

# Enrolled House Bill 3232

Sponsored by COMMITTEE ON HEALTH CARE

CHAPTER .....

AN ACT

Relating to Oregon Health Licensing Agency; creating new provisions; amending ORS 675.365, 675.375, 675.395, 675.405, 676.606, 676.607, 676.608, 676.610, 676.612, 676.615, 676.617, 676.620, 676.625, 676.992, 680.525, 680.530, 680.556, 681.230, 687.425, 687.435, 687.470, 688.705, 688.724, 688.728, 688.815, 688.820, 688.834, 690.005, 690.015, 690.025, 690.047, 690.048, 690.055, 690.057, 690.085, 690.095, 690.123, 690.155, 690.165, 690.167, 690.235, 690.365, 690.385, 690.405, 690.415, 690.425, 690.507, 690.510, 690.520, 690.550, 694.025, 694.036, 694.065, 694.085, 694.125, 694.142, 694.165, 694.185, 694.991, 700.080, 700.100 and 700.220; and repealing ORS 680.570, 681.605, 694.028, 694.075, 694.095 and 694.145.

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

**SECTION 1.** Sections 2 and 3 of this 2009 Act are added to and made a part of ORS 676.605 to 676.625.

**SECTION 2.** (1) If the Oregon Health Licensing Agency intends to disclose a record pursuant to ORS 676.608, the agency shall:

- (a) Send a notice of the intended disclosure to the person who is the subject of a complaint or an investigation by first class mail at least 14 days before the disclosure date; and
- (b) Describe in the notice the type of record being disclosed in sufficient detail to allow the person who is the subject of a complaint or an investigation to understand the contents of the record that the agency intends to disclose.

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

**SECTION 3.** (1) A transaction conducted through a state or local system or network that provides electronic access to the Oregon Health Licensing Agency information and services is exempt from any requirement under ORS 675.360 to 675.410, 676.605 to 676.625, 676.992, 680.500 to 680.570, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570 and 694.015 to 694.185 and ORS chapter 700, and rules adopted thereunder, requiring an original signature or the submission of handwritten materials.

(2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are acceptable and have the same force as original signatures.

**SECTION 4.** ORS 675.365 is amended to read:  
675.365. As used in ORS 675.360 to 675.410:

(1) "Certified associate sex offender therapist" means a person who is certified under ORS 675.375 or 675.380 to provide services for the treatment and rehabilitation of sex offenders while under the direct supervision of a certified clinical sex offender therapist.

(2) "Certified clinical sex offender therapist" means a person who is certified under ORS 675.375 or 675.380 to provide services for the treatment and rehabilitation of sex offenders and who may supervise certified associate sex offender therapists.

(3) "Certified sex offender therapist" means a certified clinical sex offender therapist or a certified associate sex offender therapist.

(4) "Direct supervision" means a minimum of two hours of supervision by a certified clinical sex offender therapist for each 45 hours of direct clinical contact with a sex offender.

(5) **"Professional disclosure statement" means a statement about an applicant for certification under ORS 675.375 or 675.380 that includes the following information:**

(a) **Name, business address and telephone number;**

(b) **Philosophy and approach to treatment and rehabilitation of sex offenders;**

(c) **Formal education and training;**

(d) **Continuing education experience and name of supervisor, if any;**

(e) **Fee schedules for sex offender treatment services; and**

(f) **The name, address and telephone number of the Sex Offender Treatment Board.**

[5] (6) "Sex offender" means a person convicted or adjudicated of a sex crime, as defined in ORS 181.594, or a sexual offense, as provided in ORS 163.305 to 163.467, and mandated by a court, a releasing authority, including the Oregon Youth Authority, or the Department of Human Services to successfully complete a sex offender treatment program.

[6] (7) "Sex offender treatment" means the process of evaluation, assessment and reformation of sex offenders.

**SECTION 5.** ORS 675.375 is amended to read:

675.375. (1) To obtain certification as a clinical sex offender therapist or associate sex offender therapist, an applicant [shall] **must** complete an application developed and prescribed by the Sex Offender Treatment Board and file a professional disclosure statement with the Oregon Health Licensing Agency. The documents must be accompanied by a fee established by the agency.

(2) Subject to **the provisions of** ORS 676.612, the agency may issue two types of certification to qualified applicants under this section:

(a) Clinical sex offender therapist; and

(b) Associate sex offender therapist.

(3) To qualify as a certified clinical sex offender therapist, the applicant must:

(a) Be in compliance with applicable provisions and rules adopted by the agency;

(b) Have at least a master's degree in the behavioral sciences;

(c) Have an active Oregon mental health professional license or equivalent license as determined by the agency;

(d) Within not less than three years nor more than six years prior to application, have had a minimum of 2,000 hours of direct clinical contact with sex offenders, including:

(A) 1,000 hours of direct treatment services; and

(B) 500 hours of evaluations; and

(e) Have a minimum of 60 hours of formal training applicable to sex offender treatment and evaluation, achieved within the three years prior to application.

(4) To qualify as a certified associate sex offender therapist, the applicant must:

(a) Be in compliance with applicable provisions and rules adopted by the agency;

(b) Have at least a bachelor's degree in the behavioral sciences;

(c) Have had a minimum of 1,000 hours of direct clinical contact with sex offenders;

(d) Have a minimum of 30 hours of formal training applicable to sex offender treatment and evaluation, achieved within the three years prior to application; and

(e) Be under the direct supervision of a certified clinical sex offender therapist.

(5) **Upon receipt of an application for renewal submitted by the applicant**, the agency may renew the certification of a clinical sex offender therapist or an associate sex offender therapist annually **or as otherwise specified by agency rule**. The application for renewal shall be considered by the agency to be an application to continue as a certified clinical sex offender therapist or a certified associate sex offender therapist. To renew a certification, the applicant must:

(a) Be in compliance with the provisions of ORS 675.360 to 675.410 and rules adopted by the agency;

(b) Have a minimum of 100 hours of clinical experience during the preceding year, 50 of which shall be direct clinical contact with sex offenders;

(c) Have completed a minimum of 15 hours continuing education in the field of sex offender treatment during the preceding year; and

(d) Satisfy any additional requirements adopted by the board.

**(6) The agency shall adopt by rule requirements for late renewal of a certification, reactivation of an expired certification or reinstatement of a certification that has been expired for more than three consecutive years.**

**SECTION 6.** ORS 675.395 is amended to read:

675.395. (1) The Sex Offender Treatment Board is established within the Oregon Health Licensing Agency. The board shall consist of seven members appointed by the Governor *[and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565]* **from lists of recommended persons submitted as provided in subsection (2) of this section**. All members of the board *[shall]* **must** be residents of this state.

(2) Of the members appointed to the board:

(a) Two shall be *[recommended]* **from a list submitted** by the Oregon Association for the Treatment of Sexual Abusers;

(b) Two shall be *[recommended]* **from a list submitted** by the Oregon Adolescent Sex Offender Treatment Network;

(c) One shall be *[recommended]* **from a list submitted** by the Oregon Association of Community Corrections Directors;

(d) One shall be *[recommended]* **from a list submitted** by the Oregon Juvenile Department Directors Association; and

(e) One shall be *[recommended]* **from a list submitted** by a victims' advocacy organization.

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

*[(4) The agency shall provide the board with such administrative services and employees as the board requires to carry out its duties for the administration of ORS 675.360 to 675.410.]*

*[(5) (4) Members of the board are eligible for compensation and expenses as provided in ORS 292.495 [from funds available under ORS 675.405].*

*[(6) (5) The board shall select one of its members to serve as chair and another to serve as vice chair, for those terms and with such duties and powers necessary for the performance of the functions of those offices as the board determines.*

*[(7) (6) A majority of the board constitutes a quorum for the transaction of business.*

*[(8) (7) The board shall meet at times and places specified by the call of the chair or of a majority of the members of the board. The board shall meet at least once each calendar year.*

*[(9) (8) A board member appointed under this section who is also a clinical sex offender therapist or associate sex offender therapist must satisfy all requirements for certification provided in ORS 675.375 and [shall] must obtain certification within 12 months of the member's appointment.*

**SECTION 7.** ORS 675.405 is amended to read:

675.405. (1) The Oregon Health Licensing Agency[, *in consultation with the Sex Offender Treatment Board,*] shall establish by rule and shall collect fees and charges [*to carry out its responsibilities under ORS 675.360 to 675.410*] **related to certified sex offender therapists.**

(2) All moneys received by the agency under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to[, ] and shall be used by[, ] the agency [*only for the administration and enforcement of ORS 675.360 to 675.410*] **as authorized by ORS 676.625.**

*[(3) The fees and charges established by the agency under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees and charges may not exceed the cost of administering ORS 675.360 to 675.410 pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.]*

*[(4)]* (3) In addition to the fees and charges established under subsection (1) of this section, the agency may assess fees and charges for providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering documents or records.

**SECTION 8.** ORS 676.606 is amended to read:

676.606. Pursuant to ORS 676.607, the Oregon Health Licensing Agency shall provide administrative and regulatory oversight and centralized service for the following boards, advisory councils and *[program]* **programs:**

- (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;
- (2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;
- (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.570;
- (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;
- (5) Respiratory Therapist Licensing Board, as provided in ORS 688.800 to 688.840;
- (6) Environmental Health Registration Board, as provided in ORS chapter 700;
- (7) Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, as provided in ORS 690.350 to 690.430;
- (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.185;
- (9) Body piercing **technician registration program and body piercing facility** licensing program, as provided in ORS 690.500 to 690.570; and
- (10) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410.

**SECTION 9.** ORS 676.607 is amended to read:

676.607. (1) The Oregon Health Licensing Agency is responsible for the administration and regulatory oversight of the boards, councils and programs listed in ORS 676.606. The responsibilities of the agency include, but are not limited to:

- (a) Budgeting;
- (b) Record keeping;
- (c) Staffing;
- (d) Contracting;
- (e) Consumer protection and investigating complaints;
- (f) Approving and collecting fees;
- (g) Establishing and administering uniform application processes for the issuance of *[licenses,]* certificates, **licenses**, permits and registrations;
- (h) Issuing and renewing *[licenses,]* certificates, **licenses**, permits and registrations;
- (i) Conditioning, limiting, suspending, revoking or refusing to issue or renew a *[license,]* certificate, **license**, permit or registration or otherwise disciplining applicants, *[licensees,]* certificate holders, **licensees**, permit holders and registration holders;
- (j) Sanctioning any examination service provider, interpreter or proctor who is under contract or agreement with the agency and who compromises the security, confidentiality or integrity of examinations developed or conducted pursuant to the statutory authority of the boards and councils listed in ORS 676.606;

(k) *[Adopting and]* Enforcing all administrative rules *[promulgated]* **adopted** under any statute the agency is charged with enforcing, including board, council and program administrative rules establishing professional **code of conduct and practice** standards, continuing education requirements, *[or]* **the scope of professional practice** *[issues]* **and requirements for obtaining informed consent before providing certain services or performing any procedure on clients;**

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

(m) Implementing regulatory streamlining initiatives to reduce regulatory burdens without compromising regulatory standards; *[and]*

(n) Preparing and circulating printed and electronic materials for educating or otherwise assisting applicants, *[licensees,]* certificate holders, **licensees**, permit holders and registration holders and the public;

(o) **Adopting rules for the issuance of waivers or provisional authorizations to practice, and establishing special conditions of practice, during a state of emergency declared by the Governor under ORS 401.055;**

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

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

(2) The enumeration of duties, functions and powers in subsection (1) of this section is not intended to be exclusive *[nor]* **or** to limit the duties, functions and powers imposed on or vested in the agency by other statutes.

