby is authorized.

19 **SECTION 98a.** If Senate Bill 131 becomes law and House Bill 2009 does not become law,
20 section 1, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131) (amending ORS 685.160),
21 is repealed and ORS 685.160, as amended by section 57 of this 2009 Act, is amended to read:

22 685.160. (1) There hereby is created the [Board of Naturopathic Examiners] **Oregon Board of**
23 **Naturopathic Medicine.** The board consists of seven members appointed by the Governor and sub-
24 ject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members
25 of the board must be residents of this state. Of the members of the board:

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

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

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

33 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
34 tation on the board according to:

35 (A) Geographic areas of this state; and

36 (B) Ethnic group.

37 (3) The term of office of each member is three years, but a member serves at the pleasure of the
38 Governor. A term of office commences July 1. Unless a member is removed prior to the end of the
39 term, a member continues to serve on the board until a successor is appointed and qualified. A
40 majority of the members of the board constitutes a quorum. If there is a vacancy for any cause, the
41 Governor shall appoint a member to serve for the remainder of the unexpired term.

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

45 **SECTION 98b.** If Senate Bill 131 becomes law and House Bills 2009 and 2058 do not become

1 law, section 38, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131), is amended to read:

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

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

9 **SECTION 98c. If both Senate Bill 131 and House Bill 2009 become law and House Bill 2129**
10 **does not become law, section 1, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131)**
11 **(amending ORS 685.160), is repealed and ORS 685.160, as amended by section 1091, chapter**
12 **___, Oregon Laws 2009 (Enrolled House Bill 2009), and section 98 of this 2009 Act, is amended**
13 **to read:**

14 685.160. (1) There hereby is created the [*Board of Naturopathic Examiners*] **Oregon Board of**
15 **Naturopathic Medicine.** The board consists of seven members appointed by the Governor and sub-
16 ject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members
17 of the board must be residents of this state. Of the members of the board:

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

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

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

25 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
26 tation on the board according to:

27 (A) Geographic areas of this state; and

28 (B) Ethnic group.

29 (3) The term of office of each member is three years, but a member serves at the pleasure of the
30 Governor. A term of office commences July 1. Unless a member is removed prior to the end of the
31 term, a member continues to serve on the board until a successor is appointed and qualified. A
32 majority of the members of the board constitutes a quorum. If there is a vacancy for any cause, the
33 Governor shall appoint a member to serve for the remainder of the unexpired term.

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

37 **SECTION 98d. If Senate Bill 131 and House Bill 2009 become law and House Bill 2058 does not**
38 **become law, section 38, chapter 43, Oregon Laws 2009 (Enrolled Senate Bill 131), is amended to**
39 **read:**

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

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

1 Board of Naturopathic Medicine.”

2 **SECTION 98e.** If House Bill 2009, House Bill 2129 and Senate Bill 131 become law and
3 House Bill 2058 does not become law, ORS 685.160, as amended by section 1091, chapter __,
4 Oregon Laws 2009 (Enrolled House Bill 2009), and section 3, chapter __, Oregon Laws 2009
5 (Enrolled House Bill 2129), is amended to read:

6 685.160. [(1) *There hereby is created the Oregon Board of Naturopathic Medicine. The board con-*
7 *sists of seven members appointed by the Governor for terms of three years commencing July 1, and*
8 *until their successors are appointed and qualified. A majority of the members of the board constitutes*
9 *a quorum. If there is a vacancy for any cause, the Governor shall appoint a member to serve for the*
10 *remainder of the unexpired term. All appointments of members of the board by the Governor are subject*
11 *to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.]*

12 [(2) *Of the membership of the Oregon Board of Naturopathic Medicine:]*

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

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

17 [(3) *All members of the board must be residents of this state.]*

18 (1) **There hereby is created the Oregon Board of Naturopathic Medicine. The board con-**
19 **sists of seven members appointed by the Governor and subject to confirmation by the Senate**
20 **in the manner provided in ORS 171.562 and 171.565. All members of the board must be resi-**
21 **dents of this state. Of the members of the board:**

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

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

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

29 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
30 **resentation on the board according to:**

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

32 (B) **Ethnic group.**

33 (3) **The term of office of each member is three years, but a member serves at the pleas-**
34 **ure of the Governor. A term of office commences July 1. Unless a member is removed prior**
35 **to the end of the term, a member continues to serve on the board until a successor is ap-**
36 **pointed and qualified. A majority of the members of the board constitutes a quorum. If there**
37 **is a vacancy for any cause, the Governor shall appoint a member to serve for the remainder**
38 **of the unexpired term.**

