

House Bill 3232

Sponsored by COMMITTEE ON HEALTH CARE

SUMMARY

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

Modifies provisions relating to administration and regulation of boards, councils and programs for which Oregon Health Licensing Agency is responsible.

Increases term of office of members of certain boards and councils from three to four years.

Creates crime of tattooing person under 18 years of age. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both. Creates crime of genital or nipple piercing on person under 18 years of age. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

A BILL FOR AN ACT

1
2 Relating to Oregon Health Licensing Agency; creating new provisions; amending ORS 675.365,
3 675.375, 675.395, 675.405, 676.606, 676.607, 676.608, 676.610, 676.612, 676.615, 676.617, 676.620,
4 676.625, 676.992, 680.525, 680.530, 680.556, 687.425, 687.435, 687.470, 688.705, 688.724, 688.728,
5 688.815, 688.820, 688.834, 690.005, 690.015, 690.025, 690.047, 690.048, 690.055, 690.057, 690.085,
6 690.095, 690.123, 690.155, 690.165, 690.167, 690.225, 690.235, 690.360, 690.365, 690.385, 690.405,
7 690.415, 690.425, 690.507, 690.510, 690.520, 690.550, 694.036, 694.055, 694.065, 694.125, 694.142,
8 694.155, 694.165, 694.185, 694.991, 700.080, 700.100 and 700.220; and repealing ORS 680.570,
9 694.028, 694.075, 694.095 and 694.145.

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

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

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

15 (a) **Send a notice of the intended disclosure to the person who is the subject of a com-**
16 **plaint or an investigation by first class mail at least 14 days before the disclosure date; and**

17 (b) **Describe in the notice the type of record being disclosed in sufficient detail to allow**
18 **the person who is the subject of a complaint or an investigation to understand the contents**
19 **of the record that the agency intends to disclose.**

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

24 **SECTION 3. (1) A transaction conducted through a state or local system or network that**
25 **provides electronic access to the Oregon Health Licensing Agency information and services**
26 **is exempt from any requirement under ORS 675.360 to 675.410, 676.605 to 676.625, 676.992,**
27 **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,**
28 **690.350 to 690.430, 690.500 to 690.570 and 694.015 to 694.185 and ORS chapter 700, and rules**
29 **adopted thereunder, requiring an original signature or the submission of handwritten mate-**

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

1 **rials.**

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

4 **SECTION 4.** ORS 675.365 is amended to read:

5 675.365. As used in ORS 675.360 to 675.410:

6 (1) "Certified associate sex offender therapist" means a person who is certified under ORS
 7 675.375 or 675.380 to provide services for the treatment and rehabilitation of sex offenders while
 8 under the direct supervision of a certified clinical sex offender therapist.

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

12 (3) "Certified sex offender therapist" means a certified clinical sex offender therapist or a cer-
 13 tified associate sex offender therapist.

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

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

- 18 (a) **Name, business address and telephone number;**
- 19 (b) **Philosophy and approach to treatment and rehabilitation of sex offenders;**
- 20 (c) **Formal education and training;**
- 21 (d) **Continuing education experience and name of supervisor, if any;**
- 22 (e) **Fee schedules for sex offender treatment services; and**
- 23 (f) **The name, address and telephone number of the Sex Offender Treatment Board.**

24 [(5)] (6) "Sex offender" means a person convicted or adjudicated of a sex crime, as defined in
 25 ORS 181.594, or a sexual offense, as provided in ORS 163.305 to 163.467, and mandated by a court,
 26 a releasing authority, including the Oregon Youth Authority, or the Department of Human Services
 27 to successfully complete a sex offender treatment program.

28 [(6)] (7) "Sex offender treatment" means the process of evaluation, assessment and reformation
 29 of sex offenders.

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

31 675.375. (1) To obtain certification as a clinical sex offender therapist or associate sex offender
 32 therapist, an applicant [shall] **must** complete an application developed and prescribed by the Sex
 33 Offender Treatment Board and file a professional disclosure statement with the Oregon Health Li-
 34 censing Agency. The documents must be accompanied by a fee established by the agency.