**SECTION 10.** ORS 676.608 is amended to read:

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

(a) **"Holder" means a person who holds a certificate, license, permit or registration to practice issued by the Oregon Health Licensing Agency.**

(b) **"Public entity" has the meaning given that term in ORS 676.177.**

*[(1)]* **(2)(a) The agency shall carry out all investigatory duties.**

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

*[(2)]* **(3) While conducting an investigation authorized under subsection *[(1)]* (2) of this section or a hearing related to an investigation, the agency may:**

(a) Take evidence;

(b) Administer oaths;

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

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

(e) Require answers to interrogatories;

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

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

*[(3)]* **(4) In exercising its authority under this section, the agency may issue subpoenas over the signature of the Director of the Oregon Health Licensing Agency or designated employee thereof and in the name of the State of Oregon.**

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

*[(5)]* **(6) If necessary, the director, or an employee designated by the director, may appear before a magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer, to enter the described property, to remove any person or obstacle, to defend any threatened violence**

to the director or a designee of the director or an officer, upon entering private property, or to assist the director in enforcing the agency's authority in any way.

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

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

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

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

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

**SECTION 11.** ORS 676.610 is amended to read:

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

(b) The Director of the Oregon Department of Administrative Services shall establish the qualifications for and appoint the Director of the Oregon Health Licensing Agency, who holds office at the pleasure of the Director of the Oregon Department of Administrative Services.

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

(d) The Director of the Oregon Health Licensing Agency shall be in the unclassified service.

(2) [*The Director of the Oregon Health Licensing Agency shall be responsible for the performance of duties and functions of the boards, councils and programs administered by the agency.*] The Director of the Oregon Health Licensing Agency shall provide the boards, councils and programs **administered by the agency** with such services and employees as the agency requires to carry out [*its*] **the agency's** duties. Subject to any applicable provisions of the State Personnel Relations Law, the Director of the Oregon Health Licensing Agency shall appoint all subordinate officers and employees of the agency, prescribe their duties and fix their compensation.

(3) [*Except as provided in section 18, chapter 885, Oregon Laws 1999,*] The Director of the Oregon Health Licensing Agency shall be responsible for carrying out the duties, functions and powers under ORS 675.360 to 675.410, **676.605 to 676.625, 676.992**, 680.500 to 680.570, [680.990 (2),] 687.405 to 687.495, **687.895, 688.701 to 688.734**, 688.800 to 688.840, [688.995,] 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570[, 690.992] and 694.015 to 694.185 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive [*nor*] **or** to limit the duties, functions and powers imposed on or vested in the Oregon Health Licensing Agency by other statutes.

**SECTION 12.** ORS 676.612 is amended to read:

676.612. (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend or revoke or may [*place*

*on probation or*] otherwise **condition or limit** [*discipline a holder of*] a certificate, [*permit, license*] **license, permit** or registration to practice issued by the agency [*for any of the following reasons:*] **or may discipline or place on probation a holder of a certificate, license, permit or registration for commission of the prohibited acts listed in subsection (2) of this section.**

**(2) A person subject to the authority of a board, council or program listed in ORS 676.606 commits a prohibited act if the person engages in:**

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

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

(c) Making a representation that the certificate, [*permit, license*] **license, permit** or registration holder knew or should have known is false or misleading regarding skill or the efficacy or value of treatment or remedy administered by the holder.

(d) Practicing under a false, misleading or deceptive name, or impersonating another certificate, [*permit, license*] **license, permit** or registration holder.

(e) Permitting a person other than the certificate, [*permit, license*] **license, permit** or registration holder to use the certificate, [*permit, license*] **license, permit** or registration.

(f) Practicing with a physical or mental condition that presents an unreasonable risk of harm to [*the practitioner*] **the holder of a certificate, license, permit or registration** or to the person or property of others in the course of performing the [*practitioner's*] **holder's** duties.

(g) Practicing while under the influence of alcohol, controlled substances or other skill-impairing substances, or engaging in the illegal use of controlled substances or other skill-impairing substances so as to create a risk of harm to the person or property of others in the course of performing the [*practitioner's*] duties **of a holder of a certificate, license, permit or registration.**

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

(i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered person to practice a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.

(j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards, councils and programs listed under ORS 676.606.

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

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

(m) Violation of a statute regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.

(n) Violation of any rule regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.

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

**(p) Selling or fraudulently obtaining or furnishing any certificate, license, permit or registration to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606, or aiding or abetting such an act.**

(q) **Selling or fraudulently obtaining or furnishing any record related to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606, or aiding or abetting such an act.**

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

*[(2) The agency may refuse to issue or renew, may suspend or revoke or may place on probation or otherwise sanction a holder of a certificate, permit, license or registration to practice issued by the agency for failure to pay an outstanding civil penalty or fee that is due or for failure to meet the terms of any order issued by the agency that has become final.]*

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

(a) Applying for a certificate, *[permit, license]* **license, permit** or registration that is issued by the agency;

(b) Applying for renewal of a certificate, *[permit, license]* **license, permit** or registration that is issued by the agency; or

(c) Under investigation by the agency.

(4) If the agency places a holder of a certificate, *[permit, license]* **license, permit** or registration on probation under subsection (1) of this section, the agency, in consultation with the appropriate board, council or program, may determine and at any time modify the conditions of the probation.

(5) If a certificate, *[permit, license]* **license, permit** or registration is suspended, the holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the certificate, *[permit, license]* **license, permit** or registration may be reinstated by the agency if the conditions of suspension no longer exist and the holder has satisfied all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement.

**SECTION 13.** ORS 676.615 is amended to read:

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

(2) In accordance with applicable provisions of ORS chapter 183, the director may adopt rules necessary for the administration of ORS 676.605 to 676.625 and 676.992.

**(3) The agency may adopt rules establishing requirements for placement of a certificate, license, permit or registration issued by the agency in a dormant status upon application by the holder and establishing conditions for reactivation of the certificate, license, permit or registration.**

**(4) Pursuant to ORS 676.605 and 676.607, the agency may adopt rules to recognize specialties within a regulated field of practice subject to the authority of the boards, councils or programs listed in ORS 676.606 and may establish requirements for education, experience, examinations and supervision as necessary to ensure public safety and competency within the specialty.**

**SECTION 14.** ORS 676.617 is amended to read:

676.617. (1) As used in this section, "single facility license" means a license to provide services in a single location in more than one of the following practice areas:

(a) *[Cosmetology]* **Barbering, esthetics, hair design or nail technology**, as provided in ORS 690.005 to 690.235;

(b) Electrolysis, as provided in ORS 690.350 to 690.430;

(c) Permanent coloring, as provided in ORS 690.350 to 690.430;

(d) Tattooing, as provided in ORS 690.350 to 690.430; and

(e) Body piercing, as provided in ORS 690.500 to 690.550.

(2) The Oregon Health Licensing Agency may issue a single facility license to an applicant that:

(a) Owns the facility to be licensed;

(b) If a natural person, is at least 18 years of age or, if an entity other than a natural person, is formed and operated in accordance with Oregon law;



(c) Has paid all required fees, as determined by the agency; and  
(d) Has filed an application in the form and manner required by the agency.  
(3)(a) A single facility license expires annually, **unless otherwise specified by rule adopted by the agency**, on a date determined by the agency.

(b) A single facility license may be renewed by submitting, prior to the expiration date of the license, the required renewal fees and a renewal application in the form and manner prescribed by the agency.

(c) The agency may impose a [*late*] **delinquency** fee or require a new application for the failure to renew a single facility license prior to the date on which it expires.

(4) The agency shall establish by rule and collect fees associated with single facility licenses. Fees shall be established for:

(a) Application [*for licensure*];

(b) [*An*] Original license;

(c) License renewal;

(d) [*Late renewal of a license*] **Delinquent renewal**;

(e) [*Issuance of a duplicate or*] Replacement license; and

(f) [*Costs of*] Compiling, photocopying, preparing and delivering copies of documents and records.

(5) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency [*only for the administration and enforcement of the provisions of this section*] **as authorized by ORS 676.625.**

[(6)] *The fees established by the agency under subsection (4) of this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering the provisions of this section pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.*

[(7)] (6) A single facility license holder shall ensure that the:

(a) Single facility license is displayed in public view where services are being rendered; and

(b) Facility authorized by the single facility license complies with all statutes and rules governing facilities in which services in the practice areas authorized by the license of the holder are provided.

[(8)] (7) The agency may suspend, condition, limit, revoke or refuse to issue or renew a single facility license, or may place on probation or otherwise discipline a single facility license holder, for the reasons specified in ORS 676.612, 690.167, 690.407 or 690.515 or for failure to comply with subsection [(7)] (6) of this section.

**SECTION 15.** ORS 676.620 is amended to read:

676.620. In performing its powers and duties under [*chapter 885, Oregon Laws 1999*] **ORS 676.605 to 676.625 and 676.992**, the Oregon Health Licensing Agency may utilize the administrative assistance of the Oregon Department of Administrative Services. The agency shall pay to the department a proportionate share of the cost of such administrative services, such share to be fixed by biennial negotiation between the agency and the department.

**SECTION 16.** ORS 676.625 is amended to read:

676.625. (1) **The Oregon Health Licensing Agency shall establish by rule and shall collect fees and charges to carry out the agency's responsibilities under ORS 676.605 to 676.625 and 676.992 and any responsibility imposed on the agency pertaining to the boards, councils and programs administered and regulated by the agency pursuant to ORS 676.606.**

[(1)] (2) The Oregon Health Licensing Agency Account is established in the General Fund of the State Treasury. The account shall consist of the moneys credited to the account by the Legislative Assembly. All moneys in the account are appropriated continuously to and shall be used by the Oregon Health Licensing Agency for payment of expenses of the agency in carrying out the duties, **functions** and obligations of the **agency, and for payment of the expenses of the boards, councils and programs administered and regulated by the agency pursuant to ORS 676.606. The**

**agency shall keep a record of all moneys credited to the account and report the source from which the moneys are derived and the activity of each board, council or program that generated the moneys.**

[2)] (3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting fees and charges credited to the account, the fees and charges [shall] **may** not exceed the cost of administering the **agency and the** boards, councils and programs within the agency [pertaining to the purposes for which the fee or charge is established], as authorized by the Legislative Assembly within the agency's budget, as the budget may be modified by the Emergency Board.