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

42 **SECTION 98f.** If House Bill 2009, House Bill 2129 and Senate Bill 131 become law and House
43 Bill 2058 does not become law, ORS 685.160, as amended by section 57 of this 2009 Act, is amended
44 to read:

45 685.160. (1) **There hereby is created the [Board of Naturopathic Examiners] Oregon Board of**

1 **Naturopathic Medicine.** The board consists of seven members appointed by the Governor and sub-
2 ject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members
3 of the board must be residents of this state. Of the members of the board:

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

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

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

11 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
12 tation on the board according to:

13 (A) Geographic areas of this state; and

14 (B) Ethnic group.

15 (3) The term of office of each member is three years, but a member serves at the pleasure of the
16 Governor. A term of office commences July 1. Unless a member is removed prior to the end of the
17 term, a member continues to serve on the board until a successor is appointed and qualified. A
18 majority of the members of the board constitutes a quorum. If there is a vacancy for any cause, the
19 Governor shall appoint a member to serve for the remainder of the unexpired term.

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

23 **SECTION 98g. If House Bill 2009 and House Bill 2129 become law and House Bill 2058 and**
24 **Senate Bill 131 do not become law, section 57 of this 2009 Act (amending ORS 685.160) is re-**
25 **pealed and ORS 685.160, as amended by section 1091, chapter __, Oregon Laws 2009 (Enrolled**
26 **House Bill 2009), is amended to read:**

27 685.160. (1) There hereby is created the Board of Naturopathic Examiners [*in the Oregon Health*
28 *Authority*]. The board [*shall consist*] **consists** of seven members appointed by the Governor [*for terms*
29 *of three years commencing*] **and subject to confirmation by the Senate in the manner provided**
30 **in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the**
31 **members of the board:**

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

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

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

39 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
40 **resentation on the board according to:**

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

42 (B) **Ethnic group.**

43 (3) **The term of office of each member is three years, but a member serves at the pleas-**
44 **ure of the Governor. A term of office commences July 1[, and]. Unless a member is removed**
45 **prior to the end of the term, a member continues to serve on the board until [*their successors***

1 are] **a successor is** appointed and qualified. A majority of the members of the board constitutes a
2 quorum. If there is a vacancy for any cause, the Governor shall appoint a member to serve for the
3 remainder of the unexpired term. *[All appointments of members of the board by the Governor are*
4 *subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.]*

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

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

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

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

11 [(3)] (4) The board shall carry into effect the provisions of this chapter and is authorized to issue
12 licenses to practice naturopathic medicine in this state. The possession of a common seal by the
13 board hereby is authorized.

14 **SECTION 99. If House Bill 2345 becomes law, section 63 (amending ORS 687.081) of this**
15 **2009 Act is repealed.**

16 **SECTION 100. If House Bill 2058 becomes law, section 67 of this 2009 Act (amending ORS**
17 **688.160) is repealed and ORS 688.160, as amended by section 26, chapter __, Oregon Laws 2009**
18 **(Enrolled House Bill 2058), is amended to read:**

19 688.160. (1) The Physical Therapist Licensing Board operates as a semi-independent state agency
20 subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010 to
21 688.201 and 688.990 (1). The Physical Therapist Licensing Board consists of eight members appointed
22 by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562
23 and 171.565. All members of the board must be residents of this state. Of the members of the board:

24 (a) Five must be physical therapists who are Oregon residents, possess unrestricted licenses to
25 practice physical therapy in this state, have been practicing in this state for at least two years im-
26 mediately preceding their appointments and have been practicing in the field of physical therapy for
27 at least five years.

28 (b) One must be a licensed physical therapist assistant.

29 (c) Two must be public members who have an interest in consumer rights and who are not:

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

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

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

36 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
37 tation on the board according to:

38 (A) Geographic areas of this state; and

39 (B) Ethnic group.

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

43 (b) In the event of a vacancy in the office of a member of the board other than by reason of the
44 expiration of a term, the Governor, not later than 90 days after the occurrence of the vacancy, shall
45 appoint a person to fill the vacancy for the unexpired term.

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

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

4 (B) Has been absent from three consecutive board meetings, unless at least one absence is ex-
5 cused;

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

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

12 (4) Each member of the board is entitled to compensation and expenses as provided in ORS
13 292.495. The board may provide by rule for compensation to board members for the performance of
14 official duties at a rate that is greater than the rate provided in ORS 292.495.

