

# House Bill 2118

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 **as introduced**.

Imposes duty on health professionals to report professionals who may be impaired. Confers civil immunity for making report in good faith. 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 or applicants for employment. Requires board to maintain confidentiality of licensee personal electronic mail addresses.

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

Standardizes 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 practice of pharmacy.

## A BILL FOR AN ACT

Relating to licensing boards; creating new provisions; and 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, 677.010, 677.188, 677.190, 677.235, 677.250, 677.270, 677.275, 677.415, 677.417, 677.655, 678.111, 678.112, 678.126, 678.140, 678.150, 678.442, 678.780, 678.800, 679.140, 679.230, 679.250, 679.290, 681.350, 681.410, 681.450, 683.140, 683.250, 683.260, 684.010, 684.100, 684.103, 684.130, 684.140, 684.157, 684.200, 685.110, 685.160, 685.170, 686.120, 686.130, 686.210, 687.051, 687.081, 687.115, 687.122, 688.140, 688.160, 688.525, 688.545, 688.555, 689.005, 689.115, 689.125, 689.155, 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.

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

## HEALTH PROFESSIONAL LICENSING BOARDS GENERALLY

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

(a) **“Health professional regulatory board” has the meaning given that term in ORS 676.160.**

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

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

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

**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 (2) All health professional regulatory boards shall operate with the primary purpose of  
 2 protecting the public health, safety and welfare by ensuring that licensees practice with  
 3 reasonable skill and safety.

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

8 (4) Except as provided in subsection (5) of this section, a licensee of a health professional  
 9 regulatory board or of a health professional association identified by a board by rule shall  
 10 report to the board within 10 working days, and any other person may report to the board,  
 11 any information the licensee, association or person receives that appears to show that a  
 12 licensee is or may be professionally incompetent or is or may be guilty of unprofessional or  
 13 dishonorable conduct or has or may have an impairment.

14 (5) A licensee providing psychiatric, psychological, psychosocial or professional coun-  
 15 seling services, or a member of a body providing health and well-being assistance services  
 16 to licensees, is not required to report a licensee patient receiving those services unless the  
 17 licensee patient has an impairment due to a mental disability.

18 (6) A person who makes a report to a board under this section in good faith is immune  
 19 from civil liability or administrative sanctions for making the report.

20 **SECTION 2.** A health professional regulatory board, as defined in ORS 676.160, continues  
 21 to have jurisdiction for licensing, regulatory and disciplinary purposes over a licensee or a  
 22 person required to possess a license, regardless of any changes in the licensing status of the  
 23 person. A health professional regulatory board may not grant any temporary, conditional,  
 24 limited or restricted license to a person whose license has been revoked.

25 **SECTION 3.** A health professional regulatory board, as defined in ORS 676.160, shall keep  
 26 confidential and not release the personal electronic mail address for a person licensed, reg-  
 27 istered or certified by the board. This section does not apply to the release of information  
 28 to a law enforcement agency for investigative purposes.

29 **SECTION 4.** (1) As used in this section, “health professional regulatory board” means a  
 30 health professional regulatory board described in ORS 676.160 other than the Department of  
 31 Human Services with regard to the certification of emergency medical technicians.

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

38 (3) In addition to any other duties imposed by law, the executive director shall keep all  
 39 records of the board and discharge any other duties that the board may prescribe.

40 (4) The executive director shall prepare quarterly reports regarding the licensing and  
 41 investigative activities of the board. The executive director shall submit the reports to the  
 42 board, the Governor and the Department of Human Services. The department, in consulta-  
 43 tion with the board, may adopt rules specifying requirements for report content. The de-  
 44 partment shall perform audits on a random basis to ensure the accuracy of the reports. The  
 45 department may assess the board for the cost of an audit.

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

676.165. (1) Upon receipt of a complaint by any person against a licensee or applicant, a health professional regulatory board shall assign one or more persons to act as investigator of the complaint.

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

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

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

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

**(6) The public members of the board must be actively involved in board review of the investigatory information and report.**

**STATE BOARD OF PSYCHOLOGIST EXAMINERS**

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

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

(a) Deny a license to any applicant;

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

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

(d) Issue a letter of reprimand;

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

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

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

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

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

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

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

(d) Is guilty of immoral or unprofessional conduct or of gross negligence in the practice of psychology which includes but is not limited to:

(A) Any conduct or practice contrary to recognized standard of ethics of the psychological profession or any conduct or practice *[which]* **that** constitutes a danger to the health or safety of

1 a patient or the public, or any conduct, practice or condition [*which impairs*] **that adversely affects**  
 2 a psychologist or psychologist associate’s ability to practice psychology safely and skillfully.

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

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

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

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

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

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

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

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

20 (4) The board may license an applicant or renew or restore any license suspended or revoked  
 21 under subsection [(2)(e)] (2)(a) of this section [*whenever*] **due to a mental health condition** if the  
 22 board determines that the applicant or former licensed psychologist or former psychologist associate  
 23 [*is no longer mentally or emotionally unfit to practice psychology*] **no longer has an impairment due**  
 24 **to a mental health condition.**

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

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

28 675.100. (1) There hereby is created a State Board of Psychologist Examiners consisting of seven  
 29 members appointed by the Governor. Five of the members shall be residents of Oregon, have doc-  
 30 toral degrees with primary emphasis in psychology and shall be licensed under ORS 675.010 to  
 31 675.150. Two members shall be residents of Oregon and shall serve as public members. **A public**  
 32 **member may not be a person licensed under ORS 675.010 to 675.150 who has a spouse, do-**  
 33 **mestic partner, parent, child, sibling or in-law who is licensed under ORS 675.010 to 675.150.**

34 (2) The term of office of a board member shall be three years, but the members shall serve at  
 35 the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall  
 36 appoint a successor to assume duties on July 1 next following. A member shall be eligible for one  
 37 consecutive reappointment only. In case of a vacancy for any cause, the Governor shall make an  
 38 appointment to become immediately effective for the unexpired term.

39 (3) **A statewide professional association for psychologists may submit a list of suggested**  
 40 **nominees for appointment to the board. In making appointments to the board, the Governor**  
 41 **shall give consideration to the nominees suggested by the association. To the extent prac-**  
 42 **ticable, the Governor shall attempt to make board appointments that are broadly represen-**  
 43 **tative of the geographic and cultural diversity of the state.**

44 [(3)] (4) All appointments of members of the board by the Governor are subject to confirmation  
 45 by the Senate in the manner provided in ORS 171.562 and 171.565.

1 [4] (5) Before entering upon the duties of office, each board member shall subscribe to an oath  
 2 that the member will faithfully and impartially discharge the duties of office and that the member  
 3 will support the Constitution of the United States and the Constitution of this state. The oath shall  
 4 be filed with the Secretary of State.

5 [(5)] (6) Each member of the board is entitled to compensation and expenses as provided in ORS  
 6 292.495.

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

8 675.130. (1) The State Board of Psychologist Examiners shall select one of its members as  
 9 chairperson, and another as vice chairperson, for such terms and with such powers and duties nec-  
 10 essary for the performance of the functions of such offices as the board shall determine.

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

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

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

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

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

22  
 23 **OCCUPATIONAL THERAPY LICENSING BOARD**  
 24

25 **SECTION 9.** ORS 675.300 is amended to read:

26 675.300. (1) The Occupational Therapy Licensing Board may deny, suspend, revoke or refuse to  
 27 renew a license or may impose probationary conditions where the licensee or applicant has been  
 28 guilty of:

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

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

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

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

35 (2) The board may suspend or revoke the license of any person licensed under ORS 675.210 to  
 36 675.340 and 675.990 (2) if the licensee has *[been adjudged mentally incompetent by a court of competent*  
 37 *jurisdiction]* **an impairment as defined in section 1 of this 2009 Act.**

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

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

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

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

1 675.310. (1) There is created in the Department of Human Services the Occupational Therapy  
 2 Licensing Board. The board is composed of five members appointed by the Governor. Two members  
 3 shall be licensed occupational therapists in this state with no less than three years of experience  
 4 in occupational therapy immediately preceding their appointment. One member shall be a licensed  
 5 occupational therapy assistant. Two members shall be members of the public. *[Board members re-*  
 6 *quired to be occupational therapists may be selected by the Governor from nominees submitted by the*  
 7 *Occupational Therapy Association of Oregon and the board.] All members of the board must be*  
 8 **residents of this state. A public member may not be a person licensed under ORS 675.210 to**  
 9 **675.340 or who has a spouse, domestic partner, parent, child, sibling or in-law who is licensed**  
 10 **under ORS 675.210 to 675.340.**

11 **(2) A statewide professional association for occupational therapists may submit a list of**  
 12 **suggested nominees for appointment to the board. In making appointments to the board, the**  
 13 **Governor shall give consideration to the nominees suggested by the association. To the ex-**  
 14 **tent practicable, the Governor shall attempt to make board appointments that are broadly**  
 15 **representative of the geographic and cultural diversity of the state.**

16 [(2)] (3) Members are entitled to compensation and expenses as provided in ORS 292.495.

17 [(3)] (4) Members shall serve a term of four years and may not serve more than two consecutive  
 18 terms. **A member serves at the pleasure of the Governor.**

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

20 675.320. The Occupational Therapy Licensing Board shall have the following powers in addition  
 21 to powers otherwise granted under ORS 675.210 to 675.340 or necessary to carry out the provisions  
 22 of ORS 675.210 to 675.340:

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

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

27 [(3)] (2) To authorize all necessary disbursements to carry out the provisions of ORS 675.210 to  
 28 675.340, including, but not limited to, payment for necessary supplies, office equipment and investi-  
 29 gations and such other expenditures as provided for in ORS 675.210 to 675.340.

30 [(4)] (3) To suspend, revoke or invalidate licenses for nonpayment of renewal fees.

31 [(5)] (4) To restore licenses that have been suspended, revoked or voided.

32 [(6)] (5) To adopt license and license renewal fees under ORS 675.270, 675.280 and 675.290. The  
 33 fees must be approved by the Oregon Department of Administrative Services and may not exceed  
 34 the cost of administering ORS 675.210 to 675.340.

35 [(7)] (6) To collect license applications and renewal fees.

36 [(8)] (7) To investigate alleged violations of ORS 675.210 to 675.340.

37 [(9)] (8) To enforce the provisions of ORS 675.210 to 675.340 and generally supervise the practice  
 38 of occupational therapy in this state.

39 [(10)] (9) To make and enforce rules in accordance with ORS chapter 183 for the procedure of  
 40 the board and for regulating the practice of occupational therapy not inconsistent with the pro-  
 41 visions of ORS 675.210 to 675.340.

42 [(11)] (10) To establish minimum requirements for continuing education to be complied with by  
 43 all licensees under ORS 675.210 to 675.340.

44 [(12)] (11) To establish minimum requirements for limited permit to be complied with by all ap-  
 45 plicants prior to issuance of limited permit. A limited permit shall be issued to a person at the dis-

1 cretion of the board upon application and payment of a permit fee of \$25.

2 [(13)] (12) To establish official abbreviations that may be used, under ORS 675.220 (1), by persons  
3 licensed as occupational therapists or occupational therapy assistants.

4 [(14)] (13) To establish minimum requirements for supervised field work necessary for applicants  
5 under ORS 675.240 or 675.250.

6 [(15)] (14) To adopt rules that define the scope of the practice of occupational therapy and that  
7 reflect national standards for the practice of occupational therapy.

8  
9 **STATE BOARD OF CLINICAL SOCIAL WORKERS**

10  
11 **SECTION 12.** ORS 675.510 is amended to read:

12 675.510. As used in ORS 675.510 to 675.600, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

35 [(5)] (4) "Licensed clinical social worker" means a person licensed under the provisions of ORS  
36 675.510 to 675.600 to practice clinical social work.

37 [(6)] (5) "Unprofessional conduct" includes, but is not limited to, any conduct or practice con-  
38 trary to recognized standards of ethics of the social work profession or any conduct that constitutes  
39 or might constitute a danger to the health or safety of a client or the public or in any other manner  
40 fails or might fail to adhere to the recognized standards of the profession.

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

42 675.540. (1) The State Board of Clinical Social Workers may impose any or all of the sanctions  
43 specified in subsection (2) of this section, upon proof, after a hearing pursuant to the provisions of  
44 ORS chapter 183 relating to a contested case, that a person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 675.583. (1) A licensed clinical social worker shall report to the State Board of Clinical Social  
25 Workers any information the licensed clinical social worker has that appears to show that a licensed  
26 clinical social worker [*is or may be an impaired clinical social worker, or*] **has or may have a**  
27 **physical illness that makes the clinical social worker unable to practice, or** may be guilty of  
28 unprofessional conduct according to the guidelines of the code of ethics, to the extent that disclo-  
29 sure does not conflict with the requirements of ORS 675.580. **Except as provided in section 1 (5)**  
30 **of this 2009 Act, a licensed clinical social worker shall report to the board any information**  
31 **indicating that a licensed clinical social worker has or may have an impairment as defined**  
32 **in section 1 of this 2009 Act.**

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

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

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

38 675.590. (1) There is established a State Board of Clinical Social Workers.

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

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

43 **(b) Three members must be public members who have demonstrated an interest in the**  
44 **field of clinical social work. A public member may not be a person licensed under ORS 675.510**  
45 **to 675.600 or who has a spouse, domestic partner, parent, child, sibling or in-law who is li-**



1 **censed under ORS 675.510 to 675.600.**

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

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

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

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

12 **(4) All members of the board must be residents of this state. A statewide professional  
 13 association for clinical social workers may submit a list of suggested nominees for appoint-  
 14 ment to the board. In making appointments to the board, the Governor shall give consider-  
 15 ation to the nominees suggested by the association. To the extent practicable, the Governor  
 16 shall attempt to make board appointments that are broadly representative of the geographic  
 17 and cultural diversity of the state.**

18 (5) Members are entitled to compensation and expenses as provided in ORS 292.495.