[3)] (4) [The agency shall keep a record of all moneys deposited into the account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity of each board, council or program.] **All moneys credited to the account pursuant to ORS 675.405, 676.617, 680.525, 687.435, 688.728, 688.834, 690.235, 690.415, 690.550, 694.185 and 700.080, and moneys credited to the account from other agency and program fees established by the agency by rule, are continuously appropriated to the agency for carrying out the duties, functions and powers of the agency under ORS 676.605 to 676.625 and 676.992.**

[4)] (5) The moneys received from civil penalties assessed under ORS 676.992 shall be deposited and accounted for as are other moneys received by the agency and shall be for the administration and enforcement of [those laws of] **the statutes governing** the boards, councils and programs administered by the agency.

**SECTION 17.** ORS 676.992 is amended to read:

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

- (a) ORS 688.701 to 688.734 (athletic training);
- (b) ORS 690.500 to 690.570 (body piercing);
- (c) ORS 690.005 to 690.235 (cosmetology);
- (d) ORS 680.500 to 680.570 (denture technology);
- (e) ORS 687.405 to 687.495 (direct entry midwifery);
- (f) ORS 690.350 to 690.430 (electrology and permanent coloring or tattooing);
- (g) ORS 694.015 to 694.185 (dealing in hearing aids);
- (h) ORS 688.800 to 688.840 (respiratory therapy);
- (i) ORS chapter 700 (environmental sanitation);
- (j) ORS 676.617 (single facility licensure); [and]
- (k) ORS 675.360 to 675.410 (sex offender treatment)[.]; **and**

**(L) ORS 676.612 (prohibited acts).**

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

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

(4) In imposing a civil penalty pursuant to this section, the agency shall consider the following factors:

- (a) The immediacy and extent to which the violation threatens the public health or safety;
  - (b) Any prior violations of statutes, rules or orders;
  - (c) The history of the person incurring a penalty in taking all feasible steps to correct any violation; and
  - (d) Any other aggravating or mitigating factors.
- (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(6) The moneys received by the agency from civil penalties under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Ac-

count established under ORS 676.625. Such moneys are continuously appropriated to the agency for the administration and enforcement of the laws the agency is charged with administering and enforcing that govern the person against whom the penalty was imposed.

**SECTION 18.** ORS 680.525 is amended to read:

680.525. (1) The Oregon Health Licensing Agency shall establish by rule **and collect fees and charges for the following** related to denture technologists *[to be collected for]*:

- (a) Application;
- (b) Examinations;
- (c) **Original** license;
- (d) License renewal;
- (e) License *[restoration]* **reactivation**;
- (f) Replacement or duplicate license;
- (g) *[Delinquency; and]* **Delinquent renewal**;
- (h) Reciprocity; and**

*[(h)]* (i) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the agency under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency *[only for the administration and enforcement of ORS 680.500 to 680.570]* **as authorized by ORS 676.625.**

*[(3)]* *The fees established by the agency under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 680.500 to 680.570 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.]*

**SECTION 19.** ORS 680.530 is amended to read:

680.530. (1)*[(a)]* **Except as provided in subsection (2) of this section,** licenses to practice denture technology issued by the Oregon Health Licensing Agency *[shall]* expire one year from the date of issuance *[unless]* **and must be** renewed on or before the expiration date by payment of the required renewal fee and submission of satisfactory evidence of completion of continuing education courses as specified by rule.

*[(b)]* (2) *[Notwithstanding paragraph (a) of this subsection,]* The agency may vary the renewal date of a license by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

**(3) The agency shall adopt by rule requirements for late renewal of a license, reactivation of an expired license or reinstatement of a license that has been expired for more than three consecutive years.**

*[(2)]* *A license that has expired less than one year before the date of application for renewal may be renewed upon application for renewal and payment of the required renewal fee and delinquency fee and upon submission of satisfactory evidence of completion of continuing education as specified by rule.]*

*[(3)]* *A license that has expired more than one year before the date of application for renewal but less than three years may be renewed upon application for renewal and payment of the required renewal fee and restoration fee and upon submission of satisfactory evidence of completion of continuing education as specified by rule.]*

*[(4)]* *A license that has expired more than three years before the date of application for renewal may be reinstated upon application for reinstatement, payment of the prescribed license fee and submission of evidence satisfactory to the agency of clinical competence as determined by rule.]*

*[(5)]* *The agency may refuse to issue or renew the license of a denturist whose license has been denied, suspended or revoked and not renewed under ORS 676.612 for up to one year from the date of denial of the license or the renewal or the date of the order of suspension or revocation.]*

(4) If the license of a denturist has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the agency may refuse to issue or renew the license for up to one year from the date of denial, suspension or revocation.

**SECTION 20.** ORS 680.556 is amended to read:

680.556. (1) There is established, within the Oregon Health Licensing Agency, the State Board of Denture Technology.

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

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

(4) The term of office of each member is *[three]* **four** years, but a member serves at the pleasure of the Governor. *[Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If a person serves two consecutive terms, a period of three years must pass before the person may be appointed to the board again. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.]* **Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board.**

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

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

**SECTION 20a.** If House Bill 2058 becomes law, section 20 of this 2009 Act (amending ORS 680.556) is repealed and ORS 680.556, as amended by section 15, chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2058), is amended to read:

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

(a) Four must be active licensed denturists;

(b) One must be an Oregon licensed dentist in active practice; and

(c) Two must be members of the public who do not possess the professional qualifications of other members and who are not a spouse, domestic partner, child, parent or sibling of an active licensed denturist or dentist.

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

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

(A) Geographic areas of this state; and

(B) Ethnic group.

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

**member's office until the appointment and qualification of a successor. A member is eligible for reappointment.**

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

(A) Is not a resident of this state;

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

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

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

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

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

**SECTION 21.** ORS 687.425 is amended to read:

687.425. (1) **Except as provided in subsection (2) of this section,** a license issued by the Oregon Health Licensing Agency for a direct entry midwife [shall expire] **expires** after one year. The agency shall renew a license upon receipt of the renewal application and fee and proof of current cardiopulmonary resuscitation certification for infants and adults.[, if] The applicant [is otherwise] **must be** in compliance with the rules adopted by the State Board of Direct Entry Midwifery and the agency.

(2) The agency shall establish a procedure for the renewal of licenses. [Notwithstanding subsection (1) of this section,] The agency may vary the renewal date of a license by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(3) The board shall prescribe requirements for license renewal including, but not limited to, continuing education that must include training in use of legend drugs and devices. In addition to continuing education requirements, a midwife who has attended fewer than five births in the previous year shall be required to take an additional 10 hours of continuing education as prescribed by the board. All licensing requirements shall be approved by the board by rule.

[(4) Any license that is not renewed shall automatically revert to inactive status. The license may be reactivated only if the license holder meets other qualifications for reactivation as prescribed by the agency in consultation with the board.]

**(4) The agency shall adopt by rule requirements for late renewal of a license, reactivation of an expired license or reinstatement of a license that has been expired for more than three consecutive years.**

**(5) If the license of a direct entry midwife has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the agency may refuse to issue or renew the license for up to one year from the date of denial, suspension or revocation.**

[(5)] **(6)** The agency may mail a notice of renewal to the last-known address of the license holder.

**SECTION 22.** ORS 687.435 is amended to read:

687.435. (1) The Oregon Health Licensing Agency shall[, in consultation with the State Board of Direct Entry Midwifery,] establish by rule and collect fees[. Fees established pursuant to this section may not exceed] **and charges for** the following **related to direct entry midwives:**

(a) [License application, \$100] **Application;**

(b) [Initial license, \$2,000] **Original license;**

- (c) [Annual renewal for active license, \$2,000] **License renewal;**
- (d) [Written examination, \$500] **Examinations;**
- (e) [Oral examination, \$150;]
- (f) (e) [Late fee, \$50] **Delinquent renewal;**
- (g) (f) **Replacement or duplicate license**[, \$25];
- (h) (g) **Reciprocity** [license, \$500; and];
- (i) (h) **License reactivation**[, \$500.]; **and**

(i) **Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.**

(2) Fees established pursuant to subsection (1) of this section shall be subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting fees. The fees shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. The fees shall not exceed the cost of administering the program or the purpose for which the fee is established as authorized by the Legislative Assembly for the board's budget, or as modified by the Emergency Board of future sessions of the Legislative Assembly.]

(3) (2) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency **as authorized by ORS 676.625.** [only for the administration and enforcement of ORS 687.405 to 687.495.]

(4) In addition to the fees established under subsection (1) of this section, the agency may assess fees for providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.]

**SECTION 23.** ORS 687.470 is amended to read:

687.470. (1) There is established within the Oregon Health Licensing Agency the State Board of Direct Entry Midwifery consisting of [seven] **eight** members appointed by the Governor.

(2) **The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board.** [Each member of the board shall serve a term of three years and until a successor is appointed and qualified. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. All appointments of members of the board are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.]

(3) The [membership of the board shall include] **board consists of:**

(1) (a) Four licensed direct entry midwives.

(2) (b) Two certified nurse midwives.

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

(d) **One public member.**

**SECTION 23a.** If House Bill 2058 becomes law, section 23 of this 2009 Act (amending ORS 687.470) is repealed and ORS 687.470, as amended by section 24, chapter \_\_\_, Oregon Laws 2009 (Enrolled House Bill 2058), is amended to read:

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

(a) Four must be licensed direct entry midwives.

(b) Two must be certified nurse midwives.

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

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

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

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

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. **Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor.** A member is eligible for reappointment. **If a person serves two consecutive full terms, a period of at least three years must elapse before the person is again eligible for appointment to serve on the board.**

*[(b) Unless a member is removed from office prior to the expiration of the term, each member of the board serves until the expiration of the member's term and until a successor is appointed and qualified. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.]*

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

(A) Is not a resident of this state;

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

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

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

**SECTION 24.** ORS 688.705 is amended to read:

688.705. (1) There is *[created in]* **established within** the Oregon Health Licensing Agency the Board of Athletic Trainers, consisting of five members appointed by the *[Director of the Oregon Health Licensing Agency]* **Governor**. In making appointments to the board, the *[director must]* **Governor shall** take into consideration *[any]* nominations received from professional organizations of athletic trainers that are based in Oregon.

(2) Of the membership of the Board of Athletic Trainers:

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

(b) Three members must be athletic trainers who have practiced continuously in this state for the three years prior to the date of appointment.

(c) One member must be a member of the general public who is not an athletic trainer.

(d) One member must be a physician licensed under ORS chapter 677.

(3) The term of office *[for]* **of** each member of the board is four years, **but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor.** A member is eligible for reappointment. *[, but no member may serve more than two consecutive terms. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.]* **If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board.**

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

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

**SECTION 25.** ORS 688.724 is amended to read:

688.724. (1) **Except as provided in subsection (5) of this section,** an athletic trainer registration *[is issued for a one-year period. All registrations shall expire]* **expires** on the last day of the month, one year from the date of issuance.