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

17 (6) The board shall have power to:

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

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

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

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

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

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

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

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

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

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

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

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

38 (9) The board shall:

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

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

44 (c) Publish at least annually, and in a format or place determined by the board, final disciplinary
45 actions taken against physical therapists and physical therapist assistants and other information,

1 including rules, in order to guide physical therapists and physical therapist assistants regulated
2 pursuant to ORS 688.010 to 688.201.

3 **SECTION 101. If House Bill 2009 becomes law and House Bill 2058 does not become law,**
4 **section 69 (amending ORS 688.545) of this 2009 Act is repealed and ORS 688.545, as amended**
5 **by section 1092, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:**

6 688.545. (1)[(a)] There is created [*in the Oregon Health Authority*] a Board of Radiologic Tech-
7 nology [*consisting of nine members who shall be appointed by the Governor*]. **The board consists of**
8 **nine members appointed by the Governor and subject to confirmation by the Senate in the**
9 **manner provided in ORS 171.562 and 171.565.** Each member of the board [*shall be a citizen of the*
10 *United States and*] **must be** a resident of [*the*] **this** state [*of Oregon. Each appointed member is en-*
11 *titled to vote*].

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

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

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

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

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

18 (d) **At least one must be a member of the public. A public member appointed under this**
19 **paragraph may not be:**

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

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

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

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

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

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

32 (b) **In selecting the members of the board, the Governor shall strive to balance the rep-**
33 **resentation on the board according to:**

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

35 (B) **Ethnic group.**

36 [(2)] (3) The section manager of the Radiation Protection Services Section of the Oregon Health
37 Authority, or a person appointed by the section manager, shall be an advisory member of the board
38 for the purpose of providing counsel and [*shall not be*] **is not** entitled to vote.

39 [(3)] (4) The term of office of the members of the board [*shall be*] **is** three years [*and*], **but a**
40 **member serves at the pleasure of the Governor.** A member may be reappointed to serve not
41 more than two full terms.

42 [(4)] (5) Members of the board [*shall be*] **are** entitled to compensation and expenses as provided
43 in ORS 292.495.

44 [(5)] (6) The board shall annually elect a board chairperson and a vice chairperson from the
45 members of the board.

1 [(6)] (7) For the purpose of transacting its business, the board shall meet at least once every
2 three months at times and places designated by resolution. Special meetings may also be held at
3 such times as the board may elect or at the call of the chairperson. Notification of the time, place
4 and purpose of any special meeting shall be sent to all members of the board at least 15 days before
5 the date of the meeting. All meetings are subject to ORS 192.610 to 192.690.

6 [(7)] (8) Five members of the board [*shall*] constitute a quorum for the transaction of business
7 at any meeting. Five affirmative votes [*shall be*] **are** required to take action.

8 **SECTION 102. If House Bill 2009 becomes law and House Bill 2129 does not become law,**
9 **section 81 of this 2009 Act (amending ORS 691.485) is repealed and ORS 691.485, as amended**
10 **by section 1109, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:**

11 691.485. (1) There is established a Board of Examiners of Licensed Dietitians [*within the Oregon*
12 *Health Authority*] for the purpose of carrying out and enforcing the provisions of ORS 691.405 to
13 691.585. **The board consists of seven members appointed by the Governor and subject to**
14 **confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members**
15 **of the board must be residents of this state. Of the members of the board:**

16 [(2) *The board shall consist of seven members appointed by the authority of which.*]

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

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

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

23 **(2)(a) Board members required to be licensed dietitians may be selected by the Governor**
24 **from a list of three to five nominees for each vacancy, submitted by a professional organ-**
25 **ization representing dietitians.**

26 **(b) In selecting the members of the board, the Governor shall strive to balance the rep-**
27 **resentation on the board according to:**

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

29 **(B) Ethnic group.**

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

32 **(3) The term of office of each member is three years, but a member serves at the pleas-**
33 **ure of the Governor.**

34 (4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495.