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

20 675.600. *[(1)]* The State Board of Clinical Social Workers shall:

21 *[(a)]* (1) Pursuant to ORS chapter 183, make rules necessary to carry out the provisions of ORS  
 22 675.510 to 675.600;

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

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

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

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

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

37  
 38 **OREGON BOARD OF LICENSED PROFESSIONAL**  
 39 **COUNSELORS AND THERAPISTS**  
 40

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

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

45 (a) Has been convicted of violating ORS 675.825 or of a crime in this or any other state or ter-

1 ritory or against the federal government that brings into question the competence of the licensee  
 2 in the role of a counselor or a therapist;

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

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

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

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

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

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

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

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

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

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

21 (B) Requirements for specific training;

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

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

24 (3) The board may initiate action against persons violating any provision of ORS 675.715 to  
 25 675.835 or any rules adopted by the board.

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

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

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

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

35 675.775. (1) The Oregon Board of Licensed Professional Counselors and Therapists is established.

36 (2) **Except as provided in subsection (5) of this section,** the board shall consist of seven  
 37 members who shall be appointed by the Governor. **All members of the board must be residents**  
 38 **of this state.**

39 (3) [*In selecting the members of the board, the Governor shall strive to balance the representation*  
 40 *according to geographic areas of this state, gender, age and ethnic group.*] **To the extent practicable,**  
 41 **the Governor shall attempt to make board appointments that are broadly representative of**  
 42 **the geographic and cultural diversity of the state.**

43 (4) **Except as provided in subsection (5) of this section,** the board shall consist of:

44 (a) [*Three*] **Two** members who are persons licensed as professional counselors under ORS  
 45 675.715;

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

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

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

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

8 **(5) The board may adopt a rule to create an eighth member position on the board. The  
9 eighth member must be a person licensed as a professional counselor under ORS 675.715, be  
10 appointed by the Governor and meet all other requirements for a board member who is not  
11 a public member.**

12 **(6) A public member may not be a person licensed under ORS 675.715 to 675.835 or who  
13 has a spouse, domestic partner, parent, child, sibling or in-law who is licensed under ORS  
14 675.715 to 675.835.**

15 **(7) A statewide professional association for counselors or family therapists may submit  
16 a list of suggested nominees for appointment to the board. In making appointments to the  
17 board, the Governor shall give consideration to the nominees suggested by the association.**

18 *[(6)]* **(8)** The term of office of each member is three years, but a member serves at the pleasure  
19 of the Governor. By October 1 of each year, the Governor shall appoint persons to fill positions on  
20 the board that are due to become vacant on October 1 of that year. A member is eligible for one  
21 consecutive reappointment. If there is a vacancy for any cause, the Governor shall make an ap-  
22 pointment to become immediately effective for the unexpired term.

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

24 675.785. The Oregon Board of Licensed Professional Counselors and Therapists has the following  
25 powers:

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

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

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

32 (a) License application.

33 (b) First issuance of a license.

34 (c) Renewal of a license.

35 (d) Late filing of a license renewal.

36 (e) Renewal of registration as an intern.

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

42 (4) The board shall:

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

45 (b) Annually publish a directory listing all current licensed professional counselors and marriage

1 and family therapists. The directory shall be available to the public, for which the board may collect  
2 a publication fee.

3 (5) The board shall:

4 (a) Investigate alleged violations of the provisions of ORS 675.715 to 675.835 or rules adopted  
5 under authority of the board **and any reports made under section 1 of this 2009 Act**.

6 (b) Establish procedures to review the complaints of clients of licensees of the board. Upon re-  
7 ceipt of a complaint under ORS 675.715 to 675.835 **or section 1 of this 2009 Act** against any li-  
8 censed or unlicensed person, the board shall conduct an investigation as described under ORS  
9 676.165.

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 reasonable 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. Seven  
 8 of the members shall be appointed from among persons having the degree of Doctor of Medicine, two  
 9 from among persons having the degree of Doctor of Osteopathy and one from among persons having  
 10 the degree of Doctor of Podiatric Medicine. Of the seven members who hold the degree of Doctor  
 11 of Medicine, there shall be at least one member appointed from each federal congressional district.  
 12 In addition to the 10 named persons described, there shall be appointed two public members repre-  
 13 senting health consumers. All persons appointed must have been residents of this state for at least  
 14 seven years. The physician members and the member who is a podiatric physician and surgeon must  
 15 have been in the active practice of their profession for at least five years immediately preceding  
 16 their appointment. *[Neither the public members nor any person within the immediate family of the*  
 17 *public members shall be employed as a health professional or in any health-related industry.]* **A public**  
 18 **member may not be a person licensed under this chapter or having a spouse, domestic**  
 19 **partner, parent, child, sibling or in-law who is licensed under this chapter.** The public members  
 20 shall be members of the investigative committee of the board.

21        *[(2) Not later than February 1 of each year, the Oregon Medical Association shall nominate three*  
 22 *qualified physicians for each physician member of the board whose term expires in that year, and shall*  
 23 *certify its nominees to the Governor. Not later than February 1 of each odd-numbered year, the*  
 24 *Osteopathic Physicians and Surgeons of Oregon, Inc., shall nominate three physicians possessing the*  
 25 *degree of Doctor of Osteopathy and shall certify its nominees to the Governor. Not later than February*  
 26 *1 of each third year, the Oregon Podiatric Medical Association shall nominate three podiatric physi-*  
 27 *cians and surgeons possessing the degree of Doctor of Podiatric Medicine and shall certify its nominees*  
 28 *to the Governor. The Governor shall consider these nominees in selecting successors to retiring board*  
 29 *members.]*

30        **(2) A statewide professional association for Doctors of Medicine may submit a list of**  
 31 **suggested nominees for appointment to Doctor of Medicine and public member positions on**  
 32 **the board. A statewide professional association for Doctors of Osteopathy may submit a list**  
 33 **of suggested nominees for appointment to Doctor of Osteopathy and public member positions**  
 34 **on the board. A statewide professional association for Doctors of Podiatric Medicine may**  
 35 **submit a list of suggested nominees for appointment to the Doctor of Podiatric Medicine and**  
 36 **public member positions on the board. In making appointments to the board, the Governor**  
 37 **shall give consideration to the nominees suggested by an association. To the extent practi-**  
 38 **cable, the Governor shall attempt to make board appointments that are broadly represen-**  
 39 **tative of the geographic and cultural diversity of the state.**

40        (3) Each member of the board shall serve for a term of three years beginning on March 1 of the  
 41 year the member is appointed and ending on the last day of February of the third year thereafter.  
 42 No member shall serve more than two consecutive terms. If a vacancy occurs on the board, another  
 43 qualifying member possessing the same professional degree or fulfilling the same public capacity as  
 44 the person whose position has been vacated shall be appointed as provided in this section to fill the  
 45 unexpired term.

1 (4) **A member serves at the pleasure of the Governor.** All appointments of members of the  
 2 board by the Governor are subject to confirmation by the Senate in the manner provided in ORS  
 3 171.562 and 171.565.

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

5 677.250. The **executive director of the** Oregon Medical Board shall keep a record of all [*the*]  
 6 **board** proceedings [*thereof*], and also a record of all applicants for a license, together with their  
 7 ages, the time such applicants have spent in the study and practice of medicine, the name and lo-  
 8 cation of all institutions granting to applicants degrees in medicine and such other information as  
 9 the board may deem advisable. The record also shall show whether such applicants were rejected  
 10 or licensed under this chapter. The record is prima facie evidence of all the matters therein re-  
 11 corded, and failure of a person’s name to appear in the record is prima facie evidence that such  
 12 person does not have a license to practice medicine in this state.

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

14 677.270. If any licensee fails to comply with any lawful rule or order of the Oregon Medical  
 15 Board, or fails to obey any subpoena issued by the board, or refuses to testify concerning any matter  
 16 on which the licensee may lawfully be interrogated by the board, the board may apply to any circuit  
 17 court of this state, or the judge thereof, to compel obedience. The court or judge, upon such appli-  
 18 cation, shall institute proceedings for contempt. The remedy provided in this section is in addition  
 19 to, and not exclusive of, the authority of the board to discipline licensees for violations of ORS  
 20 677.190 [(18) and (23)] **(17) and (22).**

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

22 677.275. [(1) *The Oregon Medical Board may appoint an executive director, who need not be a*  
 23 *member of the board, and fix the compensation. The executive director shall be under the supervision*  
 24 *and control of the board, and may discharge all duties as provided in the rules of the board or as di-*  
 25 *rected by the board.*]

26 [(2)] Each administrative law judge conducting hearings on behalf of the board is vested with  
 27 the full authority of the board to schedule and conduct hearings on behalf and in the name of the  
 28 board on all matters referred by the board, including issuance of licenses, proceedings for placing  
 29 licensees on probation and for suspension and revocation of licenses, and shall cause to be prepared  
 30 and furnished to the board, for decision thereon by the board, the complete written transcript of the  
 31 record of the hearing. This transcript shall contain all evidence introduced at the hearing and all  
 32 pleas, motions and objections, and all rulings of the administrative law judge. Each administrative  
 33 law judge may administer oaths and issue summonses, notices and subpoenas, but may not place any  
 34 licensee on probation or issue, refuse, suspend or revoke a license.

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

36 677.415. (1) As used in this section:

37 (a) “Health care facility” means a facility licensed under ORS 441.015 to 441.087.

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

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

1 (3) **Except as provided in section 1 of this 2009 Act**, a licensee licensed by the Oregon Med-  
 2 ical Board, the Oregon Medical Association, Inc., or any component society thereof, the Osteopathic  
 3 Physicians and Surgeons of Oregon, Inc. or the Oregon Podiatric Medical Association shall report  
 4 within 10 working days, and any other person may report, to the board any information such  
 5 licensee, association, society or person may have that appears to show that a licensee is or may be  
 6 medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may  
 7 be a licensee with **a physical incapacity**. [*an impairment. However, a licensee who is treating an-*  
 8 *other licensee for a mental disability has a duty to report within 10 working days the licensee patient*  
 9 *unless, in the opinion of the treating licensee, the patient is not impaired.*]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (8) A report made in accordance with this section may not include any data that is privileged

1 under ORS 41.675.

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

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

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

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

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

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

19 677.417. The Oregon Medical Board shall determine by rule what constitutes medical incompe-  
 20 tence, unprofessional conduct, **physical incapacity** or [*licensee*] impairment for the purposes of ORS  
 21 chapter 677.

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

24 677.655. (1) All records and meetings of the Health Professionals Program Supervisory Council  
 25 are confidential and shall not be subject to public disclosure, nor shall the records be admissible  
 26 as evidence in any judicial, administrative, arbitration or mediation proceeding except proceedings  
 27 between the licensee or applicant and the Oregon Medical Board. Case reviews, deliberations and  
 28 communications regarding any participant in the program are exempt from the provisions of ORS  
 29 192.610 to 192.690.

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

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

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

43  
 44 **OREGON STATE BOARD OF NURSING**  
 45

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

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

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

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

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

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

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

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

(f) Conduct derogatory to the standards of nursing.

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

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

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

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

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

(3) A license or certificate in inactive status may be denied or suspended or revoked for the reasons stated in subsection (1) of this section.

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

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

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

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

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

(4) A licensee voluntarily participating in the voluntary monitoring program shall not be subject

1 to investigation or disciplinary action by the board for the same offense, if the licensee complies  
2 with the terms and conditions of the monitoring program.

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

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

8 **SECTION 33.** ORS 678.126 is amended to read:

9 678.126. (1) Any information that the Oregon State Board of Nursing obtains pursuant to ORS  
10 678.021, 678.111, 678.113, 678.123, 678.135 or 678.442 is confidential as provided under ORS 676.175.

11 (2) Upon receipt of a complaint under ORS 678.010 to 678.410 or 678.442 **or a report required**  
12 **or authorized under section 1 of this 2009 Act**, the Oregon State Board of Nursing shall conduct  
13 an investigation as described under ORS 676.165.

14 (3) Any person, facility, licensee or association that reports or provides information to the board  
15 under ORS 678.021, 678.111, 678.113, 678.123, 678.135 or 678.442 in good faith shall not be subject to  
16 an action for civil damages as a result thereof.

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

18 678.140. (1) There is created an Oregon State Board of Nursing composed of nine members, five  
19 of whom shall be registered nurses, two of whom shall be licensed practical nurses and two of whom  
20 shall be members of the public who are otherwise not eligible for appointment to the board.

21 (2) **A statewide professional association for registered nurses may submit a list of sug-**  
22 **gested nominees for appointment to the registered nurse and public member positions on the**  
23 **board. A statewide professional association for licensed practical nurses may submit a list**  
24 **of suggested nominees for appointment to the licensed practical nurse and public member**  
25 **positions on the board. In making appointments to the board, the Governor shall give con-**  
26 **sideration to the nominees suggested by an association. To the extent practicable, the Gov-**  
27 **ernor shall attempt to make board appointments that are broadly representative of the**  
28 **geographic and cultural diversity of the state.** In making appointments of registered nurses, the  
29 Governor [*shall consider geographic balance in making the appointments and*] shall ensure that the  
30 following areas of practice are represented on the board:

31 (a) One nursing educator;

32 (b) One nursing administrator;

33 (c) Two nonsupervisory nurses involved in direct patient care; and

34 (d) One nurse practitioner.

35 (3) The members of the board shall be appointed by the Governor for terms of three years, be-  
36 ginning on January 1. No member shall be eligible to appointment for more than two consecutive  
37 terms. An unexpired term of a board member shall be filled in the same manner as an original ap-  
38 pointment is made. The appointment shall be for the remainder of the unexpired term. All appoint-  
39 ments of members of the board by the Governor are subject to confirmation by the Senate pursuant  
40 to section 4, Article III of the Oregon Constitution.