(2) The filing of a registration renewal form is the responsibility of the registrant. The registrant must submit to the *[Board of Athletic Trainers]* **Oregon Health Licensing Agency** a completed renewal application, required renewal fee and *[presentation of evidence, satisfactory to the board,]* **satisfactory evidence** of having completed any required continuing education credits *[prior to the renewal or]* **on or before the** expiration date of the registration as specified by **agency** rule.

(3) **The agency shall adopt by rule** requirements for late renewal *[and reinstatement]* **of a registration, reactivation** of an expired **registration** or *[lapsed]* **reinstatement of a** registration **that has been expired for more than three consecutive years** *[shall be determined by the board as specified by rule].*

*[(4) The Oregon Health Licensing Agency may refuse to grant or renew the registration of an athletic trainer whose registration has been denied, suspended, revoked or lapsed for up to one year from the date of the denial of registration or renewal, or the date of the order of suspension or revocation.]*

**(4) If the registration of an athletic trainer has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the agency may refuse to issue or renew the registration for up to one year from the date of denial, suspension or revocation.**

(5) The agency may vary the date of registration renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

**SECTION 26.** ORS 688.728 is amended to read:

688.728. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and charges for the following** related to athletic trainers *[for]*:

(a) Application *[for athletic trainer registrations, permits and waivers]*;

(b) *[Athletic trainer]* **Original** registration;

(c) **Registration** renewal *[of athletic trainer registration]*;

(d) Temporary practice registration;

(e) Examinations *[and reexaminations]*;

(f) *[Reinstatement]* **Registration reactivation**;

(g) *[Delinquency in]* **Delinquent** renewal *[of a registration]*;

(h) *[Duplication]* **Replacement or duplicate registration**;

(i) Reciprocity; and

(j) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the agency under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency *[only for the administration and enforcement of ORS 688.701 to 688.734]* **as authorized by ORS 676.625.**

*[(3) The fees established by the agency under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 688.701 to 688.734, pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.]*

**SECTION 27.** ORS 688.815 is amended to read:

688.815. (1) An applicant for a license to practice respiratory care shall submit to the Oregon Health Licensing Agency written evidence that the applicant:



(a) Is at least 18 years of age;  
(b) Has completed an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and

(c) Has completed a respiratory care education program approved by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education or their successors or equivalent organizations, as approved by the Respiratory Therapist Licensing Board.

(2) The applicant shall be required to pass an examination, **approved by the board**, whereupon the agency may issue to the applicant a license to practice respiratory care.

(3) The agency may choose to issue a license to practice respiratory care by endorsement **or reciprocity** to:

(a) An applicant who is currently licensed to practice respiratory care under the laws of another state, territory or country if the qualifications of the applicant are considered by the agency to be equivalent to those required in this state; or

(b) An applicant holding a credential conferred by the National Board for Respiratory Care as a Certified Respiratory Therapist (CRT) or as a Registered Respiratory Therapist (RRT), or both, providing the credential has not been suspended or revoked.

(4) **Except as provided in subsection (8) of this section, all licenses expire on the last day of the month, one year from the date of issuance.**

(5)(a) **The licensee is responsible for filing a license renewal application form.**

(b) **The licensee must submit to the agency a completed renewal application, required renewal fee and satisfactory evidence of having completed any required continuing education credits on or before the expiration date of the license as specified by agency rule.**

(6) **The agency shall adopt by rule requirements for late renewal of a license, reactivation of an expired license or reinstatement of a license that has been expired for more than three consecutive years.**

(7) **If the license of a respiratory care practitioner has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the agency may refuse to issue or renew the license for up to one year from the date of denial, suspension or revocation.**

(8) **The agency may vary the date of license renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.**

**SECTION 28.** ORS 688.820 is amended to read:

688.820. (1) There is established within the Oregon Health Licensing Agency the Respiratory Therapist Licensing Board, consisting of five members appointed by the Governor. **The membership of the board shall include:**

(a) **Four respiratory care practitioners; and**

(b) **One public member.**

(2) The term of office of each member of the board is four years, **but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor.** A member is eligible for reappointment, *[but no member shall serve more than two full terms. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.]* **If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board.**

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

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

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

**SECTION 28a.** If House Bill 2058 becomes law, section 28 of this 2009 Act (amending ORS 688.820) is repealed and ORS 688.820, as amended by section 28, chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2058), is amended to read:

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

(2) Of the members of the board:

(a) Four must be respiratory [*therapists*] **care practitioners**; and

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

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

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

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

(A) Geographic areas of this state; and

(B) Ethnic group.

(5)(a) The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than two terms end each year. **Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor.** A member is eligible for reappointment. [*If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.*] **If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board.**

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

(A) Is not a resident of this state;

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

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

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

**SECTION 29.** ORS 688.834 is amended to read:

688.834. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and charges for the following** related to respiratory [*therapists for*] **care practitioners**:

(a) Application;

(b) Examinations;

(c) **Original** license;

(d) License renewal;

(e) License [*restoration*] **reactivation**;

(f) Replacement or duplicate license;

(g) [*Delinquency; and*] **Delinquent renewal**;

(h) **Reciprocity; and**

[(h)] (i) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the agency under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency *[only for the administration and enforcement of ORS 688.800 to 688.840.] as authorized by ORS 676.625.*

[(3) *The fees established by the agency under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 688.800 to 688.840 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.*]

**SECTION 30.** ORS 690.005 is amended to read:

690.005. As used in ORS 690.005 to 690.235:

(1) "Barbering" means any of the following practices, when done upon the human body for cosmetic purposes and not for medical diagnosis or treatment of disease or physical or mental ailments:

(a) Shampooing, styling, cutting, singeing and conditioning of the hair of an individual.

(b) Applying hair tonics, dressings and rinses.

(c) Massaging of the scalp, face and neck and applying facial and scalp treatments with creams, lotions, oils and other cosmetic preparations, either by hand or mechanical appliances, but such appliances shall not be galvanic or faradic.

(d) Shaving, trimming or cutting of the beard or mustache.

(2) "Board" means the Board of Cosmetology, created within the Oregon Health Licensing Agency.

(3) "Certificate" means a written authorization for the holder to perform in one or more fields of practice.

(4) "Cosmetology" means the art or science of beautifying and improving the skin, nails and hair and the study of cosmetics and their application.

(5) "Demonstration permit" means a written authorization for a person to practice, demonstrate and teach one or more fields of practice on a temporary basis.

(6) "Esthetics" means any of the following skin care practices performed on the human body for the purpose of keeping the skin healthy and attractive and not for medical diagnosis or treatment of disease or physical or mental ailments:

(a) The use of the hands or mechanical or electrical apparatuses or appliances for cleansing, stimulating, manipulating, exfoliating or applying lotions or creams.

(b) Temporary removal of hair.

(c) Makeup artistry.

(d) Facial and body wrapping.

(e) Facial and body waxing.

(7) "Facility" means an establishment operated on a regular or irregular basis for the purpose of providing services in one or more fields of practice.

(8) "Field of practice" means the following cosmetology disciplines:

(a) Barbering.

(b) Esthetics.

(c) Hair design.

(d) Nail technology.

**(9) "Freelance authorization" means a written authorization that allows a practitioner to practice outside or away from a licensed facility.**

[(9)] (10) "Hair design" means any of the following practices, when done upon the human body for cosmetic purposes and not for medical diagnosis or treatment of disease or physical or mental ailments:

(a) Shaving, trimming or cutting of the beard or mustache.

(b) Styling, permanent waving, relaxing, cutting, singeing, bleaching, coloring, shampooing, conditioning, applying hair products or similar work upon the hair of an individual.

(c) Massaging the scalp and neck when performed in conjunction with activities in paragraph (a) or (b) of this subsection.

[(10)] (11) "Independent contractor" means a practitioner who qualifies as an independent contractor under ORS 670.600 and who is not under the control and direction of a facility license holder.

[(11)] (12) "License" means a written authorization issued under ORS 690.055 to a person to operate a facility for providing services related to one or more fields of practice to the public.

[(12)] (13) "Nail technology" means any of the following manicuring or pedicuring practices performed for cosmetic purposes and not for medical diagnosis or treatment of disease or physical or mental ailments:

(a) Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise treating the nails of the hands or feet.

(b) Massaging, cleansing, treating or beautifying the hands, arms below the elbow, feet or legs below the knee.

(c) Applying, sculpturing or removing artificial nails of the hands or feet.

[(13)] (14) "Practitioner" means a person certified to perform services included within a field of practice.

[(14)] (15) "Registration" means a written authorization issued to an independent contractor to hold forth to the public as a business entity providing services in a field of practice.

[(15)] (16) "School" means an educational establishment that has a license issued by the Department of Education and is operated for the purpose of teaching one or more fields of practice.

[(16)] (17) "Temporary facility permit" means a written authorization issued under ORS 690.055 to provide services on a temporary basis in one or more fields of practice.

**SECTION 31.** ORS 690.015 is amended to read:

690.015. (1) This section establishes prohibitions relating to the practice of hair design, barbering, esthetics and nail technology. The prohibitions under this section are subject to the exemptions under ORS 690.025. A person who commits an act prohibited under this section is subject to the penalties under ORS 690.992 in addition to any administrative action taken by or any civil penalty imposed by the Oregon Health Licensing Agency under ORS 676.612.

(2) A person may not:

(a) Perform or attempt to perform [*as a practitioner*] **services in a field of practice** without a certificate, demonstration permit, **registration** or [*certificate of identification*] **freelance authorization**.

(b) Operate a facility without a license or temporary facility permit.

(c) **Perform or attempt to perform services in a field of practice in a facility that does not have a license or temporary facility permit.**

[(c) *Operate a facility unless it is at all times under the direct supervision of a practitioner.*]

(d) Practice hair design, barbering, esthetics or nail technology as an independent contractor without a registration.

(e) Display a sign or in any way advertise or purport to offer services in a field of practice without first obtaining a permit, certificate, independent contractor registration or facility license.

(f) Knowingly make a false statement on an application to obtain or renew a certificate, registration, license or permit or to obtain a [*certificate of identification*] **freelance authorization**.

(g) Allow an individual in the employ or under the supervision or control of the person to perform in a field of practice without a certificate or permit.

(h) Sell, barter or offer to sell or barter a document evidencing a certificate, registration, license, permit or [*certificate of identification*] **freelance authorization**.

(i) Purchase or procure by barter a document evidencing a certificate with intent to use it as evidence of the person's qualification as a practitioner.

(j) Materially alter with fraudulent intent a document evidencing a certificate, registration, license, permit or [*certificate of identification*] **freelance authorization.**

(k) Use or attempt to use as valid a fraudulently obtained, counterfeited or materially altered document evidencing a certificate, registration, license, permit or [*certificate of identification*] **freelance authorization.**

**SECTION 32.** ORS 690.025 is amended to read:

690.025. ORS 690.005 to 690.235 do not apply to:

(1) Persons who perform service without compensation in case of emergency or in domestic administration.