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

- 37 (a) Clinical sex offender therapist; and
- 38 (b) Associate sex offender therapist.
- 39 (3) To qualify as a certified clinical sex offender therapist, the applicant must:
 - 40 (a) Be in compliance with applicable provisions and rules adopted by the agency;
 - 41 (b) Have at least a master's degree in the behavioral sciences;
 - 42 (c) Have an active Oregon mental health professional license or equivalent license as determined
 43 by the agency;
 - 44 (d) Within not less than three years nor more than six years prior to application, have had a
 45 minimum of 2,000 hours of direct clinical contact with sex offenders, including:

1 (A) 1,000 hours of direct treatment services; and
 2 (B) 500 hours of evaluations; and
 3 (e) Have a minimum of 60 hours of formal training applicable to sex offender treatment and
 4 evaluation, achieved within the three years prior to application.
 5 (4) To qualify as a certified associate sex offender therapist, the applicant must:
 6 (a) Be in compliance with applicable provisions and rules adopted by the agency;
 7 (b) Have at least a bachelor's degree in the behavioral sciences;
 8 (c) Have had a minimum of 1,000 hours of direct clinical contact with sex offenders;
 9 (d) Have a minimum of 30 hours of formal training applicable to sex offender treatment and
 10 evaluation, achieved within the three years prior to application; and
 11 (e) Be under the direct supervision of a certified clinical sex offender therapist.
 12 (5) **Upon receipt of an application for renewal submitted by the applicant**, the agency may
 13 renew the certification of a clinical sex offender therapist or an associate sex offender therapist
 14 annually **or as otherwise specified by agency rule**. The application for renewal shall be considered
 15 by the agency to be an application to continue as a certified clinical sex offender therapist or a
 16 certified associate sex offender therapist. To renew a certification, the applicant must:
 17 (a) Be in compliance with the provisions of ORS 675.360 to 675.410 and rules adopted by the
 18 agency;
 19 (b) Have a minimum of 100 hours of clinical experience during the preceding year, 50 of which
 20 shall be direct clinical contact with sex offenders;
 21 (c) Have completed a minimum of 15 hours continuing education in the field of sex offender
 22 treatment during the preceding year; and
 23 (d) Satisfy any additional requirements adopted by the board.
 24 (6) **The agency shall adopt by rule requirements for late renewal of a certification, reac-**
 25 **tivation of an expired certification or reinstatement of a certification that has been expired**
 26 **for more than three consecutive years.**
 27 **SECTION 6.** ORS 675.395 is amended to read:
 28 675.395. (1) The Sex Offender Treatment Board is established within the Oregon Health Licens-
 29 ing Agency. The board shall consist of seven members appointed by the Governor [*and subject to*
 30 *confirmation by the Senate in the manner provided in ORS 171.562 and 171.565*] **from lists of re-**
 31 **commended persons submitted as provided in subsection (2) of this section.** All members of the
 32 board [*shall*] **must** be residents of this state.
 33 (2) Of the members appointed to the board:
 34 (a) Two shall be [*recommended*] **from a list submitted** by the Oregon Association for the
 35 Treatment of Sexual Abusers;
 36 (b) Two shall be [*recommended*] **from a list submitted** by the Oregon Adolescent Sex Offender
 37 Treatment Network;
 38 (c) One shall be [*recommended*] **from a list submitted** by the Oregon Association of Community
 39 Corrections Directors;
 40 (d) One shall be [*recommended*] **from a list submitted** by the Oregon Juvenile Department Di-
 41 rectors Association; and
 42 (e) One shall be [*recommended*] **from a list submitted** by a victims' advocacy organization.
 43 (3) The term of office of each member is [*three*] **four** years, but a member serves at the pleasure
 44 of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term.
 45 A member shall hold the member's office until the appointment and qualification of a successor. A

1 member is eligible for reappointment. **If a person serves two consecutive full terms, a period**
 2 **of at least four years must elapse before the person is again eligible for appointment to serve**
 3 **on the board.**

4 (4) *[The agency shall provide the board with such administrative services and employees as the*
 5 *board requires to carry out its duties for the administration of ORS 675.360 to 675.410.]* **A member**
 6 **of the board may be removed by the Governor for neglect of duty, incompetence or unethical**
 7 **conduct.**

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

10 (6) The board shall select one of its members to serve as chair and another to serve as vice
 11 chair, for those terms and with such duties and powers necessary for the performance of the func-
 12 tions of those offices as the board determines.