41 [(4) *Two months before the expiration of the term of office of a nurse member of the board, or when*  
42 *a vacancy occurs in the office of a nurse member, the Oregon Nurses Association or any other organ-*  
43 *ization representing registered nurses, if the vacancy is in a registered nurse position, or the Oregon*  
44 *Licensed Practical Nurses Association or any other organization representing licensed practical nurses,*  
45 *if the vacancy is in a licensed practical nurse position, may submit a list of three names of persons*

1 *qualified for the appointment. The appointment of nurse members or practical nurse members may be*  
 2 *made from the respective lists.]*

3 [(5)] (4) At the time of appointment, each member of the board must be a citizen of the United  
 4 States and a resident of Oregon. Each nurse member must be currently licensed and not under dis-  
 5 disciplinary status with the board in the category for which appointed with at least five years' expe-  
 6 rience therein, three of which were immediately prior to appointment. [*The public members and any*  
 7 *person in the immediate family of the public members shall not be employed as a health professional*  
 8 *or in any health-related industry.]* **A public member may not be a person licensed under ORS**  
 9 **678.010 to 678.410 or who has a spouse, domestic partner, parent, child, sibling or in-law who**  
 10 **is licensed under ORS 678.010 to 678.410.**

11 [(6)] (5) [*The Governor may remove a member of the board for cause.*] **A member serves at the**  
 12 **pleasure of the Governor.**

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

14 678.150. (1) The Oregon State Board of Nursing shall elect annually from its number a president,  
 15 a president-elect and a secretary, each of whom shall serve until a successor is elected and qualified.  
 16 The board shall meet on the call of the president or as the board may require. Special meetings of  
 17 the board may be called by the secretary upon the request of any three members. Five members  
 18 shall constitute a quorum.

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

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

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

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

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

35 (7) The board shall:

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

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

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

40 (d) Accredite such nursing education programs as meet the requirements of ORS 678.010 to  
 41 678.445 and of the board.

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

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



1 (g) Issue subpoenas for any records relevant to a board investigation, including patient and  
2 other medical records, personnel records applicable to nurses and nursing assistants, records of  
3 schools of nursing and nursing assistant training records and any other relevant records; issue  
4 subpoenas to persons for personal interviews relating to board investigations; compel the attendance  
5 of witnesses; and administer oaths or affirmations to persons giving testimony during an investi-  
6 gation or at hearings. In any proceeding under this subsection, when a subpoena is issued to an  
7 applicant, certificate holder or licensee of the board, a claim of nurse-patient privilege under ORS  
8 40.240 or of psychotherapist-patient privilege under ORS 40.230 is not grounds for quashing the  
9 subpoena or for refusing to produce the material that is subject to the subpoena.

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

11 (i) Prescribe standards for the delegation of special tasks of patient care to nursing assistants  
12 and for the supervision of nursing assistants. The standards must include rules governing the dele-  
13 gation of administration of noninjectable medication by nursing assistants and must include rules  
14 prescribing the types of noninjectable medication that can be administered by nursing assistants,  
15 and the circumstances, if any, and level of supervision under which nursing assistants can adminis-  
16 ter noninjectable medication. In formulating the rules governing the administration of noninjectable  
17 medication by nursing assistants, the board shall consult with nurses, physicians, gerontologists and  
18 pharmacologists. Notwithstanding any other provision of this paragraph, however, determination of  
19 the appropriateness of the delegation of a special task of patient care shall remain with the regis-  
20 tered nurse issuing the order.

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

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

25 (9) For local correctional facilities, lockups and juvenile detention facilities, as defined in ORS  
26 169.005, youth correction facilities as defined in ORS 420.005, for facilities operated by a public  
27 agency for detoxification of persons who use alcohol excessively, for homes or facilities licensed  
28 under ORS 443.705 to 443.825 for adult foster care, and for facilities licensed under ORS 443.400 to  
29 443.455 for residential care, training or treatment, the board shall adopt rules pertaining to the  
30 provision of nursing care, and to the various tasks relating to the administration of noninjectable  
31 medication including administration of controlled substances. The rules must provide for delegation  
32 of nursing care and tasks relating to the administration of medication to other than licensed nursing  
33 personnel by a physician licensed by the Oregon Medical Board or by a registered nurse, designated  
34 by the facility. Such delegation must occur under the procedural guidance, initial direction and pe-  
35 riodic inspection and evaluation of the physician or registered nurse. However, the provision of  
36 nursing care may be delegated only by a registered nurse.

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

40 (11) For the purpose of requesting a state or nationwide criminal records check under ORS  
41 181.534, the board may require the fingerprints of a person who is:

42 (a) Applying for a license or certificate that is issued by the board;

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

44 (c) Under investigation by the board.

45 (12) Pursuant to ORS chapter 183, the board shall adopt rules necessary to carry out the pro-

visions of ORS 678.010 to 678.445.

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

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

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

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

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

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

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

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

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

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

**BOARD OF EXAMINERS OF  
NURSING HOME ADMINISTRATORS**

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

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

(a) The employment of fraud or deception in applying for or obtaining a nursing home administrator's license.

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

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

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

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

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

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

(h) Violation of or noncompliance with any applicable provisions of ORS 678.710 to 678.780,

1 678.800 to 678.840 and 678.990 (2) or of any lawful rule or order of the board or continuous or sub-  
 2 stantial violations of the rules adopted under ORS 441.055.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 678.800. (1) There is hereby created **in the Department of Human Services** a Board of Ex-  
 24 aminers of Nursing Home Administrators [*in the Department of Human Services*] **composed of nine**  
 25 **individuals concerned with the care and treatment of elderly patients who are chronically ill**  
 26 **or infirm.**

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

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

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

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

36 (d) Three members **must be** representative of the public at large, at least one of whom shall be  
 37 at least 62 years of age; **and**

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

39 [*(f)*] (3) Except for those persons described in [*paragraph (a) of this subsection*] **subsection (2)(a)**  
 40 **of this section**, no member of the board shall have a direct financial interest in a nursing home.

41 [(3)] (4) All members of the board shall be citizens of the United States or shall have declared  
 42 their intent to become citizens of the United States and shall be residents of this state. No more  
 43 than two of the members of the board may be officials or full-time employees of state or local gov-  
 44 ernments.

45 [(4)] (5) 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 but no  
 3 member shall serve more than two consecutive terms. If there is a vacancy for any cause the Gov-  
 4 ernor shall make an appointment to become immediately effective for the unexpired term.

5 **(6) A statewide professional association for nursing home administrators may submit a**  
 6 **list of suggested nominees for appointment to the board. In making appointments to the**  
 7 **board, the Governor shall give consideration to the nominees suggested by the association.**  
 8 **To the extent practicable, the Governor shall attempt to make board appointments that are**  
 9 **broadly representative of the geographic and cultural diversity of the state.**

10 [(5)] (7) All appointments of members of the board by the Governor are subject to confirmation  
 11 by the Senate in the manner provided in ORS 171.562 and 171.565.

12 [(6)] (8) The members of the board are entitled to compensation and expenses as provided in  
 13 ORS 292.495.

14 [(7)] (9) [No] Public members of the board [shall] **may not** hold any pecuniary interest in, or  
 15 have any employment contract with, a long term care facility. **A public member may not be a**  
 16 **person licensed under ORS 678.710 to 678.840 or who has a spouse, domestic partner, parent,**  
 17 **child, sibling or in-law who is licensed under ORS 678.710 to 678.840.**

18  
 19 **OREGON BOARD OF DENTISTRY**

20  
 21 **SECTION 39.** ORS 679.140 is amended to read:

22 679.140. (1) The Oregon Board of Dentistry may discipline as provided in this section any person  
 23 licensed to practice dentistry in this state for any of the following causes:

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

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

30 (c) Unprofessional conduct.

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

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

36 (f) Incapacity to practice safely.

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

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

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

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

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

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

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

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

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

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

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

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

22 (a) Suspend judgment.

23 (b) Place a licensee on probation.

24 (c) Suspend a license to practice dentistry in this state.

25 (d) Revoke a license to practice dentistry in this state.

26 (e) Place limitations on a license to practice dentistry in this state.

27 (f) Refuse to renew a license to practice dentistry in this state.

28 (g) Accept the resignation of a licensee to practice dentistry in this state.

29 (h) Assess a civil penalty.

30 (i) Reprimand a licensee.

31 (j) Impose any other disciplinary action the board in its discretion finds proper, including as-  
32 sessment of the costs of the disciplinary proceedings as a civil penalty.

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

42 (7) If a license to practice dentistry in this state is suspended, the person holding the license  
43 may not practice during the term of suspension. Upon the expiration of the term of suspension, the  
44 license shall be reinstated by the board if the board finds, based upon evidence furnished by the  
45 person, that the person is competent to practice dentistry and has not practiced dentistry in this

1 state during the term of suspension. If the evidence fails to establish to the satisfaction of the board  
 2 that the person is competent or if any evidence shows the person has practiced dentistry in this  
 3 state during the term of suspension, the board may revoke the license after notice and hearing.

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

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

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

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

17 (a) Proceed with any investigation of, or any action or disciplinary proceedings against, the  
 18 dentist or dental hygienist; or

19 (b) Revise or render void an order suspending or revoking the license.

20 (12)(a) The board may continue with any proceeding or investigation for a period not to exceed  
 21 four years from the date of the expiration, suspension, revocation or surrender of the license, or the  
 22 resignation or retirement of the licensee; or

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

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

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

29 679.230. (1) **Except as provided in subsection (3) of this section,** the Oregon Board of  
 30 Dentistry shall consist of nine members[. *A member shall be appointed to the board by the Governor*  
 31 *upon the expiration of the term of office of each of the preceding board members.*] **appointed by the**  
 32 **Governor.** Appointments to the board by the Governor are subject to confirmation by the Senate  
 33 in the manner provided in ORS 171.562 and 171.565. Each member shall hold the office for four years  
 34 and until the member's successor is appointed and qualified, **except that a member serves at the**  
 35 **pleasure of the Governor.** Terms of office begin on the first Monday of April after the time of  
 36 appointment. [*No person is eligible to membership on the board who is not a citizen of the United*  
 37 *States or*] **A board member must be** a resident of the State of Oregon.

38 (2) [*Six*] **Five** members shall be Oregon active licensed dentists, of which at least one shall be  
 39 a dentist practicing in a dental specialty recognized by the American Dental Association, [*one*  
 40 *member*] **two members** shall be [*a public member*] **public members** and two members shall be  
 41 Oregon active licensed dental hygienists. **A public member may not be a person licensed under**  
 42 **this chapter or ORS 680.010 to 680.205 or who has a spouse, domestic partner, parent, child,**  
 43 **sibling or in-law who is licensed under this chapter or ORS 680.010 to 680.205.** [*Appointments*  
 44 *of dentists made by the Governor to the Oregon Board of Dentistry may be selected by the Governor*  
 45 *from a list of five names for each appointment suggested by the Oregon Dental Association. Appoint-*

1 *ments of dental hygienists made by the Governor to the Oregon Board of Dentistry may be selected by*  
 2 *the Governor from a list of five names suggested by the Oregon Dental Hygienists' Association. Ap-*  
 3 *pointments of dental specialists by the Governor to the Oregon Board of Dentistry may be selected by*  
 4 *the Governor from one name suggested by each of the organizations representing a dental specialty.]*

5 **(3) The board may adopt a rule to create a 10th member position on the board. The tenth**  
 6 **member must be an Oregon active licensed dentist, be appointed by the Governor and meet**  
 7 **all other requirements for a board member who is not a member of the public.**

8 **(4) A statewide professional association for dentists may submit a list of suggested**  
 9 **nominees for appointment to the dentist and public member positions on the board. A**  
 10 **statewide professional association for dental hygienists may submit a list of suggested nom-**  
 11 **inees for appointment to the dental hygienist and public member positions on the board. A**  
 12 **statewide professional association for specializing dentists may submit a list of suggested**  
 13 **nominees for appointment to the specializing dentist and public member positions on the**  
 14 **board. In making appointments to the board, the Governor shall give consideration to the**  
 15 **nominees suggested by an association. To the extent practicable, the Governor shall attempt**  
 16 **to make board appointments that are broadly representative of the geographic and cultural**  
 17 **diversity of the state.**

18 (5) Members are entitled to compensation and expenses as provided in ORS 292.495.

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

20 679.250. The powers and duties of the Oregon Board of Dentistry are as follows:

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

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

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

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

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

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

44 (6) To keep an accurate record of all proceedings of the board and of all its meetings, of all  
 45 receipts and disbursements, of all prosecutions for violation of this chapter, of all examinations for

1 license to practice dentistry, with the names and qualifications for examination of any person ex-  
2 amined, together with the addresses of those licensed and the results of such examinations, a record  
3 of the names of all persons licensed to practice dentistry in Oregon together with the addresses of  
4 all such persons having paid the license fee prescribed in ORS 679.120 and the names of all persons  
5 whose license to practice has been revoked or suspended.

6 (7) To make and enforce rules necessary for the procedure of the board, for the conduct of ex-  
7 aminations, for regulating the practice of dentistry, and for regulating the services of dental  
8 hygienists and dental auxiliary personnel not inconsistent with the provisions of this chapter. As  
9 part of such rules, the board may require the procurement of a permit or other certificate. Any  
10 permit issued may be subject to periodic renewal. In adopting rules, the board shall take into ac-  
11 count all relevant factors germane to an orderly and fair administration of this chapter and of ORS  
12 680.010 to 680.205, the practices and materials generally and currently used and accepted by persons  
13 licensed to practice dentistry in this state, dental techniques commonly in use, relevant technical  
14 reports published in recognized dental journals, the curriculum at accredited dental schools, the  
15 desirability of reasonable experimentation in the furtherance of the dental arts, and the desirability  
16 of providing the highest standard of dental care to the public consistent with the lowest economic  
17 cost.

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

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

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

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





1 censed under this chapter or who has a spouse, domestic partner, parent, child, sibling or  
 2 in-law who is licensed under this chapter.

3 (2) A statewide professional association for speech, language or audiology professionals  
 4 may submit a list of suggested nominees for appointment to the board. In making appoint-  
 5 ments to the board, the Governor shall give consideration to the nominees suggested by the  
 6 association. To the extent practicable, the Governor shall attempt to make board appoint-  
 7 ments that are broadly representative of the geographic and cultural diversity of the state.