(2) Persons licensed by a health professional regulatory board listed in ORS 676.160 who are acting within the scope of their professional license.

(3) Persons identified by the **Oregon Health Licensing** Agency or Board of Cosmetology by rule who are acting under the authority of a hospital or long term care facility licensed under ORS 441.025 or a residential facility licensed under ORS 443.415.

(4) Persons engaged in rendering emergency medical assistance as defined in ORS 30.800.

(5) Persons licensed by the State Board of Pharmacy, merchants or other individuals when demonstrating apparatus or supplies for purposes of sale.

(6) Commissioned medical and surgical officers and personnel of the United States Armed Services while operating on a military base and personnel of correctional institutions while operating on the premises of a correctional facility.

(7) Persons applying temporary makeup, combing hair or applying hair spray, without compensation specifically for the application or combing, for the sole purpose of preparing any individual for a professional photograph or theatrical performance.

(8) A student while engaged in training at the direction of and under the direct supervision of the faculty of a school licensed under ORS 345.010 to 345.450 to teach a field of practice.

**(9) The agency may exempt practitioners providing services at charitable or fund raising events. In establishing an exemption, the agency shall consider and evaluate each written request on an individual basis.**

**SECTION 33.** ORS 690.047 is amended to read:

690.047. (1) The Board of Cosmetology may choose to waive all or part of the educational requirement for an applicant in a field of practice and allow the applicant to take the certification examination, provided that [*the applicant is otherwise qualified to take the examination and*]:

[*(1) The Superintendent of Public Instruction determines that the applicant's education or training is substantially equivalent to the education or training of graduates of schools subject to the rules of the State Board of Education; or*]

[*(2) The applicant is certified in another state.*]

**(a) The applicant's education or training is determined by the board to be substantially equivalent to Oregon certification requirements;**

**(b) The applicant is otherwise qualified to take the examination; and**

**(c) The applicant's certification in another state is in good standing.**

**(2) The Oregon Health Licensing Agency may issue a specialty certificate in a field of practice to a practitioner who has:**

**(a) Completed post-graduate education approved by the agency that is separate from the education or training required for entry-level certification;**

**(b) Passed an examination approved or recognized by the board;**

**(c) Paid the required fees; and**

**(d) Completed prescribed continuing education credits as determined by agency rule.**

**SECTION 34.** ORS 690.048 is amended to read:

690.048. (1) The Oregon Health Licensing Agency shall issue a certificate to each applicant who qualifies under ORS 690.046 **or 690.047**. The certificate is prima facie evidence of the right of the holder to practice in a field of practice for which the holder has qualified and purports to be a practitioner.

(2) A certificate must show the practitioner's name, address, certificate number, expiration date and field of practice for which the practitioner is qualified to perform services.

**(3) A practitioner's certificate shall indicate any specialty certification, obtained under ORS 690.047, for which the practitioner is qualified to provide advanced services in a field of practice. Advanced services shall be defined by rules adopted by the agency.**

**SECTION 35.** ORS 690.055 is amended to read:

690.055. (1) To be issued a license to operate a facility, each applicant shall:

(a) Be 18 years of age or older, if the applicant is a natural person.

(b) Comply with the rules of the Board of Cosmetology concerning health, safety and infection control.

(c) Comply with the applicable health and safety laws and rules of the Department of Human Services and any other state agencies.

(d) Pay the required fees.

(e) If the applicant is an entity other than a natural person, be formed and operated in accordance with Oregon law.

(2) To be issued a temporary facility permit, each applicant must:

(a) Operate the facility on a temporary basis for a period not to exceed 30 consecutive calendar days and in accordance with rules of the board.

(b) Be 18 years of age or older, if the applicant is a natural person.

*[(c) Be under the direct supervision of a practitioner at all times the facility is open for business.]*

*[(d)] (c)* Apply on forms prescribed by the Oregon Health Licensing Agency prior to opening for business.

*[(e)] (d)* Comply with the rules of the board concerning health, safety and infection control.

*[(f)] (e)* Comply with the applicable health and safety laws and rules of the Department of Human Services and any other state agencies.

*[(g)] (f)* Pay the appropriate application and permit fees.

*[(h)] (g)* If the applicant is an entity other than a natural person, be formed and operated in accordance with Oregon law.

(3) The agency may issue a single facility license to an applicant pursuant to ORS 676.617.

(4) A license issued under this section shall confer on a facility owner the right to operate the facility and to advertise the services for which the facility is licensed.

*[(5) A facility must at all times be under the direct supervision of a practitioner.]*

**SECTION 36.** ORS 690.057 is amended to read:

690.057. (1) To be issued a registration to operate as an independent contractor, each applicant shall:

(a) Be 18 years of age or older.

(b) Comply with the rules of the Board of Cosmetology concerning health, safety and infection control.

(c) Comply with the applicable health and safety laws and rules of the Department of Human Services and any other state agencies.

(d) Pay the required fees.

**(e) Hold an active certificate in good standing.**

(2) A registration shall confer the right to an independent contractor to advertise and directly offer practitioner services to the public in a licensed facility or a facility operating under a temporary facility permit.

**SECTION 37.** ORS 690.085 is amended to read:

690.085. (1) *[All practitioner certificates shall expire]* **Except as provided in subsection (3) of this section, a certificate issued by the Oregon Health Licensing Agency expires** on the last day of the month, two years from the date of issuance*[, unless]. A certificate may be renewed* prior to the expiration date by payment of the required renewal fee and compliance with other requirements as established by the Board of Cosmetology.

(2) *[All registrations and licenses shall expire]* **Except as provided in subsection (3) of this section, a registration and a license issued by the agency expires** on the last day of the month, one year from the date of issuance, *[unless]*. **A registration or license may be renewed** prior to the expiration date by payment of the required renewal fee and compliance with other requirements as established by the board.

(3) The *[Oregon Health Licensing]* agency may vary the date of certificate, registration and license renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(4) *[A certificate, registration or license not renewed before it expires may be renewed by payment of the required renewal and late fees and by compliance with other requirements for renewal as determined by the board.]* **The agency shall adopt by rule requirements for late renewal and reactivation of an expired certificate, license or registration.**

(5) A certificate that has not been renewed for a period of *[two]* **three** years after date of expiration may be *[renewed and restored]* **reinstated** if the applicant:

(a) Submits an application for certification;

(b) Satisfactorily passes the examination *[required by ORS 690.065; and]* **as specified by board rule;**

(c) Submits payment of *[the application, examination and certificate fees at the time of reapplication.]* **required fees; and**

(d) **Meets other requirements as determined by board rule.**

**SECTION 38.** ORS 690.095 is amended to read:

690.095. Every holder of a certificate, registration, license, permit or *[certificate of identification shall]* **freelance authorization must** display the document in public view where services are being rendered.

**SECTION 39.** ORS 690.123 is amended to read:

690.123. (1) The Oregon Health Licensing Agency may issue a practitioner a *[certificate of identification]* **freelance authorization** to practice outside of or away from a licensed facility.

(2) The Board of Cosmetology shall determine requirements and the agency shall establish fees for issuance of a *[certificate of identification]* **freelance authorization.**

(3) Practitioners performing services outside of a licensed facility under the provisions of a *[certificate of identification]* **freelance authorization** shall comply with the safety and infection control requirements under ORS 690.165 and 690.205 and rules adopted *[thereunder]* **by the agency under those statutes.**

**SECTION 40.** ORS 690.155 is amended to read:

690.155. (1) There is *[created]* **established** within the Oregon Health Licensing Agency the Board of Cosmetology consisting of seven members appointed by the Governor. *[Each member of the board shall serve for a term of three years and until a successor is appointed and qualified.]* At all times the membership of the board shall be so constituted that:

(a) Six members of the board shall be practitioners with valid certificates.

(b) One member shall be a public member who is not a practitioner.

(2) *[A person is not eligible for appointment as a member of the board if the person has previously served two terms.]* **The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board.**

*[(3) A member of the board serves at the pleasure of the Governor. Vacancies shall be filled by the Governor, by appointment for the unexpired term.]*

*[(4)]* **(3)** The Director of the Oregon Health Licensing Agency, or a designated representative, shall serve as an ex officio member of the board but without the right to vote.

**SECTION 41.** ORS 690.165 is amended to read:

690.165. In addition to the powers otherwise granted by ORS 345.430 and 690.005 to 690.235, the Board of Cosmetology shall have the power to:

- (1) Determine whether applicants are qualified to take certification examinations.
- (2) Administer, approve or recognize certification examinations and designate the time, place and administrators of certification examinations.
- (3) Contract for the administration of examinations as part of regional or national examinations and contract with independent testing services for examination administration.
- (4) Pursuant to ORS 676.607, direct the Oregon Health Licensing Agency to issue certificates, registrations, licenses, permits and [*certificates of identification*] **freelance authorizations** to individuals determined by the board to be qualified.
- (5) Except as otherwise provided in ORS 690.205 (2) or other provision of law, adopt rules establishing and enforcing standards for safety, infection control, professional conduct and any other matters relating to fields of practice, facilities or locations used by persons providing services regulated by ORS 690.005 to 690.235.
- (6) Pursuant to ORS 676.612 and 690.167, direct the agency to suspend, revoke, limit or refuse to issue or renew certificates, registrations, licenses or permits or impose a period of probationary activity on the holder thereof.
- (7) Do any act necessary or proper to effect and carry out the duties required of the board by ORS 690.005 to 690.235.
- (8) Adopt rules prescribing standards of professional conduct for persons practicing hair design, barbering, esthetics or nail technology.
- (9) Consult with the agency about the issuance and renewal of a single facility license under ORS 676.617 authorizing a facility to provide [*cosmetology*] **barbering, esthetics, hair design or nail technology** services.

**SECTION 42.** ORS 690.167 is amended to read:

690.167. In the manner prescribed in ORS chapter 183 for contested cases and at the direction of the Board of Cosmetology, the Oregon Health Licensing Agency may impose a form of discipline listed in ORS 676.612 against any person practicing barbering, [*cosmetology,*] hair design, esthetics or nail technology for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 690.005 to 690.235, or the rules adopted thereunder.

**NOTE:** Section 43 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 44.** ORS 690.235 is amended to read:

690.235. (1) The Oregon Health Licensing Agency[, *in consultation with the Board of Cosmetology,*] shall establish by rule and collect fees [*related to the practice of cosmetology. Fees may be assessed*] **and charges** for the following **related to barbering, esthetics, hair design and nail technology**:

- (a) Application [*for a certificate, license or permit*].
- (b) [*Issuance of an*] Original [*two-year practitioner*] certificate.
- (c) [*Renewal of a two-year practitioner*] Certificate **renewal**.
- (d) [*Each initial examination section in an individual field of practice and reexamination of failed sections*] **Examination**.
- (e) [*Issuance of a*] Demonstration permit.
- (f) [*Issuance of a facility*] **Original** license.
- (g) [*Renewal of a facility*] License **renewal**.
- (h) [*Issuance of a*] Temporary facility permit.
- (i) [*Issuance of an independent contractor*] **Original** registration.
- (j) [*Renewal of an independent contractor*] Registration **renewal**.
- (k) [*Issuance of a duplicate or*] Replacement **or duplicate** certificate, license or permit.
- (L) [*Late renewal fee*] **Delinquent renewal**.
- (m) Reciprocity [*fee*].
- (n) [*Issuance of a certificate of identification*] **Freelance authorization**.
- (o) **Reactivation**.