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

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

16 (9) A board member appointed under this section who is also a clinical sex offender therapist
 17 or associate sex offender therapist must satisfy all requirements for certification provided in ORS
 18 675.375 and *[shall]* **must** obtain certification within 12 months of the member's appointment.

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

20 675.405. (1) The Oregon Health Licensing Agency~~, in consultation with the Sex Offender Treat-~~
 21 ~~ment Board,~~ shall establish by rule and shall collect fees and charges *[to carry out its responsibilities*
 22 *under ORS 675.360 to 675.410]* **related to certified sex offender therapists.**

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

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

32 *[(4)]* (3) In addition to the fees and charges established under subsection (1) of this section, the
 33 agency may assess fees and charges for providing copies of official documents or records and for
 34 recovering administrative costs associated with compiling, photocopying or preparing and delivering
 35 documents or records.

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

37 676.606. Pursuant to ORS 676.607, the Oregon Health Licensing Agency shall provide adminis-
 38 trative and regulatory oversight and centralized service for the following boards, advisory councils
 39 and *[program]* **programs:**

- 40 (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;
- 41 (2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;
- 42 (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.570;
- 43 (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;
- 44 (5) Respiratory Therapist Licensing Board, as provided in ORS 688.800 to 688.840;
- 45 (6) Environmental Health Registration Board, as provided in ORS chapter 700;

1 (7) Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, as
 2 provided in ORS 690.350 to 690.430;

3 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.185;

4 (9) Body piercing **technician registration program and body piercing facility** licensing pro-
 5 gram, as provided in ORS 690.500 to 690.570; and

6 (10) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410.

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

8 676.607. (1) The Oregon Health Licensing Agency is responsible for the administration and reg-
 9 ulatory oversight of the boards, councils and programs listed in ORS 676.606. The responsibilities
 10 of the agency include, but are not limited to:

11 (a) Budgeting;

12 (b) Record keeping;

13 (c) Staffing;

14 (d) Contracting;

15 (e) Consumer protection and investigating complaints;

16 (f) Approving and collecting fees;

17 (g) Establishing and administering uniform application processes for the issuance of [*licenses,*]
 18 certificates, **licenses**, permits and registrations;

19 (h) Issuing and renewing [*licenses,*] certificates, **licenses**, permits and registrations;

20 (i) Conditioning, limiting, suspending, revoking or refusing to issue or renew a [*license,*] certifi-
 21 cate, **license**, permit or registration or otherwise disciplining applicants, [*licensees,*] certificate
 22 holders, **licensees**, permit holders and registration holders;

23 (j) Sanctioning any examination service provider, interpreter or proctor who is under contract
 24 or agreement with the agency and who compromises the security, confidentiality or integrity of ex-
 25 aminations developed or conducted pursuant to the statutory authority of the boards and councils
 26 listed in ORS 676.606;

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

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

33 (m) Implementing regulatory streamlining initiatives to reduce regulatory burdens without com-
 34 promising regulatory standards; [*and*]

35 (n) Preparing and circulating printed and electronic materials for educating or otherwise as-
 36 sisting applicants, [*licensees,*] certificate holders, **licensees**, permit holders and registration holders
 37 and the public;

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

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

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

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

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

5 676.608. (1) **As used in this section:**

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

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

9 [(1)] (2)(a) **The agency shall carry out all investigatory duties.**

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

13 [(2)] (3) While conducting an investigation authorized under subsection [(1)] (2) of this section
 14 or a hearing related to an investigation, the agency may:

15 (a) Take evidence;

16 (b) Administer oaths;

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

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

19 (e) Require answers to interrogatories;

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

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

24 [(3)] (4) In exercising its authority under this section, the agency may issue subpoenas over the
 25 signature of the Director of the Oregon Health Licensing Agency or designated employee thereof
 26 and in the name of the State of Oregon.