8 [(2)] (3) A member of the board shall receive compensation and expenses as provided in ORS  
 9 292.495.

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

11 681.450. [(1) Subject to applicable provisions of the State Personnel Relations Law, the State Board  
 12 of Examiners for Speech-Language Pathology and Audiology may appoint an executive director and  
 13 prescribe the duties and fix the compensation of the executive director.]

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

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

20  
 21 **OREGON BOARD OF OPTOMETRY**

22  
 23 **SECTION 46.** ORS 683.140 is amended to read:

24 683.140. (1) The Oregon Board of Optometry may discipline as provided in this section any  
 25 optometrist or person, where appropriate, for the following causes:

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

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

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

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

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

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

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

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

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

43 (j) Advertising professional methods or professional superiority.

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

45 (L) Violating the federal Controlled Substances Act.

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

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

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

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

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

15 (a) Deny an initial license;

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

17 (c) Place the optometrist on probation;

18 (d) Impose limitations on the optometrist; or

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

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

23 683.250. (1) The Oregon Board of Optometry shall operate as a semi-independent state agency  
 24 subject to ORS 182.456 to 182.472, for the purpose of carrying out this chapter. **Except as provided**  
 25 **in subsection (3) of this section**, the board shall consist of five members appointed by the Gover-  
 26 nor. Each member of the board shall qualify by taking and subscribing the oath of office required  
 27 by the Constitution, which shall be filed in the office of the Secretary of State. **All members of the**  
 28 **board must be residents of this state.**

29 (2) *[Four]* **Three** of the members of this board *[shall]* **must** be Doctors of Optometry licensed  
 30 and in practice in Oregon. *[and the fifth member shall be a public member]* **Two members must be**  
 31 **public members** representing health consumers.

32 (3) **The board may adopt a rule to create a sixth member position on the board. The sixth**  
 33 **member must be a Doctor of Optometry licensed and in practice in Oregon, be appointed by**  
 34 **the Governor and meet all other requirements for a board member who is not a member of**  
 35 **the public.**

36 (4) **A statewide professional association for optometrists may submit a list of suggested**  
 37 **nominees for appointment to the board. In making appointments to the board, the Governor**  
 38 **shall give consideration to the nominees suggested by the association. To the extent practi-**  
 39 **cable, the Governor shall attempt to make board appointments that are broadly represen-**  
 40 **tative of the geographic and cultural diversity of the state.**

41 (5) Each of the members shall hold office for a term of three years or until a successor is ap-  
 42 pointed and qualified and shall be so classified that at least one optometrist member of the board  
 43 retires each year. A majority of the members constitute a quorum for the transaction of business.

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

45 683.260. (1) No person is eligible to membership on the Oregon Board of Optometry who is a

1 stockholder in, or owner of, or a member of the faculty of or of the board of trustees of any school  
 2 of optometry. [*The person appointed to represent health consumers and any person in the immediate*  
 3 *family of the person shall not have any direct or indirect relationships to health care professionals.*]  
 4 **A public member of the board may not be a person licensed under ORS 683.010 to 683.310 or**  
 5 **who has a spouse, domestic partner, parent, child, sibling or in-law who is licensed under**  
 6 **ORS 683.010 to 683.310. A public member or the spouse, domestic partner, parent, child, sib-**  
 7 **ling or in-law of a public member may not have any relationship** to the health care industry  
 8 or to the ophthalmic optical industry.

9 (2) No member of the board shall be financially interested in any purchase or contract in which  
 10 the board is interested. No member of the board shall be financially interested in the sale of any  
 11 property or optical supplies to any prospective candidate for examination before the board.

12  
 13 **STATE BOARD OF CHIROPRACTIC EXAMINERS**

14  
 15 **SECTION 49.** ORS 684.010 is amended to read:

16 684.010. As used in this chapter:

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

- 18 (a) Is licensed under ORS 684.054;
- 19 (b) Is at least 60 years of age; and
- 20 (c) Has been in practice for 25 years or more.

21 (2) "Chiropractic" is defined as:

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

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

30 (3) "Chiropractic physician" means a person licensed by ORS 677.060, 684.025, 684.100, 684.155  
 31 or 688.010 to 688.201 and this section as an attending physician.

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

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

41 [(6)] (5) "Minor surgery" means the use of electrical or other methods for the surgical repair  
 42 and care incident thereto of superficial lacerations and abrasions, benign superficial lesions, and the  
 43 removal of foreign bodies located in the superficial structures; and the use of antiseptics and local  
 44 anesthetics in connection therewith.

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

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

3 (a) Fraud or misrepresentation.

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

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

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

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

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

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

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

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

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

24 (C) Gross malpractice or repeated malpractice.

25 *[(h)]* **(g)** Failing to notify the board of a change in location of practice as provided in ORS  
 26 684.054.

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

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

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

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

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

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

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

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

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

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

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

6        ~~[(t)]~~ **(s)** Failing to give prior notice to patients of the permanent or temporary closure of the  
 7 physician's practice or failing to give reasonable access to the records and files of the physician's  
 8 patients at any time.

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

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

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

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

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

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

31        (6) Notwithstanding any other provisions of ORS 684.010, 684.040, 684.050, 684.090, 684.100,  
 32 684.112, 684.130, 684.150 and 684.155, the board may at any time direct and order a professional  
 33 competency examination limited to the area of practice out of which a specific complaint has arisen  
 34 and make an investigation, including the taking of depositions or otherwise in order to fully inform  
 35 itself with respect to the performance or conduct of a physician licensed under ORS 684.010, 684.040,  
 36 684.050, 684.090, 684.100, 684.112, 684.130, 684.150 and 684.155.

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

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

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

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

44        (b) Person certified to provide physiotherapy, electrotherapy or hydrotherapy pursuant to ORS  
 45 684.155 (1)(c) is or may be unable to provide the therapies with reasonable skill and safety to pa-

1 tients, the board may:

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

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

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

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

11 (a) Suspend judgment.

12 (b) Place the person on probation.

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

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

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

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

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

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

21 (b) Any person who reports or provides information to the board under ORS 684.090, 684.100,  
 22 684.112, 684.150 and 684.155 and who provides information in good faith shall not be subject to an  
 23 action for civil damages as a result thereof.

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

25 684.103. (1) In addition to or instead of any disciplinary action under ORS 684.100, the State  
 26 Board of Chiropractic Examiners may refer [*an impaired*] **a chiropractic physician who has an**  
 27 **impairment as defined in section 1 of this 2009 Act** to a board-approved diversion program.

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

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

31 684.130. (1) There is established the State Board of Chiropractic Examiners. The board shall be  
 32 composed of five chiropractors and two public members. [*who are*] **All members of the board must**  
 33 **be residents of this state. The chiropractor members must have practiced chiropractic in this state**  
 34 **for five years prior to appointment. A public member may not be a person licensed under this**  
 35 **chapter or who has a spouse, domestic partner, parent, child, sibling or in-law who is li-**  
 36 **icensed under this chapter.** Annually, upon the expiration of the term of any members of the board,  
 37 the Governor shall appoint one or more qualified persons to the board to serve for a period of three  
 38 years.

39 (2) **A board member serves at the pleasure of the Governor.** The Governor shall fill va-  
 40 cancies on the board, occasioned by death or otherwise. [*Upon sufficient proof to the Governor of the*  
 41 *inability or misconduct of a member of the board, the member shall be dismissed and the Governor*  
 42 *shall appoint as successor a person qualified to fill the vacancy.*] **A statewide professional associ-**  
 43 **ation for chiropractic physicians may submit a list of suggested nominees for appointment**  
 44 **to the board. In making appointments to the board, the Governor shall give consideration**  
 45 **to the nominees suggested by the association. To the extent practicable, the Governor shall**

1 **attempt to make board appointments that are broadly representative of the geographic and**  
 2 **cultural diversity of the state.**

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

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

6 684.140. The State Board of Chiropractic Examiners shall annually elect a president, a vice  
 7 president and a secretary-treasurer from its membership. The **executive director of the** board shall  
 8 keep a record of the proceedings of the board which shall be open to public inspection at all times  
 9 during business hours.

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

11 684.157. The State Board of Chiropractic Examiners may enter into contracts to make services  
 12 available to [*impaired*] chiropractic physicians **who have an impairment as defined in section 1**  
 13 **of this 2009 Act** and may, in accordance with ORS chapter 183, adopt rules for the administration  
 14 of a diversion program for impaired chiropractic physicians.

15 **SECTION 55.** ORS 684.200 is amended to read:

16 684.200. (1) **In addition to any report required or authorized under section 1 of this 2009**  
 17 **Act**, any licensee licensed by the State Board of Chiropractic Examiners shall, and any other person  
 18 may, report to the board any suspected violations of this chapter.

19 (2) Information pertaining to the report required by subsection (1) of this section shall remain  
 20 confidential and not be subject to public disclosure except as considered necessary by the board in  
 21 the enforcement of this chapter.

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

24  
 25 **BOARD OF NATUROPATHIC EXAMINERS**

26  
 27 **SECTION 56.** ORS 685.110 is amended to read:

28 685.110. The Board of Naturopathic Examiners may refuse to grant a license, may suspend or  
 29 revoke a license, may limit a license, may impose probation, may issue a letter of reprimand and  
 30 may impose a civil penalty not to exceed \$1,000 for each offense for any of the following reasons:

- 31 (1) The use of fraud or deception in securing a license.
- 32 (2) The impersonation of another physician.
- 33 (3) Practicing naturopathic medicine under an assumed name.
- 34 (4) The performance of an abortion.
- 35 (5) The conviction of a crime involving moral turpitude.
- 36 (6) Any other reason that renders the applicant or licensee unfit to perform the duties of a  
 37 naturopathic physician.
- 38 (7) Conviction of a crime relating to practice of naturopathic medicine.
- 39 (8) Negligence related to the practice of naturopathic medicine.
- 40 (9) [*Habitual or excessive use of intoxicants, drugs or controlled substances.*] **Impairment as de-**  
 41 **defined in section 1 of this 2009 Act.**
- 42 (10) Prescribing or dispensing drugs outside the scope of practice.
- 43 [(11) *Commitment to a mental institution for the treatment of a mental disease that affects the*  
 44 *ability of the applicant or licensee to safely practice naturopathic medicine.*]
- 45 [(12)] (11) Obtaining a fee through fraud or misrepresentation.



1 [(13)] (12) Gross or repeated malpractice.

2 [(14)] (13) Representing to a patient that a manifestly incurable condition of sickness, disease  
3 or injury can be permanently cured.

4 [(15)] (14) Any conduct or practice contrary to a recognized standard of ethics of the profession  
5 or any conduct or practice that does or might constitute a danger to the health or safety of a pa-  
6 tient or the public or any conduct, practice or condition that does or might [*impair*] **adversely af-**  
7 **fect** a physician’s ability safely and skillfully to practice naturopathic medicine.

8 [(16)] (15) Willful and consistent utilization of any naturopathic service, X-ray equipment or  
9 treatment that is contrary to recognized standards of practice of the naturopathic profession.

10 [(17)] (16) Failure to notify the board within 30 days of a change in the location of practice or  
11 of mailing address.

12 [(18)] (17) Attempting to practice naturopathic medicine or practicing or claiming to practice  
13 naturopathic medicine or any of its components in this state without first complying with the pro-  
14 visions of this chapter.

15 [(19)] (18) Suspension or revocation of a license to practice naturopathic medicine in another  
16 jurisdiction.

17 [(20)] (19) Employing unlicensed persons to practice naturopathic medicine.

18 [(21)] (20) Practicing natural childbirth without first obtaining a certificate of special compe-  
19 tency.

20 [(22)] (21) Representing that the licensee is a medical specialist or practices a medical specialty.

21 [(23)] (22) Failure to respond in a timely manner to a request for information regarding a com-  
22 plaint or the investigation of a complaint by the board.

23 [(24)] (23) Failure to pay a civil penalty in the time specified by the order imposing the penalty.

24 [(25)] (24) Violation of any provision of this chapter or rules adopted by the board.

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

26 685.160. (1) There hereby is created the Board of Naturopathic Examiners in the Department  
27 of Human Services. The board shall consist of seven members appointed by the Governor for terms  
28 of three years commencing July 1, and until their successors are appointed and qualified. **A member**  
29 **serves at the pleasure of the Governor.** A majority of the members of the board constitutes a  
30 quorum. If there is a vacancy for any cause, the Governor shall appoint a member to serve for the  
31 remainder of the unexpired term. All appointments of members of the board by the Governor are  
32 subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

33 (2) Of the membership of the Board of Naturopathic Examiners:

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

35 (b) Five members shall be naturopaths who have each practiced continuously in this state for  
36 the five years immediately prior to the date of appointment.

37 (c) Two shall be members of the general public who do not possess the qualifications set forth  
38 in paragraph (b) of this subsection. **A public member may not be a person licensed under this**  
39 **chapter or who has a spouse, domestic partner, parent, child, sibling or in-law who is li-**  
40 **icensed under this chapter.**

41 (3) **A statewide professional association for naturopaths may submit a list of suggested**  
42 **nominees for appointment to the board. In making appointments to the board, the Governor**  
43 **shall give consideration to the nominees suggested by the association. To the extent practi-**  
44 **cable, the Governor shall attempt to make board appointments that are broadly represen-**  
45 **tative of the geographic and cultural diversity of the state.**

1 [(3)] (4) The board shall carry into effect the provisions of this chapter and is authorized to issue  
 2 licenses to practice naturopathic medicine in this state. The possession of a common seal by the  
 3 board hereby is authorized.

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

5 685.170. Annually, the Board of Naturopathic Examiners shall elect one of its members chair.  
 6 The chair shall have power during the term of office to summon witnesses, administer oaths and  
 7 take testimony and affidavits. The executive director of the board or a designee of the executive  
 8 director shall keep a record of all actions of the board, including a detailed register of applicants  
 9 for a license. *[The board shall employ or appoint a person to act as executive director of the board*  
 10 *and perform such duties and functions as may be prescribed by the board.]*

11  
 12 **OREGON STATE VETERINARY MEDICAL EXAMINING BOARD**

13  
 14 **SECTION 59.** ORS 686.120 is amended to read:

15 686.120. (1) With the consent of five members, the Oregon State Veterinary Medical Examining  
 16 Board may discipline in accordance with ORS 686.150 any permit or license holder under this  
 17 chapter for unprofessional or dishonorable conduct.