35 **SECTION 103. If House Bill 2009 becomes law and House Bill 2129 does not become law,**
36 **section 85 of this 2009 Act (amending ORS 692.300) is repealed and ORS 692.300, as amended**
37 **by section 1110, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:**

38 692.300. (1) There is created the State Mortuary and Cemetery Board [*in the Oregon Health*
39 *Authority*] to carry out the purposes and enforce the provisions of this chapter. [*The board shall*
40 *consist of 11 members. The members of the board shall be as follows:*] **The board consists of 11**
41 **members appointed by the Governor and subject to confirmation by the Senate in the man-**
42 **ner provided in ORS 171.562 and 171.565. All members of the board must be residents of this**
43 **state. Of the members of the board:**

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

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

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

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

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

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

11 **(A) Any professional organization representing funeral service practitioners, if the va-**
12 **cancy on the board is for a funeral service practitioner position; or**

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

15 **(b) In selecting the members of the board, the Governor shall strive to balance the rep-**
16 **resentation on the board according to:**

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

18 **(B) Ethnic group.**

19 *[(2)]* **(3) The term of office of the members of the board shall be four years ending on December**
20 **31, but a member serves at the pleasure of the Governor.** A member is eligible for no more than
21 two consecutive terms. *[They shall be appointed by the Governor and hold office until the appointment*
22 *and qualification of their successors.]*

23
24 **APPLICABILITY**

25
26 **SECTION 104. (1) The amendments to ORS 676.165 and 676.608 by sections 5 and 5a of this**
27 **2009 Act apply to complaints received on or after the effective date of this 2009 Act.**

28 **(2) The amendments to ORS 675.100, 675.310, 675.590, 675.775, 677.235, 678.140, 678.800,**
29 **679.230, 681.400, 681.410, 683.250, 683.260, 684.130, 685.160, 686.210, 687.115, 688.160, 688.545,**
30 **689.115, 691.485 and 692.300 by sections 7, 10, 15, 18, 24, 34, 38, 40, 43a, 44, 47, 48, 52, 57, 61,**
31 **64, 67, 69, 72, 81 and 85 of this 2009 Act:**

32 **(a) Apply to board membership appointments made on or after the effective date of this**
33 **2009 Act; and**

34 **(b) Do not disqualify any member of a board appointed before the effective date of this**
35 **2009 Act from completing the term to which the member was appointed.**

36 **(3) Sections 4 and 5c of this 2009 Act and the amendments to ORS 675.130, 675.320, 675.600,**
37 **675.785, 677.275, 678.150, 679.250, 681.450, 685.170, 686.210, 688.160, 688.555, 689.165, 691.505 and**
38 **692.320 by sections 8, 11, 16, 19, 27, 35, 41, 45, 58, 61, 67, 70, 75, 82 and 86 of this 2009 Act do**
39 **not affect the employment status or seniority of any person employed by a health profes-**
40 **sional regulatory board before the effective date of this 2009 Act.**

41 **(4) Section 2 of this 2009 Act applies to persons who receive a license or whose license**
42 **is renewed on or after the effective date of this 2009 Act.**

43 **SECTION 104a.** If House Bill 2058 becomes law, section 104 of this 2009 Act is amended to
44 read:

45 **Sec. 104.** (1) The amendments to ORS 676.165 and 676.608 by sections 5 and 5a of this 2009 Act

1 apply to complaints received on or after the effective date of this 2009 Act.

2 (2) The amendments to ORS 675.100, [675.310,] 675.590, [675.775,] 677.235, [678.140,] 678.800,
3 [679.230,] 681.400, 681.410, 683.250, 683.260, 684.130, 685.160, 686.210, 687.115, 688.160, [688.545,
4 689.115,] 691.485 and 692.300 by sections 7, [10,] 15, [18, 24, 34,] 38, [40,] 43a, 44, [47,] 48, 52, 57, 61,
5 64, [67, 69, 72,] 81, [and] 85, **93, 96 and 100** of this 2009 Act:

6 (a) Apply to board membership appointments made on or after the effective date of this 2009
7 Act; and

8 (b) Do not disqualify any member of a board appointed before the effective date of this 2009 Act
9 from completing the term to which the member was appointed.

10 (3) Sections 4 and 5c of this 2009 Act and the amendments to ORS 675.130, 675.320, 675.600,
11 675.785, 677.275, 678.150, 679.250, 681.450, 685.170, 686.210, 688.160, 688.555, 689.165, 691.505 and
12 692.320 by sections 8, 11, 16, 19, 27, 35, 41, 45, 58, 61, [67,] 70, 75, 82, [and] 86 **and 100** of this 2009
13 Act do not affect the employment status or seniority of any person employed by a health profes-
14 sional regulatory board before the effective date of this 2009 Act.

15 (4) Section 2 of this 2009 Act applies to persons who receive a license or whose license is re-
16 newed on or after the effective date of this 2009 Act.