**(p) Providing copies of official documentation or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.**

(2) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency *[only for the administration and enforcement of ORS 690.005 to 690.235]* **as authorized by ORS 676.625.**

*[(3) The fees established by the agency under subsection (1) of this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 690.005 to 690.235 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.]*

*[(4) In addition to the fees established under subsection (1) of this section, the agency may assess fees for providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.]*

**NOTE:** Section 45 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 46.** ORS 690.365 is amended to read:

690.365. (1) An applicant for licensure shall pay a fee established by the Oregon Health Licensing Agency under ORS 690.350 to 690.430 and shall show to the satisfaction of the agency that the applicant:

(a) Has complied with the provisions of ORS 690.350 to 690.430 and the applicable rules of the agency;

(b) Is not less than 18 years of age;

(c) Has a high school diploma or equivalent education;

(d) Has submitted evidence of completion of education and training prescribed and approved by the agency under ORS 690.410; and

(e) Has passed an examination approved, administered or recognized by the agency.

(2) Subject to the provisions of ORS 676.612, the agency shall issue a license to each applicant who provides evidence satisfactory to the agency of completion of all requirements for licensure. An initial license shall be issued for one year **unless otherwise specified by rule**, and expires unless renewed on or before the expiration date by payment of required fees and demonstration of completion of continuing education requirements specified by rule.

**(3) Notwithstanding ORS 690.355 and subsections (1) and (2) of this section, the agency may issue demonstration and temporary permits to perform tattooing services as prescribed by agency rule.**

**SECTION 47.** ORS 690.385 is amended to read:

690.385. *[(1) Except as otherwise provided in this section, a license issued under ORS 690.365 expires one year after the date of issue unless renewed by payment of the required renewal fee. The Oregon Health Licensing Agency, however, may vary the date of license renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee. If payment is transmitted by postal service, the envelope must be postmarked on or before the expiration of the license. If the license expires, the license may be renewed on payment of a renewal fee and late penalty fee established by the agency under ORS 690.350 to 690.430.]*

*[(2) The agency may suspend the license of any person who fails to renew. A suspended license may be reactivated upon the payment of a reactivation fee established by the agency under ORS 690.350 to 690.430 and all past unpaid renewal fees.]*

*[(3) A person applying for reactivation shall not be required to take an examination as a condition of reactivation if the reactivation occurs within three years after the date of the license expired.]*

**(1) Except as provided in subsection (2) of this section, a license issued under ORS 690.365 expires one year from the date of issuance. The licensee is responsible for filing a license renewal application form. The licensee must submit to the Oregon Health Licensing Agency a completed renewal application, required renewal fee and satisfactory evidence of having**

completed any required continuing education credits on or before the expiration date of the license as specified by agency rule.

(2) The agency may vary the date of license renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(3) The agency shall adopt by rule requirements for late renewal of a license, reactivation of an expired license or reinstatement of a license that has been expired for more than three consecutive years.

(4) All electrologists and permanent color technicians and tattoo artists must participate in continuing education, with guidelines and effective date to be established by rule of the agency.

**SECTION 48.** ORS 690.405 is amended to read:

690.405. The powers and duties of the Oregon Health Licensing Agency as related to ORS 690.350 to 690.430 are as follows:

(1) To authorize all disbursements necessary to carry out the provisions of ORS 690.350 to 690.430;

(2) To determine training and experience requirements for taking the examination and to supervise and administer examinations to test the knowledge of applicants for licensure;

(3) To license persons who apply to the agency and who have qualified to practice electrolysis, permanent coloring or tattooing;

(4) To rent facilities when necessary to carry out the examination of applicants for licensure;

(5) To renew, **reactivate or reinstate** licenses;

(6) To suspend or revoke licenses or place licensees on probation in the manner provided by ORS 690.350 to 690.430;

(7) To appoint representatives to conduct or supervise the examination of applicants for licensure;

(8) To designate the time and place for examining applicants for licensure;

(9) Subject to the provisions of ORS chapter 183, to adopt rules that are necessary to carry out the provisions of ORS 690.350 to 690.430;

(10) To carry out the periodic inspection of facilities of persons who practice electrolysis or tattooing;

(11) To issue a tattoo facility license or a temporary **tattoo** facility permit to qualified applicants upon compliance with ORS 690.350 to 690.430;

(12) To issue an electrology facility license or a temporary **electrology** facility permit to qualified applicants upon compliance with ORS 690.350 to 690.430; *[and]*

(13) Notwithstanding ORS 690.355, to issue demonstration and temporary permits to perform services as prescribed by agency rule[.]; **and**

(14) To issue a single facility license to an applicant pursuant to ORS 676.617.

**SECTION 49.** ORS 690.415 is amended to read:

690.415. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and charges for the following** related to electrologists and permanent color technicians and tattoo artists *[for]*:

(a) Application.

(b) Examination.

*[(c) Reexamination.]*

*[(d)]* (c) Reciprocity.

*[(e)]* (d) *[Initial annual]* **Original** license.

*[(f)]* (e) License renewal[, *active and inactive*].

*[(g)]* (f) *[Late renewal]* **Delinquent renewal**.

*[(h)]* (g) License reactivation.

*[(i)]* (h) **Replacement or duplicate** license.

*[(j)]* (i) Demonstration and temporary permits.

*[(k)]* (j) Facility license *[issuance and renewal, active or inactive]*.

[(L)] **(k)** Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency **as authorized by ORS 676.625.** [only for the administration and enforcement of ORS 690.350 to 690.430.]

[(3)] *The fees established by the agency under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees established under this subsection shall not exceed the cost of administering the regulatory program under ORS 690.350 to 690.430 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget for ORS 690.350 to 690.430, as the budget may be modified by the Emergency Board.*

**SECTION 50.** ORS 690.425 is amended to read:

690.425. (1) There [hereby is created in] **is established within** the Oregon Health Licensing Agency the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists[. *The council shall consist*] **consisting** of five members [to be] appointed by the Governor.

(2) Members of the council [shall] **must** be residents of this state. [Two members must be practicing electrologists with a minimum of two years of experience. One member shall be a licensed and practicing permanent color technician and tattoo artist. One member shall be a licensed physician in this state. One member shall be a public member who does not possess the professional qualifications of other members.] **Membership of the council shall consist of:**

(a) **Three members who are licensed under ORS 690.350 to 690.430 and who have a minimum of two years of experience performing electrolysis or tattooing;**

(b) **One member who is licensed under ORS chapter 677, 678 or 685 as an Oregon health care provider; and**

(c) **One member of the public who does not possess the professional qualifications of other members.**

(3) [No person shall serve more than two consecutive two-year terms.] **The term of office of each member of the council is four years, but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the council.**

[(4)] *The term of office of a member shall begin on January 1. A member shall continue to serve until a successor who qualifies has been appointed. Before a member's term expires, the Governor shall appoint a successor to assume the duties of office on January 1 at the expiration of the predecessor's term.*

[(5)] *A vacancy on the council shall be filled by appointment for the unexpired term through a list of qualified names submitted to the Governor.*

[(6)] **(4)** The council shall meet at least once a year.

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

**SECTION 51.** ORS 690.507 is amended to read:

690.507. (1) A person may not [provide]:

(a) **Provide** body piercing services without a body piercing technician registration issued by the Oregon Health Licensing Agency.

[(2)] (b) [A person may not] Operate a body piercing facility without a body piercing facility license issued by the agency.

[(3)] **(2)** This section does not prevent or affect the use of body piercing **by:**

(a) [By] A physician[,] **or** a person under the control and supervision of a physician [or];

(b) Any other person specifically permitted by law to engage in body piercing; **or**

(c) **Self-administration.**

**SECTION 52.** ORS 690.510 is amended to read:

690.510. (1) *[In addition to any other duties prescribed by law,]* There is established within the Oregon Health Licensing Agency a registration program to provide for the registering of body piercing technicians.

(2) **Subject to the provisions of ORS 676.612**, the agency shall issue a body piercing technician registration to any person who:

- (a) Files an application in the form and manner prescribed by the agency;
- (b) Pays the application and registration fees prescribed by the agency;
- (c) Affirms by written signature on a form prescribed by the agency receipt of:

(A) An information packet regarding safety, infection control and sterilization requirements adopted by the agency by rule;

(B) A copy of the written notification for clients advising of the risks and possible consequences of body piercing services; and

(C) A disclosure statement to be posted in public view within the licensed body piercing facility; and

(d) Complies with all other requirements established by the agency.

*[(3) A registration issued under this section shall state that registration does not attest to the body piercing technician's qualifications based on training or education, nor does the registration validate minimum competency to perform body piercing services.]*

*[(4)]* (3) The body piercing technician registration *[shall]* **must** be posted in a conspicuous place on the premises of a licensed body piercing facility.

*[(5)]* (4) **Except as provided in subsection (7) of this section**, a registration issued under this section expires *[annually]* **on the last day of the month, one year from the date of issuance**, and may be renewed upon application to the agency, payment of the renewal fee established pursuant to ORS 690.550 and compliance with ORS 690.500 to 690.550 and rules adopted by the agency pursuant to ORS 690.500 to 690.550. **The agency shall establish a procedure for the renewal of registrations.**

(5) **The agency shall adopt by rule requirements for late renewal of a registration, reactivation of an expired registration or reinstatement of a registration that has been expired for more than three consecutive years.**

(6) **Notwithstanding ORS 690.507 and subsections (2) and (4) of this section, the agency may issue demonstration and temporary permits to perform body piercing services as prescribed by agency rule.**

(7) **The agency may vary the date of registration renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.**

**SECTION 53.** ORS 690.520 is amended to read:

690.520. (1) *[In addition to any other duties prescribed by law,]* There is established within the Oregon Health Licensing Agency a licensing program to provide for the licensing of body piercing facilities.

(2) Pursuant to ORS 676.618, the agency shall conduct periodic inspections of body piercing facilities to determine compliance with safety, infection control and sterilization requirements.

(3) **Subject to the provisions of ORS 676.612**, the agency shall issue a body piercing facility license to any person who:

- (a) Files an application in the form and manner prescribed by the agency;
- (b) Pays the application and license fees prescribed by the agency;
- (c) Demonstrates compliance with all safety, infection control and sterilization requirements adopted by the agency by rule; and
- (d) Complies with all other requirements established by the agency.