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

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

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

23 *[(b)] (c)* Publicly professes to cure or treat diseases of a highly contagious, infectious and  
 24 incurable nature;

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

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

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

31 686.130. “Unprofessional or dishonorable conduct,” as used in this chapter, includes:

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

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

37 (3) Misrepresentation of services rendered.

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

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

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

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

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

6 (9) False or misleading advertising.

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

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

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

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

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

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

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

27 686.210. (1) There is created the Oregon State Veterinary Medical Examining Board, which shall  
 28 carry out the purposes and enforce the provisions of this chapter. The board shall consist of eight  
 29 members appointed by the Governor for a term of four years. [*Appointments made by the Governor*  
 30 *to the board may be selected from a list of five names for each appointment suggested by the Oregon*  
 31 *Veterinary Medical Association.*] Five members shall be licensed to practice veterinary medicine,  
 32 surgery and dentistry in this state. Two members shall be public members. One member shall be a  
 33 certified veterinary technician.

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

37 **(3) A statewide professional association for veterinarians may submit a list of suggested**  
 38 **nominees for appointment to veterinarian and public member positions on the board. A**  
 39 **statewide professional association for veterinary technicians may submit a list of suggested**  
 40 **nominees for appointment to veterinary technician and public member positions on the**  
 41 **board. In making appointments to the board, the Governor shall give consideration to the**  
 42 **nominees suggested by an association. To the extent practicable, the Governor shall attempt**  
 43 **to make board appointments that are broadly representative of the geographic and cultural**  
 44 **diversity of the state.**

45 (4) Any appointments to fill vacancies by reason of death, resignation or removal shall be made

1 by the Governor for the residue of the term of the retiring member. All appointments of members  
 2 of the board by the Governor are subject to confirmation by the Senate in the manner provided in  
 3 ORS 171.562 and 171.565.

4 [(2)] (5) [The board may appoint an executive director.] Nothing in this chapter shall be construed  
 5 to prevent assistance being rendered by the executive director of the board in any hearing called  
 6 by it.

7 [(3)] (6) Pursuant to ORS chapter 183 the board may adopt rules necessary for the adminis-  
 8 tration of this chapter.

9  
 10 **STATE BOARD OF MASSAGE THERAPISTS**

11  
 12 **SECTION 62.** ORS 687.051 is amended to read:

13 687.051. (1) To be eligible for issuance of an initial license in this state as a massage therapist  
 14 [after January 1, 1999], the applicant shall:

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

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

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

21 (d) Have completed a minimum of 500 contact hours of certified classes in the following subjects:  
 22 Anatomy and physiology, kinesiology, pathology, hydrotherapy, theory and hands-on practice of  
 23 massage and bodywork techniques and professional practices, including client communication and  
 24 boundaries, professional and business ethics and sanitation. The board by rule may set the minimum  
 25 number of required hours for each subject.

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

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

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

39 (3) The board may require that an applicant furnish evidence satisfactory to the board that the  
 40 applicant can safely and competently practice the profession of massage. The board may consider  
 41 evidence including, but not limited to, indications of impairment [by alcohol or controlled  
 42 substances] as defined in section 1 of this 2009 Act or of behavior, practices or conduct that would  
 43 be considered unprofessional or dishonorable conduct if engaged in by a person licensed under ORS  
 44 687.011 to 687.250, 687.895 and 687.991.

45 (4) To be eligible for biennial renewal, a renewal applicant shall submit evidence to the board,

1 as determined by the board by rule, that the applicant has completed a minimum of 12 hours of  
 2 board-approved continuing education.

3 (5) To be eligible for inactive status, a licensed massage therapist must not be practicing mas-  
 4 sage in this state.

5 **SECTION 63.** ORS 687.081 is amended to read:

6 687.081. (1) The State Board of Massage Therapists may discipline a licensee, deny, suspend,  
 7 revoke or refuse to renew a license, issue a reprimand, censure a licensee or place a licensee on  
 8 probation if the licensee:

9 (a) Has violated any provision of ORS 687.011 to 687.250, 687.895 and 687.991 or any rule of the  
 10 board adopted under ORS 687.121.

11 (b) Has made any false representation or statement to the board in order to induce or prevent  
 12 action by the board.

13 (c) Has a physical [*or mental*] condition that makes the licensee unable to conduct safely the  
 14 practice of massage.

15 (d) [*Is habitually intemperate in the use of alcoholic beverages or is addicted to the use of habit-*  
 16 *forming drugs or controlled substances*] **Has an impairment as defined in section 1 of this 2009**  
 17 **Act.**

18 (e) Has misrepresented to any patron any services rendered.

19 (f) Has been convicted of a crime that bears a demonstrable relationship to the practice of  
 20 massage.

21 (g) Fails to meet with any requirement under ORS 687.051.

22 (h) Violates any provision of ORS 167.002 to 167.027.

23 (i) Engages in unprofessional or dishonorable conduct.

24 (j) Has been the subject of disciplinary action as a massage therapist by any other state or  
 25 territory of the United States or by a foreign country and the board determines that the cause of  
 26 the disciplinary action would be a violation under ORS 687.011 to 687.250, 687.895 and 687.991 or  
 27 rules of the board if it occurred in this state.

28 (2) If the board places a licensee on probation pursuant to subsection (1) of this section, the  
 29 board may impose and at any time modify the following conditions of probation:

30 (a) Limitation on the allowed scope of practice.

31 (b) If the board finds that the licensee [*is physically or mentally impaired*] **has a physical in-**  
 32 **capacity to practice reasonable competence and safety**, a requirement for successful completion  
 33 of appropriate treatment as determined by the board.

34 (c) Individual or peer supervision.

35 (d) Such other conditions as the board may deem necessary for the protection of the public and  
 36 the rehabilitation of the licensee.

37 (3) If the board determines that a licensee's continued practice constitutes a serious danger to  
 38 the public, the board may impose an emergency suspension of the license without a hearing. Si-  
 39 multaneous with the order of suspension, the board shall institute proceedings for a hearing as  
 40 provided under ORS 687.011 to 687.250, 687.895 and 687.991. The suspension shall continue unless  
 41 and until the licensee obtains injunctive relief from a court of competent jurisdiction or the board  
 42 determines that the suspension is no longer necessary for the protection of the public.

43 (4) In addition to the discipline described in subsection (1) of this section, the board may impose  
 44 a civil penalty as provided under ORS 687.250. Civil penalties under this subsection shall be imposed  
 45 pursuant to ORS 183.745.

1 (5) Prior to imposing any of the sanctions authorized under this section, the board shall con-  
 2 sider, but is not limited to, the following factors:

3 (a) The person's past history in observing the provisions of ORS 687.011 to 687.250, 687.895 and  
 4 687.991 and the rules adopted pursuant thereto;

5 (b) The effect of the violation on public safety and welfare;

6 (c) The degree to which the action subject to sanction violates professional ethics and standards  
 7 of practice;

8 (d) The economic and financial condition of the person subject to sanction; and

9 (e) Any mitigating factors that the board may choose to consider.

10 (6) In addition to the sanctions authorized by this section, the board may assess against a  
 11 licensee the costs associated with the disciplinary action taken against the licensee.

12 (7) The board shall adopt a code of ethical standards for practitioners of massage and shall take  
 13 appropriate measures to ensure that all applicants and practitioners of massage are aware of those  
 14 standards.

15 (8) Upon receipt of a complaint under ORS 687.011 to 687.250, 687.895 and 687.991, the board  
 16 shall conduct an investigation as described under ORS 676.165.

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

20 **SECTION 64.** ORS 687.115 is amended to read:

21 687.115. (1) The State Board of Massage Therapists shall operate as a semi-independent state  
 22 agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 687.011  
 23 to 687.250, 687.895 and 687.991. The board shall be composed of seven members, four of whom shall  
 24 be licensed massage therapists and three of whom shall be members of the public, including one  
 25 public member selected from a health related field, who shall be appointed by the Governor for  
 26 terms of four years. Members serve at the *[option]* **pleasure** of the Governor.

27 **(2) All members of the board must be residents of this state. A public member may not**  
 28 **be a person licensed under ORS 687.011 to 687.250 or who has a spouse, domestic partner,**  
 29 **parent, child, sibling or in-law who is licensed under ORS 687.011 to 687.250.**

30 **(3) A statewide professional association for massage therapists may submit a list of**  
 31 **suggested nominees for appointment to the board. In making appointments to the board, the**  
 32 **Governor shall give consideration to the nominees suggested by the association. To the ex-**  
 33 **tent practicable, the Governor shall attempt to make board appointments that are broadly**  
 34 **representative of the geographic and cultural diversity of the state.**

35 *[(2)]* (4) Members are entitled to compensation and expenses as determined by the board.

36 *[(3) The board may:]*

37 *[(a) Hold meetings at times and locations determined by the board.]*

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

43 **(5) The board may hold meetings at times and locations determined by the board.**

44 **(6) Subject to board approval, the executive director of the board may employ special**  
 45 **consultants.**



1 failure to act, regardless of whether injury to the patient occurs.

2 (e) Provides substandard care as a physical therapist assistant by exceeding the authority to  
 3 perform components of physical therapy interventions selected by the supervising physical therapist  
 4 or through a deliberate or negligent act or failure to act, regardless of whether injury to the patient  
 5 occurs.

6 (f) Fails as a physical therapist to supervise physical therapist assistants in accordance with  
 7 board rules.

8 (g) Fails as a physical therapist or physical therapist assistant to supervise physical therapist  
 9 aides in accordance with board rules.

10 (h) Subject to the provisions of ORS 670.280, has been convicted of a crime in Oregon or any  
 11 other state, territory or country. For purposes of this paragraph, conviction includes a verdict of  
 12 guilty, a plea of guilty or a plea of no contest.

13 (i) *[Uses controlled substances or intoxicating liquors to an extent or in a manner that is illegal,*  
 14 *dangerous or injurious to the licensee or others or that impairs the person's ability to safely practice*  
 15 *physical therapy.]* **Has an impairment as defined in section 1 of this 2009 Act.**

16 (j) Has had an application for licensure refused because of conduct or circumstances that would  
 17 be grounds for sanctions by the board, or a license revoked or suspended, or other disciplinary  
 18 action taken by the proper authorities of another state, territory or country.

19 (k) Engages in sexual misconduct. For purposes of this paragraph, sexual misconduct includes  
 20 but is not limited to:

21 (A) Engaging in sexual conduct or soliciting a sexual relationship with a current patient,  
 22 whether consensual or nonconsensual.

23 (B) Intentionally exposing or viewing a completely or partially disrobed patient in the course  
 24 of treatment if the exposure or viewing is not related to patient diagnosis or treatment under cur-  
 25 rent practice standards.

26 (L) Directly or indirectly requests, receives, pays or participates in dividing, transferring or as-  
 27 signing an unearned fee or profits by a means of a credit or other valuable consideration such as  
 28 an unearned commission, discount or gratuity in connection with the furnishing of physical therapy  
 29 services. This paragraph does not prohibit the members of any regularly and properly organized  
 30 business entity recognized by law and comprised of physical therapists from dividing fees received  
 31 for professional services among themselves as they determine.

32 (m) Fails to adhere to the standards of ethics of the physical therapy profession established by  
 33 board rule.

34 (n) Obtains or attempts to obtain a fee for physical therapy services by fraud or misrepresen-  
 35 tation.

36 (o) Makes misleading, deceptive or fraudulent representations in the course of providing phys-  
 37 ical therapy services.

38 (p) Fails to report to the board, when the person has direct knowledge of an unprofessional,  
 39 incompetent or illegal act that reasonably appears to be in violation of ORS 688.010 to 688.201 or  
 40 any rules of the board.

41 (q) Interferes with an investigation or disciplinary proceeding of the board.

42 (r) Aids or abets a person who is not licensed in this state to practice physical therapy.

43 (s) Fails to maintain adequate patient records.

44 (t) Fails to maintain patient confidentiality.

45 (u) Provides treatment intervention that is not warranted by the patient's condition or continues



1 treatment beyond the point of reasonable benefit to the patient.

2 (v) Provides physical therapy services or participates in physical therapy services solely for  
3 reasons of personal or institutional financial gain.

4 (w) Aids or causes another person, directly or indirectly, to violate ORS 688.010 to 688.201 or  
5 rules of the board, fraudulently uses or permits the use of a license number in any way, or acts with  
6 the intent to violate ORS 688.010 to 688.201 or rules of the board.

7 (3) To enforce the provisions of this section, the board is authorized to initiate an investigation  
8 and take the following actions:

9 (a) Receive complaints filed against persons and conduct timely investigations.

10 (b) Initiate its own investigation if the board has reason to believe that there may have been a  
11 violation of ORS 688.010 to 688.201.

12 (c) Issue a subpoena to compel the attendance of any witness or the production of any doc-  
13 umentation relating to a matter under investigation. In addition to the board, the executive director  
14 or the executive director's designee may issue a subpoena. When the board, in the course of an in-  
15 vestigation, requires the production of patient records for inspection and copying by subpoena, or  
16 otherwise, the records shall be produced without regard to whether patient consent has been ob-  
17 tained and without regard to any claim of confidentiality or privilege.

18 (d) Take the deposition of a witness, including a physical therapist or physical therapist assist-  
19 ant being investigated, in the manner provided by law in civil cases.

20 (e) Take emergency action to suspend a person's license or restrict the person's practice or  
21 employment pending proceedings by the board.

22 (f) Report to the appropriate district attorney all cases that, in the judgment of the board,  
23 warrant prosecution.