17 **SECTION 104b.** If Senate Bill 177 becomes law and House Bill 2058 does not become law, sec-
18 tion 104 of this 2009 Act is amended to read:

19 **Sec. 104.** (1) The amendments to ORS 676.165 and 676.608 by sections 5 and 5a of this 2009 Act
20 apply to complaints received on or after the effective date of this 2009 Act.

21 (2) The amendments to ORS 675.100, 675.310, 675.590, 675.775, 677.235, 678.140, 678.800, 679.230,
22 681.400, 681.410, 683.250, 683.260, 684.130, 685.160, 686.210, 687.115, 688.160, 688.545, 689.115, 691.485
23 and 692.300 by sections 7, 10, [15,] 18, 24, 34, 38, 40, 43a, 44, 47, 48, 52, 57, 61, 64, 67, 69, 72, 81,
24 [and] 85 **and 90** of this 2009 Act:

25 (a) Apply to board membership appointments made on or after the effective date of this 2009
26 Act; and

27 (b) Do not disqualify any member of a board appointed before the effective date of this 2009 Act
28 from completing the term to which the member was appointed.

29 (3) Sections 4 and 5c of this 2009 Act and the amendments to ORS 675.130, 675.320, 675.600,
30 675.785, 677.275, 678.150, 679.250, 681.450, 685.170, 686.210, 688.160, 688.555, 689.165, 691.505 and
31 692.320 by sections 8, 11, [16,] 19, 27, 35, 41, 45, 58, 61, 67, 70, 75, 82, [and] 86 **and 91** of this 2009
32 Act do not affect the employment status or seniority of any person employed by a health profes-
33 sional regulatory board before the effective date of this 2009 Act.

34 (4) Section 2 of this 2009 Act applies to persons who receive a license or whose license is re-
35 newed on or after the effective date of this 2009 Act.

36 **SECTION 104c.** If both Senate Bill 177 and House Bill 2058 become law, section 104 of this 2009
37 Act is amended to read:

38 **Sec. 104c.** (1) The amendments to ORS 676.165 and 676.608 by sections 5 and 5a of this 2009
39 Act apply to complaints received on or after the effective date of this 2009 Act.

40 (2) The amendments to ORS 675.100, 675.310, [675.590,] 675.775, 677.235, 678.140, 678.800, 679.230,
41 681.400, 681.410, 683.250, 683.260, 684.130, 685.160, 686.210, 687.115, 688.160, 688.545, 689.115, 691.485
42 and 692.300 by sections 7, 10, [15,] 18, 24, 34, 38, 40, 43a, 44, 47, 48, 52, 57, 61, 64, 67, 69, 72, 81 and
43 85 of this 2009 Act:

44 (a) Apply to board membership appointments made on or after the effective date of this 2009
45 Act; and

1 (b) Do not disqualify any member of a board appointed before the effective date of this 2009 Act
2 from completing the term to which the member was appointed.

3 (3) Sections 4 and 5c of this 2009 Act and the amendments to ORS 675.130, 675.320, 675.600,
4 675.785, 677.275, 678.150, 679.250, 681.450, 685.170, 686.210, 688.160, 688.555, 689.165, 691.505 and
5 692.320 by sections 8, 11, [16,] 19, 27, 35, 41, 45, 58, 61, 67, 70, 75, 82, [and] 86 **and 91** of this 2009
6 Act do not affect the employment status or seniority of any person employed by a health profes-
7 sional regulatory board before the effective date of this 2009 Act.

8 (4) Section 2 of this 2009 Act applies to persons who receive a license or whose license is re-
9 newed on or after the effective date of this 2009 Act.

10 **SECTION 104d.** If House Bill 2243 becomes law, section 104 of this 2009 Act is amended to
11 read:

12 **Sec. 104.** (1) The amendments to ORS 676.165 and 676.608 by sections 5 and 5a of this 2009 Act
13 apply to complaints received on or after the effective date of this 2009 Act.

14 (2) The amendments to ORS 675.100, 675.310, 675.590, 675.775, 677.235, 678.140, [678.800,] 679.230,
15 681.400, 681.410, 683.250, 683.260, 684.130, 685.160, 686.210, 687.115, 688.160, 688.545, 689.115, 691.485
16 and 692.300 by sections 7, 10, 15, 18, 24, 34, [38,] 40, 43a, 44, 47, 48, 52, 57, 61, 64, 67, 69, 72, 81 and
17 85 of this 2009 Act:

18 (a) Apply to board membership appointments made on or after the effective date of this 2009
19 Act; and

20 (b) Do not disqualify any member of a board appointed before the effective date of this 2009 Act
21 from completing the term to which the member was appointed.