(4) **Except as provided in subsection (9) of this section**, a license issued under this section expires *[annually]* **on the last day of the month, one year from the date of issuance**, and may be renewed upon application to the agency, payment of the renewal fee established pursuant to ORS

690.550 and compliance with ORS 690.500 to 690.550 and rules adopted by the agency pursuant to ORS 690.500 to 690.550. **The agency shall establish a procedure for the renewal of licenses.**

**(5) The agency shall adopt by rule requirements for late renewal of a license and reactivation of an expired license.**

[(5)] (6) The body piercing facility license [shall] **must** be posted in a conspicuous place on the premises of the facility.

[(6)] (7) The agency may issue a single facility license to an applicant pursuant to ORS 676.617.

**(8) Notwithstanding ORS 690.507 and subsections (3) and (4) of this section, the agency may issue a temporary permit to operate a body piercing facility as prescribed by rules adopted by the agency.**

**(9) The agency may vary the date of license renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.**

**SECTION 54.** ORS 690.550 is amended to read:

690.550. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and charges for the following** related to body piercing[. *Fees may be assessed for*]:

(a) [Facility] Application.

(b) [Initial] **Original body piercing** facility license.

(c) [Annual] Renewal of **body piercing** facility license.

[(d) Technician application.]

[(e)] (d) [Initial] **Original body piercing** technician registration.

[(f)] (e) [Annual] Renewal of **body piercing** technician registration.

[(g)] (f) **Replacement or** duplicate license or registration.

**(g) Delinquent renewal.**

**(h) Permits.**

**(i) Reactivation of license or registration.**

**(j) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.**

[(2) *The fees in subsection (1) of this section shall not exceed the cost of administering the regulatory programs established pursuant to ORS 690.500 to 690.550 pertaining to the purpose for which each fee is established.*]

[(3) *In addition to the fees established under subsection (1) of this section, the agency may assess fees for the actual cost of providing copies of official documents or records, including but not limited to the administrative costs associated with compiling, photocopying or preparing and delivering the documents or records.*]

[(4)] (2) All moneys received by the agency under this section shall be paid into the General Fund in the State Treasury and credited to the Oregon Health Licensing Agency Account, and such moneys are appropriated continuously to and shall be used by the agency [*only for the expenditures, including but not limited to costs associated with staffing, needed for the administration and enforcement of ORS 690.500 to 690.570*] **as authorized by ORS 676.625.**

**SECTION 55.** ORS 694.036 is amended to read:

694.036. (1) Prior to consummation of the sale of a hearing aid, a person dealing in hearing aids shall deliver to the prospective purchaser a written statement, signed by the person dealing in hearing aids. The statement shall be on a form prescribed by the Oregon Health Licensing Agency that shall include but not be limited to all of the following:

(a) The name and address of the prospective purchaser.

(b) The date of the sale.

(c) Specifications as to the make, serial number and model number of the hearing aid or aids sold.

(d) The address or principal place of business of the person dealing in hearing aids.

(e) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(f) The number of the **hearing aid specialist** license of the person dealing in hearing aids.  
(g) The terms of any guarantee or expressed warranty, if any, made to the purchaser with respect to such hearing aid or hearing aids, including that provided in ORS 646A.460 to 646A.476 and 694.042.

(h) The address of the agency and the procedure for making a complaint under ORS 694.015 to 694.185.

(i) In no smaller type than the largest used in the body copy portion, the following bordered statement:

---

It is desirable that a person seeking help with a hearing problem (especially for the first time) consult an ear doctor and obtain a clinical hearing evaluation. Although hearing aids are often recommended for hearing problems, another form of treatment may be necessary.

---

(j) The signature of the prospective purchaser indicating that the prospective purchaser has read and understands the information contained in the statement.

(2) A duplicate copy of the statement required under subsection (1) of this section shall be kept for [one year] **seven years** by the person selling the hearing aid. The statement shall be made available to the agency upon request.

**NOTE:** Section 56 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 57.** ORS 694.065 is amended to read:

694.065. (1) Before an applicant may take the qualifying examination for licensure under ORS 694.015 to 694.185, the applicant must:

(a) Meet the training and experience requirements established by the Oregon Health Licensing Agency by rule;

(b) Meet the training requirements for licensure as an audiologist or for certification of a licensed physician by the American Board of Otolaryngology; or

(c) Meet the requirements for certification by the National Board for Certification in Hearing Instrument Sciences.

(2) An individual seeking to obtain the experience and training specified in subsection (1)(a) of this section necessary to take the examination shall obtain a trainee registration from the agency pursuant to rules adopted by the agency. A trainee registration issued pursuant to this subsection shall allow the holder of the registration to obtain training and experience only under the direct supervision of a hearing aid specialist licensed in the State of Oregon.

(3) Examination of applicants for licensure under ORS 694.015 to 694.185 shall be held at least once each quarter at such times and places as the agency may determine.

(4) Timely and appropriate notice of the time and place of the examination shall be given to each applicant and to each licensed hearing aid specialist supervising a temporary hearing aid specialist pursuant to rules adopted by the agency.

(5) The agency, in consultation with the Advisory Council on Hearing Aids, shall adopt rules establishing standards for examination scope, format, minimum acceptable performance and reexamination qualifications. The examination shall be sufficiently thorough to determine the qualifications, fitness and ability of the applicant to practice as a hearing aid specialist. The examination may be in the form of written, oral or practical demonstration of skills, or a combination of any such types. [The examination shall cover at least the subjects listed in ORS 694.075.]

**SECTION 58.** ORS 694.125 is amended to read:

694.125. (1) [All licenses] **Except as provided in subsection (5) of this section, a hearing aid specialist license** issued under ORS 694.015 to 694.185 [expire] **expires** one year following the date of issuance[, unless]. **A license may be** renewed on or before the expiration date by payment of the required renewal fee and submission of satisfactory evidence of completion of continuing education courses as specified by rule **of the Oregon Health Licensing Agency**.

*[(2) A license that has expired less than one year before the date of application for renewal may be renewed upon application therefor and payment of the required renewal fee and upon submission of satisfactory evidence of completion of continuing education as specified by rule, and payment of a delinquency fee.]*

*[(3) A license that has expired more than one year but less than three years before the date of application for renewal may be renewed upon application therefor and payment of the required renewal fee and delinquency fee and upon submission of satisfactory evidence of completion of continuing education as specified by rule.]*

*[(4) A license that has expired more than three years before the date of application for renewal may be reinstated upon application, payment of required fees and completion of other conditions for license issuance as determined by rule.]*

**(2) The agency shall adopt by rule requirements for late renewal of a license, reactivation of an expired license or reinstatement of a license that has been expired for more than three consecutive years.**

*[(5)] (3) A license [shall] **must** be conspicuously posted in public view in the office or place of business of the hearing aid specialist at all times.*

*[(6)] (4) The [Oregon Health Licensing] agency shall require proof of completion of continuing education as a condition of license renewal as determined by rule.*

**(5) The agency may vary the date of license renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.**

**SECTION 59.** ORS 694.142 is amended to read:

694.142. The Oregon Health Licensing Agency shall adopt by rule standards of practice for hearing aid specialists in providing services to consumers. The standards must include, but are not limited to:

(1) Before fitting or dispensing a hearing aid, the hearing aid specialist shall determine through direct observation and a personal interview whether any of the following conditions exist:

- (a) Visible congenital or traumatic deformity of the ear;
- (b) Active drainage from the ear within the previous 90 days or a history of active drainage from the ear;
- (c) Sudden or rapidly progressive hearing loss within the previous 90 days;
- (d) Acute or chronic dizziness;
- (e) Unilateral hearing loss of sudden or recent onset within 90 days;
- (f) Significant air-bone gap of greater than or equal to 15 decibels, American National Standards Institute, 500, 1,000 and 2,000 Hz average; or
- (g) Any other condition that the agency may establish by rule.

(2) If any of the conditions listed in subsection (1) of this section are found, the hearing aid specialist shall refer the person to a physician licensed under ORS chapter 677 who specializes in diseases of the ear or, if no such licensed physician is available in the community, to any physician licensed under ORS chapter 677.

(3) Within the 90 days prior to fitting or dispensing a hearing aid to a person under 18 years of age, the person receiving the hearing aid must be referred to one of the following licensed medical physicians:

- (a) An otolaryngologist for examination and for a recommendation of corrective measures that may be required;
- (b) A properly licensed medical physician for like examination and recommendation; or
- (c) An audiologist licensed by the State of Oregon for an evaluation of the person's hearing and for a recommendation of corrective measures that may be required if the person is also examined by a properly licensed medical physician who gives approval for possible hearing aid use.

(4) Notwithstanding subsection (3) of this section, replacement of a hearing aid with an identical hearing aid within one year of the initial fitting or dispensing of the hearing aid does not require a referral to a physician.

(5)(a) Hearing aid specialists shall make clear their credentials, never representing that the services or advice of a person licensed to practice medicine and surgery, osteopathy and surgery, or a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true. Hearing aid specialists shall also refrain from using the word “doctor” or “clinic” or other words, abbreviations or symbols that tend to connote an audiologic, medical or osteopathic profession when that use is not accurate.

(b) A person issued a temporary license shall deal in hearing aids only under supervision of a person licensed under this chapter.

(c) A hearing aid specialist shall maintain a business address and telephone number at which the specialist may be reached during normal business hours.

(d) [*Sales of hearing aids shall be made by a licensed hearing aid specialist and not by direct*] **A person may not sell a hearing aid by direct mail.** For purposes of this paragraph, delivery by mail of a replacement hearing aid or parts does not constitute sale by direct mail.

(6) If the person or the parent or guardian of the person refuses to seek a medical opinion from the physician to whom the person has been referred under subsection (2) or (3) of this section, the person dealing in hearing aids must obtain from the person or the parents or guardian of the person prior to fitting or dispensing a hearing aid a certificate to that effect in a form prescribed by the agency. Any person dealing in hearing aids or employees and putative agents thereof, upon making the required referral for a medical opinion **under subsection (2) of this section**, may not in any manner whatsoever disparage or discourage a prospective hearing aid user from seeking a medical opinion prior to the fitting and dispensing of a hearing aid. Nothing required to be performed by a person dealing in hearing aids under this section means that the person is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of ORS 694.042 [*and 694.095*] and this section.

**NOTE:** Section 60 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 61.** ORS 694.165 is amended to read:

694.165. (1) There is [*created*] **established** within the Oregon Health Licensing Agency the Advisory Council on Hearing Aids. The council shall consist of seven members to be appointed by the Governor.

(2) Members of the council [*shall*] **must** be residents of this state. [*No*] **A** member of the council [*shall*] **may not** be a member or employee of the agency.

(3) Membership on the council shall consist of:

(a) One member who is licensed to practice medicine in this state and holds a certificate of qualification from the American Board of Otolaryngology;

(b) One member who holds a clinical certification in audiology with the American Speech-Language-Hearing Association and is a member in good standing with that association;

(c) Four members who are experienced in the fitting of hearing aids and possess the qualifications provided in ORS 694.055; and

(d) One member who is a consumer of hearing aids and does not possess the professional qualifications of the other members.