24 (g) Require a person to undergo a mental, physical, chemical dependency or competency evalu-  
25 ation at the person's expense when the board has objectively reasonable grounds to believe that the  
26 person is or may be unable to practice physical therapy with reasonable skill and safety, with the  
27 results being reported to the board. The report shall not be disclosed to the public but may be re-  
28 ceived into evidence in a proceeding between the board and the person when the mental, physical,  
29 chemical dependency or competency of the person is at issue, notwithstanding any claim of privilege  
30 by the person.

31 (4) If the board finds that the information received in a complaint or an investigation does not  
32 merit disciplinary action against a person, nondisciplinary actions may ensue. The board may then  
33 take the following actions:

34 (a) Dismiss the complaint.

35 (b) Issue a confidential advisory letter to the person that is nondisciplinary and that notifies the  
36 physical therapist or physical therapist assistant that certain conduct or practices must be modified  
37 or eliminated.

38 (5) The board may apply for injunctive relief in any court of competent jurisdiction to enjoin  
39 any person from committing any act in violation of ORS 688.010 to 688.201. Injunction proceedings  
40 are in addition to, and not in lieu of, penalties or other sanctions prescribed in ORS 688.010 to  
41 688.201.

42 **SECTION 67.** ORS 688.160 is amended to read:

43 688.160. (1) The Physical Therapist Licensing Board shall operate as a semi-independent state  
44 agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010  
45 to 688.201 and 688.990 (1). **Except as provided in subsection (2) of this section,** the Physical

1 Therapist Licensing Board shall consist of seven members appointed by the Governor [*who may be*  
2 *appointed from a list of not fewer than nine names, submitted by the Oregon Physical Therapy Asso-*  
3 *ciation*]. [*Five*] **Four** members shall be physical therapists who [*are Oregon residents,*] possess unre-  
4 stricted licenses to practice physical therapy in this state, have been practicing in this state for at  
5 least two years immediately preceding their appointments and have been practicing in the field of  
6 physical therapy for at least five years. One member shall be a licensed physical therapist assistant.  
7 [*One member shall be a public member who has*] **Two members shall be public members who have**  
8 **an interest in consumer rights. All members shall have equal voting privileges. All members of the**  
9 **board must be residents of this state. A public member may not be a person licensed under**  
10 **ORS 688.010 to 688.201 or who has a spouse, domestic partner, parent, child, sibling or in-law**  
11 **who is licensed under ORS 688.010 to 688.201.**

12 (2) **The board may adopt a rule to create an eighth member position on the board. The**  
13 **eighth member must be a physical therapist who possesses an unrestricted license to prac-**  
14 **tice physical therapy in this state and has been practicing for the periods described in sub-**  
15 **section (1) of this section, be appointed by the Governor and meet all other requirements for**  
16 **a board member who is not a member of the public.**

17 (3) **A statewide professional association for physical therapists may submit a list of sug-**  
18 **gested nominees for appointment to the board. In making appointments to the board, the**  
19 **Governor shall give consideration to the nominees suggested by the association. To the ex-**  
20 **tent practicable, the Governor shall attempt to make board appointments that are broadly**  
21 **representative of the geographic and cultural diversity of the state.**

22 [(2)] (4) Upon the expiration of the term of a member of the board, the Governor shall appoint  
23 a successor [*who may be appointed from a list of three names submitted to the Governor by the Oregon*  
24 *Physical Therapy Association*] to serve a term of four years. A member may not serve for more than  
25 two consecutive four-year terms.

26 [(3)] (5) In the event of a vacancy in the office of a member of the board other than by reason  
27 of the expiration of a term, the Governor, not later than 90 days after the occurrence of the va-  
28 cancy, shall appoint a person to fill the vacancy for the unexpired term. [*The person may be ap-*  
29 *pointed from a list of three names submitted as provided in subsection (2) of this section. If requested*  
30 *by the board, the Governor may remove any member of the board for misconduct, incompetence or*  
31 *neglect of duty.*]

32 [(4)] (6) Each member of the board is entitled to compensation and expenses as provided in ORS  
33 292.495.

34 [(5)] (7) A board member who acts within the scope of board duties, without malice and in rea-  
35 sonable belief that the member's action is warranted by law, is immune from civil liability.

36 [(6)] (8) The board shall have power to:

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

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

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

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

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

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

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

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

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

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

7 [(7)] (9) The board shall meet as determined by the board and at any other time at the call of  
8 the board chairperson, who shall be elected by the members of the board.

9 [(8)] (10) The board may appoint and fix the compensation of [*an executive director and other*]  
10 staff as necessary to carry out the operations of the board.

11 [(9)] (11) The board shall:

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

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

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

21  
22 **BOARD OF RADIOLOGIC TECHNOLOGY**

23  
24 **SECTION 68.** ORS 688.525 is amended to read:

25 688.525. (1) The Board of Radiologic Technology, after notice of and hearing as required under  
26 the contested case procedures of ORS chapter 183, may refuse to license any applicant, may refuse  
27 to renew the license or permit of any radiologic technologist or may suspend or revoke the license  
28 or permit of a person who:

29 (a) [*Is chemically dependent.*] **Has an impairment as defined in section 1 of this 2009 Act.**

30 (b) In the judgment of the board is guilty of unethical or unprofessional conduct in the practice  
31 of radiologic technology.

32 (c) Has been convicted of any crime where the crime bears a demonstrable relationship to the  
33 practice of radiologic technology.

34 (d) In the judgment of the board, is guilty of gross negligence in the practice of radiologic  
35 technology.

36 [(e) *Has been adjudged incompetent by a court of law and thereafter has not been lawfully declared*  
37 *competent.*]

38 [(f)] (e) Has undertaken to act as a radiologic technologist independently of the supervision of  
39 a practitioner licensed by the State of Oregon to practice one of the healing arts.

40 [(g)] (f) Has obtained or attempted to obtain a license or permit under ORS 688.405 to 688.605  
41 by fraud or material misrepresentation.

42 (2) Upon receipt of a complaint under ORS 688.405 to 688.605, the board shall conduct an in-  
43 vestigation as described under ORS 676.165.

44 (3) Information that the board obtains as part of an investigation into licensee or applicant  
45 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving

licensee or applicant conduct is confidential as provided under ORS 676.175.

**SECTION 69.** ORS 688.545 is amended to read:

688.545. (1)(a) There is created in the Department of Human Services a Board of Radiologic Technology consisting of nine members who shall be appointed by the Governor. Each member of the board shall be a citizen of the United States and a resident of the State of Oregon. Each appointed member is entitled to vote.

(b) Of the members of the board:

(A) One shall be a radiologist;

(B) *[At least one shall be a lay person]* **Two shall be members representing the public;**

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

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

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

**(3) Notwithstanding subsection (1) of this section, the board may adopt a rule to create a 10th voting member position on the board. The 10th voting member must be a licensed practicing radiologic technologist, be appointed by the Governor and meet all other requirements for a board member who is not a member representing the public.**

**(4) A public member may not be a person licensed under ORS 688.405 to 688.605 or having a spouse, domestic partner, parent, child, sibling or in-law that is licensed under ORS 688.405 to 688.605.**

*[(3)]* **(5) The term of office of the members of the board shall be three years and a member may be reappointed to serve not more than two full terms. A member serves at the pleasure of the Governor.**

**(6) A statewide professional association for radiologic technologists may submit a list of suggested nominees for appointment to the board. In making appointments to the board, the Governor shall give consideration to the nominees suggested by the association. To the extent practicable, the Governor shall attempt to make board appointments that are broadly representative of the geographic and cultural diversity of the state.**

*[(4)]* **(7) Members of the board shall be entitled to compensation and expenses as provided in ORS 292.495.**

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

*[(6)]* **(9) For the purpose of transacting its business, the board shall meet at least once every three months at times and places designated by resolution. Special meetings may also be held at such times as the board may elect or at the call of the chairperson. Notification of the time, place and purpose of any special meeting shall be sent to all members of the board at least 15 days before the date of the meeting. All meetings are subject to ORS 192.610 to 192.690.**

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

**SECTION 70.** ORS 688.555 is amended to read:

688.555. (1) The Board of Radiologic Technology shall have the power to adopt such rules as may be necessary to carry out the provisions of ORS 688.405 to 688.605.

(2) In adopting rules, the board shall act with benefit of the advice of the Attorney General of

1 the State of Oregon.

2 *[(3) The board may appoint and fix the compensation of an executive officer subject to ORS 240.245*  
 3 *and include reimbursement for actual and necessary travel expenses incurred in the performance of the*  
 4 *duties of the officer.]*

5  
 6 **STATE BOARD OF PHARMACY**  
 7

8 **SECTION 71.** ORS 689.005 is amended to read:

9 689.005. As used in this chapter:

10 (1) "Administer" means the direct application of a drug or device whether by injection,  
 11 inhalation, ingestion, or any other means, to the body of a patient or research subject by:

12 (a) A practitioner or the authorized agent thereof; or

13 (b) The patient or research subject at the direction of the practitioner.

14 (2) "Approved continuing pharmacy education program" means those seminars, classes,  
 15 meetings, workshops and other educational programs on the subject of pharmacy approved by the  
 16 board.

17 (3) "Board of pharmacy" or "board" means the State Board of Pharmacy.

18 (4) "Continuing pharmacy education" means professional, pharmaceutical post-graduate educa-  
 19 tion in the general areas of socio-economic and legal aspects of health care; the properties and  
 20 actions of drugs and dosage forms; and the etiology, characteristics and therapeutics of the disease  
 21 state.

22 (5) "Continuing pharmacy education unit" means the unit of measurement of credits for ap-  
 23 proved continuing education courses and programs.

24 (6) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or  
 25 device other than by administration from one person to another, whether or not for a consideration.

26 (7) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro  
 27 reagent or other similar or related article, including any component part or accessory, which is re-  
 28 quired under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

29 (8) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pur-  
 30 suant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent  
 31 administration to or use by a patient or other individual entitled to receive the prescription drug.

32 (9) "Distribute" means the delivery of a drug other than by administering or dispensing.

33 (10) "Drug" means:

34 (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National  
 35 Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any  
 36 of them;

37 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of dis-  
 38 ease in a human or other animal;

39 (c) Articles (other than food) intended to affect the structure or any function of the body of  
 40 humans or other animals; and

41 (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c)  
 42 of this subsection.

43 (11) "Drug order" means a written order, in a hospital or other inpatient care facility, for an  
 44 ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by  
 45 other means of communication from a practitioner, that is immediately reduced to writing by a

1 pharmacist, licensed nurse or other practitioner.

2 (12) "Drug outlet" means any pharmacy, nursing home, shelter home, convalescent home, ex-  
 3 tended care facility, drug abuse treatment center, penal institution, hospital, family planning clinic,  
 4 student health center, retail store, wholesaler, manufacturer, mail-order vendor or other establish-  
 5 ment with facilities located within or out of this state that is engaged in dispensing, delivery or  
 6 distribution of drugs within this state.

7 (13) "Drug room" means a secure and lockable location within an inpatient care facility that  
 8 does not have a licensed pharmacy.

9 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or  
 10 received through technological apparatuses, including computer terminals or other equipment or  
 11 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,  
 12 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

13 (15) "Institutional drug outlet" means hospitals and inpatient care facilities where medications  
 14 are dispensed to another health care professional for administration to patients served by the hos-  
 15 pitals or facilities.

16 (16) "Intern" means any person who has completed the junior or third academic year of a course  
 17 of study at an approved college of pharmacy and is licensed with the board as an intern.

18 (17) "Internship" means a professional [*and practical experience*] **experiential** program approved  
 19 by the board under the supervision of a licensed pharmacist registered with the board as a  
 20 preceptor.

21 (18) "Itinerant vendor" means all persons who sell or otherwise distribute nonprescription drugs  
 22 by passing from house to house, or by haranguing the people on the public streets or in public  
 23 places, or who use the customary devices for attracting crowds and therewith recommending their  
 24 wares and offering them for sale.

25 (19) "Labeling" means the process of preparing and affixing of a label to any drug container  
 26 exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription  
 27 drug or commercially packaged legend drug or device. Any such label shall include all information  
 28 required by federal and state law or regulation.

29 (20) "Manufacture" means the production, preparation, propagation, compounding, conversion  
 30 or processing of a device or a drug, either directly or indirectly by extraction from substances of  
 31 natural origin or independently by means of chemical synthesis or by a combination of extraction  
 32 and chemical synthesis and includes any packaging or repackaging of the substances or labeling or  
 33 relabeling of its container, except that this term does not include the preparation or compounding  
 34 of a drug by an individual for their own use or the preparation, compounding, packaging or labeling  
 35 of a drug:

36 (a) By a practitioner as an incident to administering or dispensing of a drug in the course of  
 37 professional practice; or

38 (b) By a practitioner or by the practitioner's authorization under supervision of the practitioner  
 39 for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

40 (21) "Manufacturer" means a person engaged in the manufacture of drugs.

41 (22) "Nonprescription drug outlet" means shopkeepers and itinerant vendors registered under  
 42 ORS 689.305.

43 (23) "Nonprescription drugs" means drugs which may be sold without a prescription and which  
 44 are prepackaged for use by the consumer and labeled in accordance with the requirements of the  
 45 statutes and regulations of this state and the federal government.

1 (24) "Person" means an individual, corporation, partnership, association or any other legal en-  
2 tity.

3 (25) "Pharmacist" means an individual licensed by this state to engage in the practice of phar-  
4 macy.

5 (26) "Pharmacy" means a place that meets the requirements of rules of the board, is licensed  
6 and approved by the board where the practice of pharmacy may lawfully occur and includes  
7 apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and  
8 prescription laboratories but does not include a place used by a manufacturer or wholesaler.

9 (27) "Pharmacy technician" means a person licensed by the State Board of Pharmacy who assists  
10 the pharmacist in the practice of pharmacy pursuant to rules of the board.

11 (28) "Practitioner" means a person licensed and operating within the scope of such license to  
12 prescribe, dispense, conduct research with respect to or administer drugs in the course of profes-  
13 sional practice or research:

14 (a) In this state; or

15 (b) In another state or territory of the United States not residing in Oregon and registered un-  
16 der the federal Controlled Substances Act.