22 (3) Sections 4 and 5c of this 2009 Act and the amendments to ORS 675.130, 675.320, 675.600,
23 675.785, 677.275, 678.150, 679.250, 681.450, 685.170, 686.210, 688.160, 688.555, 689.165, 691.505 and
24 692.320 by sections 8, 11, 16, 19, 27, 35, 41, 45, 58, 61, 67, 70, 75, 82 and 86 of this 2009 Act do not
25 affect the employment status or seniority of any person employed by a health professional regulatory
26 board before the effective date of this 2009 Act.

27 (4) Section 2 of this 2009 Act applies to persons who receive a license or whose license is re-
28 newed on or after the effective date of this 2009 Act.

29 **SECTION 104e.** If House Bill 2009 becomes law, section 104 of this 2009 Act is amended to
30 read:

31 **Sec. 104.** (1) The amendments to ORS 676.165 and 676.608 by sections 5 and 5a of this 2009 Act
32 apply to complaints received on or after the effective date of this 2009 Act.

33 (2) The amendments to ORS 675.100, 675.310, 675.590, 675.775, 677.235, 678.140, 678.800, 679.230,
34 681.400, 681.410, 683.250, 683.260, 684.130, 685.160, 686.210, 687.115, 688.160, 688.545, 689.115, 691.485
35 and 692.300 by sections 7, 10, 15, 18, 24, 34, 38, 40, 43a, 44, 47, 48, 52, [57,] 61, 64, 67, 69, 72, [81 and
36 85] **98, 102 and 103** of this 2009 Act:

37 (a) Apply to board membership appointments made on or after the effective date of this 2009
38 Act; and

39 (b) Do not disqualify any member of a board appointed before the effective date of this 2009 Act
40 from completing the term to which the member was appointed.

41 (3) Sections 4 and 5c of this 2009 Act and the amendments to ORS 675.130, 675.320, 675.600,
42 675.785, 677.275, 678.150, 679.250, 681.450, 685.170, 686.210, 688.160, 688.555, 689.165, 691.505 and
43 692.320 by sections 8, 11, 16, 19, 27, 35, 41, 45, 58, 61, 67, 70, 75, 82 and 86 of this 2009 Act do not
44 affect the employment status or seniority of any person employed by a health professional regulatory
45 board before the effective date of this 2009 Act.

1 (4) Section 2 of this 2009 Act applies to persons who receive a license or whose license is re-
2 newed on or after the effective date of this 2009 Act.

3 **SECTION 104f.** If House Bill 2009 becomes law and House Bill 2058 does not become law, sec-
4 tion 104 of this 2009 Act is amended to read:

5 **Sec. 104.** (1) The amendments to ORS 676.165 and 676.608 by sections 5 and 5a of this 2009 Act
6 apply to complaints received on or after the effective date of this 2009 Act.

7 (2) The amendments to ORS 675.100, 675.310, 675.590, 675.775, 677.235, 678.140, 678.800, 679.230,
8 681.400, 681.410, 683.250, 683.260, 684.130, 685.160, 686.210, 687.115, 688.160, 688.545, 689.115, 691.485
9 and 692.300 by sections 7, 10, 15, 18, 24, 34, 38, 40, 43a, 44, 47, 48, 52, 57, 61, 64, 67, [69,] 72, 81,
10 [and] 85 **and 101** of this 2009 Act:

11 (a) Apply to board membership appointments made on or after the effective date of this 2009
12 Act; and

13 (b) Do not disqualify any member of a board appointed before the effective date of this 2009 Act
14 from completing the term to which the member was appointed.

15 (3) Sections 4 and 5c of this 2009 Act and the amendments to ORS 675.130, 675.320, 675.600,
16 675.785, 677.275, 678.150, 679.250, 681.450, 685.170, 686.210, 688.160, 688.555, 689.165, 691.505 and
17 692.320 by sections 8, 11, 16, 19, 27, 35, 41, 45, 58, 61, 67, 70, 75, 82 and 86 of this 2009 Act do not
18 affect the employment status or seniority of any person employed by a health professional regulatory
19 board before the effective date of this 2009 Act.

20 (4) Section 2 of this 2009 Act applies to persons who receive a license or whose license is re-
21 newed on or after the effective date of this 2009 Act.

22
23 **CAPTIONS**

24
25 **SECTION 105.** The unit captions used in this 2009 Act are provided only for the conven-
26 **ience of the reader and do not become part of the statutory law of this state or express any**
27 **legislative intent in the enactment of this 2009 Act.**