(4) [*The term of office of a member is three years beginning on July 1 of the year of appointment. A member shall continue to serve until a successor has been appointed and qualifies. Before a member's term expires, the Governor shall appoint a successor to assume the duties of office on July 1 at the expiration of the predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.*] **The term of office of each member of the council is four years, but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the council.**

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



**SECTION 62.** ORS 694.185 is amended to read:

694.185. (1) The Oregon Health Licensing Agency[ *by rule,*] shall establish **by rule** and collect fees **and charges for the following** related to dealing in hearing aids [*for*]:

- (a) Application;
- (b) Examinations;
- (c) **Original hearing aid specialist** license;
- (d) License renewal;
- (e) License [*restoration*] **reactivation**;
- (f) Replacement or duplicate license;
- (g) [*Delinquency; and*] **Delinquent renewal**;
- (h) **Permits**;
- (i) **Reciprocity**; and

[(h)] (j) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the agency under ORS 694.015 to 694.185 shall be paid into the General Fund in the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency [*only for the administration and enforcement of ORS 694.015 to 694.185.*] **as authorized by ORS 676.625.**

[(3)] *The fees established by the agency under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS 694.015 to 694.185 pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.*

**SECTION 62a.** ORS 694.025 is amended to read:

694.025. (1) [*No person, including an audiologist or a physician, shall*] **A person may not** deal in hearing aids or display a sign or in any other way advertise or represent that the person deals in hearing aids unless the person holds a valid license issued by the Oregon Health Licensing Agency as provided in ORS 694.015 to 694.185.

**(2) Notwithstanding subsection (1) of this section, ORS 694.015 to 694.185 do not apply to:**

- (a) An audiologist licensed under ORS chapter 681.**
- (b) A physician licensed under ORS chapter 677.**

**SECTION 62b.** ORS 694.085 is amended to read:

694.085. (1) Subject to ORS 676.612, the agency shall **grant a hearing aid specialist** license to each applicant, without discrimination, who possesses the required training and experience and who satisfactorily passes the examination and pays the required fees. The license [*shall be*] **is** effective for one year following issuance.

(2) The agency shall waive the examination required under subsection (1) of this section and grant a license to an applicant who:

[(a)] *Is licensed by the State Board of Examiners for Speech-Language Pathology and Audiology under ORS 681.250;*

[(b)] **(a)** Is certified by the Educational Service Board of the American Speech-Language-Hearing Association [*on or after January 1, 1992,*] or, if not so certified, satisfies the agency that the applicant possesses equivalent training and education achievements; and

[(c)] **(b)** Passes an examination related to Oregon law in the area of hearing aid dispensing and pays the required fees.

**SECTION 62c.** ORS 681.230 is amended to read:

681.230. (1) Nothing in this chapter [*is intended to prevent*] **prevents** a person licensed in this state under any other law from engaging in the profession for which the person is licensed.

(2) Nothing in this chapter [*is intended to restrict or prevent*] **restricts or prevents** a person from engaging in speech-language pathology or audiology activities or from using the official title of the position for which the person is employed if the person:

(a)(A) Holds a valid and current teaching license with a communications disorder endorsement issued by the Teacher Standards and Practices Commission; and

(B) Is employed by an education service district, a school district or a charter school; or

(b) Is a speech-language pathologist or audiologist who is:

(A) Employed by a federal agency; or

(B) Employed by an approved college or university.

(3) A person who performs activities described in subsection (2) of this section who is not licensed under this chapter must do so solely within the confines of or under the jurisdiction of the organization in which the person is employed and may not offer to render speech-language pathology or audiology services to the public for compensation over and above the salary the person receives for performance of the person's official duties with organizations in which the person is employed. However, without obtaining a license under this chapter, a person may consult or disseminate the person's research findings and scientific information to other accredited academic institutions or governmental agencies. The person also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter.

(4) Nothing in this chapter [*is intended to restrict*] **restricts the** activities and services of a student of speech-language pathology [*from*] pursuing a course of study in speech-language pathology at an approved college or university or an approved clinical training facility. However, these activities and services must constitute a part of the supervised course of study of the student and a fee may not accrue directly or indirectly to the student. A student shall be designated by a title such as "Speech-Language Pathology Intern," "Speech-Language Pathology Trainee" or other title clearly indicating the training status appropriate to the level of training of the student.

(5) Nothing in this chapter [*is intended to restrict*] **restricts the** activities and services of a student of audiology [*from*] pursuing a course of study in audiology at an approved college or university or an approved clinical training facility. However, these activities and services must constitute a part of the supervised course of study of the student and a fee may not accrue directly or indirectly to the student. The student shall be designated by a title such as "Audiology Intern," "Audiology Trainee" or other title clearly indicating the training status appropriate to the level of training of the student.

(6) Nothing in this chapter [*is intended to restrict any*] **restricts a** person holding a Class A certificate issued by the Conference of Executives of American Schools of the Deaf from performing the functions for which the person qualifies.

(7) Nothing in this chapter [*is intended to restrict any*] **restricts a** person holding a license in this state as a hearing aid specialist from consulting with respect to the selling of hearing aids under ORS chapter 694.

[(8) *Nothing in this chapter is intended to exempt an audiologist from licensure under ORS 694.025.*]

[(9)] (8) Notwithstanding subsections (4) and (5) of this section, the State Board of Examiners for Speech-Language Pathology and Audiology may adopt rules authorizing payment of a stipend to students of speech-language pathology and students of audiology who are pursuing a course of study at an approved college or university or an approved clinical training facility.

**SECTION 63.** ORS 694.991 is amended to read:

694.991. (1) Violation of any provision of ORS 694.025[, 694.028,] **and** 694.032 [*and 694.145*] is a Class B misdemeanor.

(2) Justice courts have concurrent jurisdiction with the circuit courts of violations listed in subsection (1) of this section.

**SECTION 64.** ORS 700.080 is amended to read:

700.080. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and charges for the following** related to environmental and waste water specialists [*for*]:

(a) Application.

(b) Examination [*of an applicant*].

(c) Trainee registration.

- (d) Original registration [*issuance*].
- (e) Registration renewal.
- (f) Reciprocity.
- (g) [*Delinquency payment*] **Delinquent renewal.**
- (h) [*Duplicate or*] Replacement **or duplicate** certificate of registration.
- (i) [*Restoration of an expired*] **Reactivation of** registration.
- (j) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

(2) All moneys received by the agency under subsection (1) of this section shall be paid into the General Fund in the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency [*only for the administration and enforcement of this chapter.*] **as authorized by ORS 676.625.**

[(3) *The fees established by the agency under this section are subject to the prior approval of the Oregon Department of Administrative Services. The fees shall not exceed the cost of administering this chapter pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency Board.*]

**SECTION 65.** ORS 700.100 is amended to read:

700.100. (1)[(a)] **Except as provided in subsection (2) of this section,** registrations issued under this chapter [*shall*] expire one year from the date of issuance.[, *unless renewed on or before the expiration date by payment of the required renewal fee and submission of satisfactory evidence of completion of continuing education courses as specified by the Oregon Health Licensing Agency by rule and*] **The registrant is responsible for filing a registration renewal application form. The registrant must submit to the Oregon Health Licensing Agency a completed renewal application, required renewal fee and satisfactory evidence of having completed any required continuing education credits on or before the expiration date of the registration as specified by agency rule. The registrant must be in** compliance with all other requirements for renewal.

[(b)] (2) [*Notwithstanding paragraph (a) of this subsection,*] The agency may vary the renewal date of a registration by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

[(2) *A registration that has not been renewed before the expiration date may be renewed within one year of the expiration date if the holder of a registration submits an application for renewal and pays the renewal fee and a delinquency fee for each calendar month following expiration, provides satisfactory evidence in the application of completion of continuing education requirements and complies with all other requirements for renewal.*]

[(3) *A registration that has not been renewed for more than one year and less than three years after the expiration date may be renewed if the holder of a registration submits an application for renewal, pays the renewal fee and a one-time restoration fee, submits satisfactory evidence in the application of completion of continuing education requirements and complies with all other requirements for renewal.*]

[(4) *The agency shall not renew the registration of any person who fails to renew a registration for three successive years, but shall issue a registration to such a person upon compliance with all of the requirements of ORS 700.030, 700.035, 700.053 or 700.062.*]

**(3) The agency shall adopt by rule requirements for late renewal of a registration, reactivation of an expired registration or reinstatement of a registration that has been expired for more than three consecutive years.**

**SECTION 66.** ORS 700.220 is amended to read:

700.220. (1) The members of the Environmental Health Registration Board appointed by the Governor shall be appointed from among the residents of this state and shall have the following qualifications and terms of office:

(a) One shall be a physician licensed to practice medicine or surgery by the Oregon Medical Board who has an emphasis in public health.

(b) Four shall be persons registered under this chapter who have at least four years of experience in environmental sanitation.

(c) One shall be a representative of the food or food and alcoholic beverage retail industry.

(d) One shall be a public member.

(2) [Each successor to the members first appointed by the Governor and each successor to the members first appointed by the Governor under subsection (1)(c) and (d) of this section shall hold office for a term of three years to commence on July 1 following the expiration of the term of a predecessor.] **The term of office of each member of the Environmental Health Registration Board is four years, but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board.**

[(3) Any vacancy among the seven members appointed by the Governor shall be filled for the unexpired term by appointment by the Governor.]

[(4) Any member of the Environmental Health Registration board may be removed by the Governor for misconduct, incapacity or neglect of duty or inability to serve.]

[(5)] (3) The members of the board are entitled to compensation and expenses as provided in ORS 292.495, to be paid from the Environmental Health Registration Account.

**SECTION 67. ORS 680.570, 681.605, 694.028, 694.075, 694.095 and 694.145 are repealed.**

**SECTION 68. The amendments to ORS 675.395, 680.556, 687.470, 690.155, 690.425, 694.165 and 700.220 by sections 6, 20, 23, 40, 50, 61 and 66 of this 2009 Act relating to increases in terms of offices apply to members appointed on or after the effective date of this 2009 Act.**

**SECTION 68a.** If House Bill 2058 becomes law, section 68 of this 2009 Act is amended to read:

**Sec. 68.** The amendments to ORS 675.395, [680.556, 687.470,] 690.155, 690.425, 694.165 and 700.220 by sections 6, [20, 23,] 40, 50, 61 and 66 of this 2009 Act relating to increases in terms of offices apply to members appointed on or after the effective date of this 2009 Act.

**SECTION 69. Section 2 of this 2009 Act applies to investigations commenced by the Oregon Health Licensing Agency on or after the effective date of this 2009 Act.**

Passed by House June 4, 2009

Received by Governor:

Repassed by House June 19, 2009

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

Approved:

.....  
Chief Clerk of House

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

.....  
Speaker of House

.....  
Governor

Passed by Senate June 17, 2009

Filed in Office of Secretary of State:

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

.....  
President of Senate

.....  
Secretary of State