17 (29) "Preceptor" means a pharmacist licensed and in good standing, registered by the board to  
18 supervise the internship training of a licensed intern.

19 (30) "Prescription drug" or "legend drug" means a drug which is:

20 (a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of  
21 the following statements:

22 (A) "Caution: Federal law prohibits dispensing without prescription"; or

23 (B) "Caution: Federal law restricts this drug to use by or on the order of a licensed  
24 veterinarian"; or

25 (b) Required by any applicable federal or state law or regulation to be dispensed on prescription  
26 only or is restricted to use by practitioners only.

27 (31) "Prescription" or "prescription drug order" means a written, oral or electronically trans-  
28 mitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use  
29 of a drug. When the context requires, "prescription" also means the drug prepared under such  
30 written, oral or electronically transmitted direction.

31 (32) "Retail drug outlet" means a place used for the conduct of the retail sale, administering or  
32 dispensing or compounding of drugs or chemicals or for the administering or dispensing of pre-  
33 scriptions and licensed by the board as a place wherein the practice of pharmacy may lawfully oc-  
34 cur.

35 (33) "Shopkeeper" means a business or other establishment, open to the general public, for the  
36 sale or nonprofit distribution of drugs.

37 (34) "Unit dose" means a sealed single-unit container so designed that the contents are admin-  
38 istered to the patient as a single dose, direct from the container. Each unit dose container must bear  
39 a separate label, be labeled with the name and strength of the medication, the name of the man-  
40 ufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the  
41 medication.

42 (35) "Wholesale drug outlet" means any person who imports, stores, distributes or sells for re-  
43 sale any drugs including legend drugs and nonprescription drugs.

44 (36) "Class I wholesaler" means any person operating or maintaining a wholesale distribution  
45 center, wholesale business or any other business in which drugs, medicinal chemicals, or poisons are

1 sold, dispensed, stocked, exposed or offered for sale at wholesale to a pharmacy or other legally li-  
 2 censed drug outlets or persons.

3 (37) “Class II wholesaler” means any person operating or maintaining a wholesale distribution  
 4 center, wholesale business or any other business in which nonprescription drugs are offered for sale  
 5 at wholesale to a drug outlet legally authorized to resell.

6 **SECTION 72.** ORS 689.115 is amended to read:

7 689.115. (1) The State Board of Pharmacy shall consist of seven members, two of whom shall be  
 8 representatives of the public, and the remaining five of whom shall be licensed pharmacists. The  
 9 members shall possess the qualifications specified in subsections (2) and (3) of this section.

10 (2) The public members of the State Board of Pharmacy shall be residents of this state. [*who*  
 11 *have attained the age of majority and shall not be nor shall they ever have been a member of the pro-*  
 12 *fession of pharmacy, or persons who have any immediate family in the profession of pharmacy or per-*  
 13 *sons who have ever had any material financial interest in the providing of pharmacy service or who*  
 14 *have engaged in any activity directly related to the practice of pharmacy.*] **A public member may not**  
 15 **be a person licensed under this chapter or who has a spouse, domestic partner, parent, child,**  
 16 **sibling or in-law who is licensed under this chapter.**

17 (3) The licensed pharmacist members of the board shall at the time of their appointment:

- 18 (a) Be residents of this state;
- 19 (b) Be licensed and in good standing to engage in the practice of pharmacy in this state;
- 20 (c) Be engaged in the practice of pharmacy in this state; and
- 21 (d) Have five years of experience in the practice of pharmacy in this state after licensure.

22 (4) The Governor shall appoint the members of the State Board of Pharmacy, subject to the ad-  
 23 vice and consent of the Senate, and in accordance with the other provisions of subsection (5) of this  
 24 section.

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

29 **(5) A statewide professional association for pharmacists may submit a list of suggested**  
 30 **nominees for appointment to the board. In making appointments to the board, the Governor**  
 31 **shall give consideration to the nominees suggested by the association. To the extent practi-**  
 32 **cable, the Governor shall attempt to make board appointments that are broadly represen-**  
 33 **tative of the geographic and cultural diversity of the state.**

34 (6) Any vacancy which occurs in the membership of the board for any reason, including expira-  
 35 tion of term, removal, resignation, death, disability or disqualification, shall be filled by the Gover-  
 36 nor in the manner prescribed by subsections (4) and (5) of this section. The Governor shall fill  
 37 vacancies which occur by expiration of full terms within 90 days prior to each date of expiration,  
 38 and shall fill vacancies which occur for any other reason within 60 days after each such vacancy  
 39 occurs.

40 **SECTION 73.** ORS 689.125 is amended to read:

41 689.125. (1) Except as provided in [*subsection (2) of*] this section, members of the State Board of  
 42 Pharmacy shall be appointed for a term of four years[, *except that*]. Members of the board who are  
 43 appointed to fill vacancies [*which*] **that** occur prior to the expiration of a former member’s full term  
 44 shall serve the unexpired portion of such term. **A member serves at the pleasure of the Gover-**  
 45 **nor.**



1 (2)(a) The terms of the members of the board shall be staggered, so that the terms of no more  
 2 than two members shall expire in any year.

3 *[(b) The present members of the board shall serve the balance of their terms.]*

4 *[(c) Any present board member appointed initially for a term of less than four years shall be eli-  
 5 gible to serve for two additional full terms.]*

6 (3) No member of the board shall serve more than two consecutive full terms. The completion  
 7 of the unexpired portion of a full term shall not constitute a full term for purposes of this section.

8 (4) An appointee to a full term on the board shall be appointed by the Governor before the ex-  
 9 piration of the terms of the member being succeeded, and shall become a member of the board on  
 10 the first day of the state fiscal year next following the appointment. Appointees to unexpired  
 11 portions of full terms shall become members of the board on the day next following such appoint-  
 12 ment. In the event the number of board members is increased, the term of any new member shall  
 13 commence at such time as is designated in the statute providing for the enlargement of the board.

14 (5) Each term of office on the board shall expire at midnight on the last day of the state fiscal  
 15 year in the final year of the board member's term or on the date the successor is appointed and  
 16 qualified, except for Senate confirmation, whichever shall later occur.

17 *[(6) The Governor may remove a member of the board, pursuant to the procedures set forth in  
 18 subsection (7) of this section upon one or more of the following grounds:]*

19 *[(a) The refusal or inability for any reason of a board member to perform the duties of a member  
 20 of the board in an efficient, responsible and professional manner;]*

21 *[(b) The misuse of office by a member of the board to obtain personal, pecuniary or material gain  
 22 or advantage for self or for another through such office; or]*

23 *[(c) The violation by any member of this chapter or any of the rules adopted hereunder.]*

24 *[(7) The procedures shall be as stated in ORS chapter 183 to remove a member of the board from  
 25 office for any of the grounds specified by subsection (6) of this section.]*

26 **SECTION 74.** ORS 689.155 is amended to read:

27 689.155. The State Board of Pharmacy shall also have the following responsibilities in regard to  
 28 medications, drugs, devices and other materials used in this state in the diagnosis, mitigation and  
 29 treatment or prevention of injury, illness and disease:

30 (1) The regulation of the sale at retail, the administering by pharmacists to the extent provided  
 31 in ORS 689.645 and 689.655 and the dispensing of medications, drugs, devices and other materials  
 32 including the right to seize any such drugs, devices and other materials found to be detrimental to  
 33 the public health and welfare by the board after appropriate hearing as required under ORS chapter  
 34 183.

35 (2) The specifications of minimum professional and technical equipment, environment, supplies  
 36 and procedures for the compounding, administering and dispensing of such medications, drugs, de-  
 37 vices and other materials within the practice of pharmacy and any drug outlet.

38 (3) The control of the purity and quality of such medications, drugs, devices and other materials  
 39 within the practice of pharmacy and any drug outlet.

40 (4) The issuance and renewal of certificates of registration of drug outlets for purposes of as-  
 41 certaining those persons engaged in the manufacture and distribution of drugs, receiving and col-  
 42 lecting annual fees therefrom and suspending, revoking or refusing to renew such registration in the  
 43 manner provided in this chapter.

44 (5) In conjunction with the regularly constituted law enforcement agencies of this state, enforce  
 45 all laws of the state which pertain to the practice of pharmacy, the manufacture, production, sale

1 or distribution of drugs, chemicals and poisons, and to their standard of strength and purity.

2 (6) Investigate all complaints of alleged violations of this chapter **and all reports made under**  
 3 **section 1 of this 2009 Act**, and take necessary action as the board may require or direct.

4 (7) Pursuant to ORS chapter 183, make such rules as are necessary and feasible for carrying out  
 5 ORS 453.175, 453.185, 475.005, 475.135 and 475.185 and this chapter and make rules relating to con-  
 6 trolled substances, designated as such pursuant to ORS 475.025 and 475.035.

7 (8) At all reasonable hours, in performance of the duties imposed by this section, enter, or cause  
 8 its authorized representatives to enter upon, and examine the premises or records required by law  
 9 of any drug outlet under the jurisdiction of the board.

10 (9) Assist the regularly constituted law enforcement agencies of this state in enforcing ORS  
 11 453.005 to 453.135, 475.005 and 475.135 and this chapter by prosecution in the courts of this state  
 12 or otherwise.

13 (10) Cause to have made a regular inspection of all pharmacies.

14 (11) Pursuant to ORS chapter 183, make such rules as are necessary for pharmacies, drug man-  
 15 ufacturers and wholesalers to sell or otherwise lawfully distribute designated pharmaceutical agents  
 16 to licensed optometrists consistent with the provisions of ORS 683.010 to 683.335.

17 **SECTION 75.** ORS 689.165 is amended to read:

18 689.165. (1) The State Board of Pharmacy shall elect from its members a president and vice  
 19 president and such other officers as it deems appropriate and necessary to the conduct of its busi-  
 20 ness. The President of the State Board of Pharmacy shall preside at all meetings of the board and  
 21 shall be responsible for the performance of all of the duties and functions of the board required or  
 22 permitted by this chapter. If the president is absent or unable to preside, the vice president shall  
 23 preside. Each additional officer elected by the board shall perform those duties normally associated  
 24 with their position and such other duties assigned from time to time by the board.

25 (2) Officers elected by the board shall serve terms of one year commencing with the day of their  
 26 election, and ending upon election of their successors and shall serve no more than one consecutive  
 27 full term in each office to which they are elected.

28 (3) *[The board shall employ a licensed pharmacist who shall be an ex officio member of the board*  
 29 *without vote to serve as a full-time employee of the board in the position of executive director.]* The  
 30 executive director **of the board** shall be responsible for the performance of the regular administra-  
 31 tive functions of the board and such other duties as the board may direct. The executive director  
 32 shall not perform any discretionary or decision-making functions for which the board is solely re-  
 33 sponsible.

34 **SECTION 76.** ORS 689.195 is amended to read:

35 689.195. (1) The State Board of Pharmacy may, in its discretion, employ persons in *[addition to*  
 36 *the executive director in such other]* positions or capacities as it deems necessary to the proper con-  
 37 duct of board business and to the fulfillment of the board's responsibilities as defined by this chap-  
 38 ter.

39 (2) The employees of the board other than the executive director shall receive, as compensation,  
 40 an annual salary payable monthly, the amount of which shall be determined by law, and reimburse-  
 41 ment for expenses incurred in connection with performance of their official duties.

42 **SECTION 77.** ORS 689.255 is amended to read:

43 689.255. (1) To obtain a license to engage in the practice of pharmacy, an applicant for licensure  
 44 by examination shall:

45 (a) Have submitted a written application in the form prescribed by the State Board of Pharmacy.

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

2 (c) Be of good moral character and temperate habits.

3 (d) Have completed requirements for the first professional undergraduate degree as certified by  
4 a school or college of pharmacy which has been approved by the board.

5 (e) Have completed an internship or other program which has been approved by the board, or  
6 demonstrated to the board's satisfaction experience in the practice of pharmacy which meets or ex-  
7 ceeds the minimum internship requirements of the board.

8 (f) Have successfully passed an examination [*given*] **approved** by the board.

9 (g) Have paid the fees specified by the board for examination and issuance of license.

10 (2)(a) [*The examination for licensure required under subsection (1)(f) of this section shall be given*  
11 *by the board at least two times during each fiscal year of the state.*] The board shall [*determine*] **ap-**  
12 **prove** the content and subject matter of each examination[, *the place, time and date of administration*  
13 *of the examination and those persons who shall*] **and determine which persons** have successfully  
14 passed the examination.

15 (b) The examination shall be prepared to measure the competence of the applicant to engage in  
16 the practice of pharmacy. The board may employ and cooperate with any organization or consultant  
17 in the preparation and grading of an appropriate examination, but shall retain the sole discretion  
18 and responsibility of determining which applicants have successfully passed such an examination.

19 (3)(a) All applicants for licensure by examination shall obtain professional and practical experi-  
20 ence in the practice of pharmacy concurrent with or after college attendance, or both, under such  
21 terms and conditions as the board shall determine.

22 (b) The board shall establish standards for internship or any other program necessary to qualify  
23 an applicant for the licensure examination based on nationally recognized standards of practice and  
24 shall also determine the necessary qualifications of any preceptors used in any internship or other  
25 program.

26 (4) Any person who has received a [*first*] professional [*undergraduate*] degree from a school or  
27 college of pharmacy located outside the United States which has not been approved by the board,  
28 but who is otherwise qualified to apply for a license to practice pharmacy in the State of Oregon  
29 may be deemed to have satisfied the degree requirements of subsection (1)(d) of this section by  
30 verification to the board of the academic record and graduation of the person and by meeting such  
31 other requirements as the board may establish. The board may require such person to successfully  
32 pass an examination or examinations given or approved by the board to establish proficiency in  
33 English and equivalency of education of such person with qualified graduates of a degree program  
34 referred to in subsection (1)(d) of this section as a prerequisite of taking the licensure examination  
35 provided for in subsection (1)(f) of this section.

36 **SECTION 78.** ORS 689.265 is amended to read:

37 689.265. (1) To obtain a license as a pharmacist by reciprocity, an applicant for licensure shall:

38 (a) Have submitted a written application in the form prescribed by the State Board of Pharmacy.

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

40 (c) Have good moral character and temperate habits.

41 (d) Have possessed at the time of initial licensure as a pharmacist such other qualifications  
42 necessary to have been eligible for licensure at that time in this state.

43 (e) Have engaged in the practice of pharmacy for a period of at least one year or have met the  
44 internship requirements of this state within the one-year period immediately previous to the date  
45 of such application.

1 (f) Have presented to the board proof of initial licensure by examination and proof that such  
 2 license and any other license or licenses granted to the applicant by any other state or states have  
 3 not been suspended, revoked, canceled or otherwise restricted for any reason except nonrenewal or  
 4 the failure to obtain required continuing education credits in any state where the applicant is li-  
 5 censed but not engaged in the practice of pharmacy.

6 (g) Have successfully passed an examination in jurisprudence [*given*] **approved** by the board.

7 (h) Have paid the fees specified by the board for issuance of a license.

8 (i) Have submitted to the board proof of a professional [*undergraduate*] degree that meets the  
 9 requirements of ORS 689.255 (4), if the applicant has received a [*first*] professional [*undergraduate*]  
 10 degree from a school or college of pharmacy located outside the United States.

11 (2) No applicant shall be eligible for licensure by reciprocity unless the state in which the ap-  
 12 plicant was initially licensed as a pharmacist also grants reciprocal licensure to pharmacists duly  
 13 licensed by examination in this state, under like circumstances and conditions.

14 **SECTION 79.** ORS 689.405 is amended to read:

15 689.405. (1) The State Board of Pharmacy may refuse to issue or renew, or may suspend, revoke  
 16 or restrict the license of any person or the certificate of registration of any drug outlet upon one  
 17 or more of the following grounds:

18 (a) Unprofessional conduct as that term is defined by the rules of the board.

19 (b) Repeated or gross negligence.

20 (c) Incapacity of a nature that prevents a person from engaging in the activity for which the  
 21 person is licensed with reasonable skill, competence and safety to the public.

22 (d) [*Habitual or excessive use of intoxicants, drugs or controlled substances.*] **Impairment as de-**  
 23 **finied in section 1 of this 2009 Act.**

24 (e) Being found guilty by the board of a violation of subparagraph (B) of this paragraph, or by  
 25 a court of competent jurisdiction of one or more of the following:

26 (A) A felony, as defined by the laws of this state; or

27 (B) Violations of the pharmacy or drug laws of this state or rules pertaining thereto, or of  
 28 statutes, rules or regulations of any other state, or of the federal government.

29 (f) Fraud or intentional misrepresentation by a licensee or registrant in securing or attempting  
 30 to secure the issuance or renewal of a license.

31 (g) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without  
 32 a license, or falsely using the title of pharmacist.

33 (h) Aiding and abetting an individual in performing the duties of a pharmacy technician without  
 34 licensing.

35 (i) Being found by the board to be in violation of any of the provisions of ORS 435.010 to 435.130,  
 36 453.025, 453.045, 475.035 to 475.190, 475.805, 475.840 to 475.980 or this chapter or rules adopted  
 37 pursuant to ORS 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.840 to 475.980  
 38 and this chapter.

39 (j) Disciplinary action by another state regarding a license, based upon acts by the licensee  
 40 similar to acts described in this subsection. A certified copy of the record of disciplinary action of  
 41 the state taking the disciplinary action is conclusive evidence thereof.

42 (2) Upon receipt of a complaint under this chapter, the board shall conduct an investigation as  
 43 described under ORS 676.165.

44 (3) Actions taken under subsection (1) of this section shall be considered a contested case under  
 45 ORS chapter 183.



1 business, residence and the date and number of their license.

2 [(6)] (5) Establish standards of professional responsibility and practice for persons licensed under  
 3 ORS 691.405 to 691.585 that are consistent with those standards of professional responsibility and  
 4 practice adopted by the American Dietetic Association.

5 [(7)] (6) Select a licensing examination offered by the Commission on Dietetic Registration or  
 6 other examination.

7 [(8)] (7) Establish continuing education requirements for renewal of a license consistent with the  
 8 requirements adopted by the Commission on Dietetic Registration.

9 [(9)] (8) Establish additional educational requirements for applicants for the previous five years  
 10 of licensure.

11 [(10)] (9) Conduct hearings on complaints concerning violations of ORS 691.405 to 691.585 and  
 12 the rules adopted under ORS 691.405 to 691.585 **and on reports made under section 1 of this 2009**  
 13 **Act.**

14 [(11)] (10) Provide for examinations or waiver of examination for applicants.

15 [(12)] (11) Establish examination and licensing fees.

16 [(13)] (12) Request and receive the assistance of state educational institutions or other state  
 17 agencies.

18 [(14)] (13) Prepare information of consumer interest describing the regulatory functions of the  
 19 board and describing the procedures by which consumer complaints are filed with and resolved by  
 20 the board. The board shall make the information available to the general public and appropriate  
 21 state agencies.

22 **SECTION 83.** ORS 691.535 is amended to read:

23 691.535. The Board of Examiners of Licensed Dietitians may deny or refuse to renew a  
 24 [licensee] **license** or may suspend or revoke a license or may impose probationary conditions where  
 25 the licensee or applicant has [been guilty of]:

26 (1) **Committed** unprofessional conduct as defined by the standards of practice established by the  
 27 board;

28 (2) [Obtaining] **Obtained** or [attempting] **attempted** to obtain a license by fraud, misrepresen-  
 29 tation or concealment of material facts;

30 (3) [Violating] **Violated** any lawful order or rule adopted by the board which may affect the  
 31 health, welfare or safety of the public; [or]

32 (4) **Committed** gross negligence or incompetence in the performance of professional duties[.];

33 **or**

34 (5) **An impairment as defined in section 1 of this 2009 Act.**

35  
 36 **STATE MORTUARY AND CEMETERY BOARD**

37  
 38 **SECTION 84.** ORS 692.180 is amended to read:

39 692.180. (1) Upon complaint or upon its own motion, the State Mortuary and Cemetery Board  
 40 may investigate any complaint concerning any person, licensee or holder of a certificate of authority  
 41 made by any person or by the board. If the board finds any of the causes described in this section  
 42 in regard to any person, licensee or applicant or the holder of a certificate of authority, the board  
 43 may impose a civil penalty of not more than \$1,000 for each violation, suspend or revoke a license  
 44 to practice or to operate under this chapter or refuse to grant or renew a license. The causes are  
 45 as follows:

1 (a) Misrepresentation in the conduct of business or in obtaining a license.

2 (b) Fraudulent or dishonest conduct, when the conduct bears a demonstrable relationship to fu-  
3 neral service practice, embalming practice or the operation of cemeteries or crematoriums.

4 (c) Except as provided in this paragraph, solicitation of human dead bodies by the licensee or  
5 any agent, assistant or employee of the licensee, either before or after death. This paragraph does  
6 not apply to:

7 (A) Activities permissible under ORS 97.923 to 97.949; or

8 (B) The sale, in accordance with provisions of the Insurance Code, of prearranged funeral or  
9 cemetery merchandise or services, or any combination thereof, to be funded by the contemporaneous  
10 or subsequent assignment of a life insurance policy or an annuity contract.

11 (d) Offensive treatment of dead human bodies or a body in the person's custody has been dis-  
12 posed of in violation of ORS chapter 432 or rules adopted pursuant thereto.

13 (e) Aiding or abetting a person who is not a licensee or an apprentice in any act involving the  
14 disposition of dead human bodies before the bodies undergo cremation, entombment or burial or  
15 before the bodies are transported out of the State of Oregon.

16 (f) Sale or reuse of any casket or body container that has been previously utilized for the  
17 placement of a deceased human body. This does not include use of a rental cover as defined in ORS  
18 692.010.

19 (g) Violation of any of the provisions of this chapter or any rules adopted under this chapter.

20 (h) Violation of any provision of ORS 97.929 or 97.937 or regulations adopted by the Federal  
21 Trade Commission regulating funeral industry practices.

22 (i) Conviction of a crime, when the crime bears a demonstrable relationship to funeral service  
23 practice, embalming practice or the operation of cemeteries or crematoriums. A copy of the record  
24 of the conviction certified to by the clerk of the court entering the conviction shall be conclusive  
25 evidence of the conviction.

26 (j) Violation of ORS chapter 97 as it relates to disposition of human bodies and to cemeteries.

27 (k) Refusing to surrender promptly the custody of a dead human body, upon the express order  
28 of the person lawfully entitled to the custody of the body.

29 (L) Acting as the legal representative of any deceased person for whom the licensee has ren-  
30 dered services governed by this chapter. This subsection does not prohibit a licensee from acting  
31 as the legal representative of a deceased relative or a deceased licensee if the deceased licensee  
32 was a partner, employee or employer in the licensee's practice.

33 (m) Failure to pay any civil penalty imposed by the board within 10 days after the order is en-  
34 tered or, if appealed, within 10 days after the order is sustained on appeal.

35 **(n) Impairment as defined in section 1 of this 2009 Act.**

36 (2) All amounts recovered under this section shall be deposited in accordance with ORS 692.375.

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

38 (4) Upon receipt of a complaint, the board shall conduct an investigation as described under  
39 ORS 676.165.

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

43 **SECTION 85.** ORS 692.300 is amended to read:

44 692.300. (1) There is created the State Mortuary and Cemetery Board in the Department of Hu-  
45 man Services to carry out the purposes and enforce the provisions of this chapter. The board shall

1 consist of 11 members. The members of the board shall be as follows:

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

4 (b) One member shall be a licensed embalmer.

5 (c) Three members shall be representatives of cemeteries, one representing for-profit cemeteries,  
6 one representing a city or county owned or operated cemetery and one representing a special dis-  
7 trict owned or operated cemetery.

8 (d) One member shall be a representative of a crematorium.

9 (e) Four members shall be representatives of the public, one of whom shall be a member of a  
10 recognized senior citizen organization. **A public member may not be a person licensed under  
11 this chapter or who has a spouse, domestic partner, parent, child, sibling or in-law who is  
12 licensed under this chapter.**

13 (2) The term of office of the members of the board shall be four years ending on December 31.  
14 A member is eligible for no more than two consecutive terms. They shall be appointed by the Gov-  
15 ernor and hold office until the appointment and qualification of their successors, **except that a  
16 member serves at the pleasure of the Governor.**

17 (3) **All members of the board must be residents of this state. A statewide professional  
18 association for funeral service practitioners may submit a list of suggested nominees for  
19 appointment to the board. In making appointments to the board, the Governor shall give  
20 consideration to the nominees suggested by the association. To the extent practicable, the  
21 Governor shall attempt to make board appointments that are broadly representative of the  
22 geographic and cultural diversity of the state.**

23 **SECTION 86.** ORS 692.320 is amended to read:

24 692.320. (1) The State Mortuary and Cemetery Board has the power to adopt and enforce for the  
25 protection of the public health, safety and welfare reasonable rules relating to the following:

26 (a) The licensing of funeral service practitioners, embalmers, funeral establishments,  
27 crematoriums and cemeteries.

28 (b) The registration of apprentices.

29 (c) The practice of funeral service practitioners and embalmers, and the operation of funeral  
30 establishments, immediate disposition companies, crematoriums and cemeteries.

31 (d) Sanitary conditions of funeral establishments, crematoriums, cemeteries and any location in  
32 which dead human bodies are stored or processed prior to final disposition.

33 (e) Matters necessary to carry out the provisions of this chapter.

34 (2) Other than areas used as living quarters, the board shall inspect not less than once  
35 biennially the facilities and records of funeral establishments, cemeteries and crematoriums and  
36 immediate disposition companies and any location in which dead human bodies may be stored, tem-  
37 porarily held or processed prior to final disposition. The inspection of the records of such locations  
38 shall be limited to those records required to comply with this chapter or ORS chapter 432 or rules  
39 adopted pursuant thereto. The board may make random inspections at other times. The board shall  
40 employ one or more persons to perform such inspections and aid in the enforcement of this chapter  
41 and rules adopted thereunder. No person employed under this subsection may be a member of the  
42 board or actively engaged in a practice regulated by this chapter.

43 (3) The board may hold hearings, conduct investigations, subpoena witnesses, administer oaths  
44 and take testimony in order to carry out the provisions of this chapter.

45 (4) The board shall have a common seal and, subject to any applicable provision of the State



1 Personnel Relations Law, may employ [*necessary administrative*] staff, fix the compensation for them  
2 and incur other necessary expenses.

3  
4 **APPLICABILITY**

5  
6 **SECTION 87.** (1) The amendments to ORS 676.165 by section 5 of this 2009 Act apply to  
7 complaints received on or after the effective date of this 2009 Act.

8 (2) The amendments to ORS 675.775, 679.230, 683.250, 688.160 and 688.545 by sections 18,  
9 40, 47, 67 and 69 of this 2009 Act apply to board membership appointments made on or after  
10 the effective date of this 2009 Act. Notwithstanding the term of office specified for a board  
11 member, the Governor may adjust the term of appointment for the first public member ap-  
12 pointed after the effective date of this 2009 Act to prevent the expiration of multiple public  
13 member terms in the same year.

14 (3) The amendments to Oregon Revised Statutes by sections 6 to 86 of this 2009 Act do  
15 not disqualify any member of a board appointed before the effective date of this 2009 Act  
16 from completing the term to which the public member was appointed.

17 (4) Section 4 of this 2009 Act and the amendments to ORS 675.130, 675.320, 675.600, 675.785,  
18 677.275, 678.150, 679.250, 681.450, 685.170, 686.210, 687.115, 688.160, 688.555, 689.165, 691.505 and  
19 692.320 by sections 8, 11, 16, 19, 27, 35, 41, 45, 58, 61, 64, 67, 70, 75, 82 and 86 of this 2009 Act  
20 do not affect the employment status or seniority of any person employed by a health pro-  
21 fessional regulatory board before the effective date of this 2009 Act.

22  
23 **CAPTIONS**

24  
25 **SECTION 88.** 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.