27 [(4)] (5) If a person fails to comply with a subpoena issued under this section, the judge of the
 28 Circuit Court for Marion County may compel obedience by initiating proceedings for contempt as
 29 in the case of disobedience of the requirements of a subpoena issued from the court.

30 [(5)] (6) If necessary, the director, or an employee designated by the director, may appear before
 31 a magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a
 32 warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer,
 33 to enter the described property, to remove any person or obstacle, to defend any threatened violence
 34 to the director or a designee of the director or an officer, upon entering private property, or to as-
 35 sist the director in enforcing the agency’s authority in any way.

36 [(6)] (7) In all investigations and hearings, the agency and any person affected thereby may have
 37 the benefit of counsel.

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

45 (9) **A holder who is the subject of an investigation, and any person acting on behalf of**

1 **the holder, may not contact the complainant until the holder has requested a contested case**
 2 **hearing and the agency has authorized the taking of the complainant's deposition pursuant**
 3 **to ORS 183.425.**

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

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

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

12 676.610. (1)(a) The Oregon Health Licensing Agency is under the supervision and control of a
 13 director, who is responsible for the performance of the duties, functions and powers and for the or-
 14 ganization of the agency.

15 (b) The Director of the Oregon Department of Administrative Services shall establish the qual-
 16 ifications for and appoint the Director of the Oregon Health Licensing Agency, who holds office at
 17 the pleasure of the Director of the Oregon Department of Administrative Services.

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

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

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

29 (3) *[Except as provided in section 18, chapter 885, Oregon Laws 1999,]* The Director of the Oregon
 30 Health Licensing Agency shall be responsible for carrying out the duties, functions and powers un-
 31 der ORS 675.360 to 675.410, **676.605 to 676.625, 676.992**, 680.500 to 680.570, *[680.990 (2),]* 687.405 to
 32 687.495, **687.895, 688.701 to 688.734**, 688.800 to 688.840, *[688.995,]* 690.005 to 690.235, 690.350 to
 33 690.430, 690.500 to 690.570*[, 690.992]* and 694.015 to 694.185 and ORS chapter 700.

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

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

38 676.612. (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified
 39 in ORS 675.385, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111, the
 40 Oregon Health Licensing Agency may refuse to issue or renew, may suspend or revoke or may *[place*
 41 *on probation or]* otherwise **condition or limit** *[discipline a holder of]* a certificate, *[permit, license]*
 42 **license, permit** or registration to practice issued by the agency *[for any of the following reasons:]*
 43 **or may discipline or place on probation a holder of a certificate, license, permit or registra-**
 44 **tion for commission of the prohibited acts listed in subsection (2) of this section.**

45 (2) **A person subject to the authority of a board, council or program listed in ORS 676.606**

1 **commits a prohibited act if the person engages in:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (o) Failing to cooperate with the agency in any investigation, inspection or request for infor-
 44 mation.

45 **(p) Selling or fraudulently obtaining or furnishing any certificate, license, permit or reg-**

1 **istration to practice in a regulated occupation or profession subject to the authority of the**
 2 **boards, councils and programs listed in ORS 676.606, or aiding or abetting such an act.**

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

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

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

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

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

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

18 (c) Under investigation by the agency.

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

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

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

28 676.615. (1) In accordance with applicable provisions of ORS chapter 183, the Director of the
 29 Oregon Health Licensing Agency may adopt rules necessary for the administration of the laws that
 30 the Oregon Health Licensing Agency is charged with administering.

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

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

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

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

43 676.617. (1) As used in this section, “single facility license” means a license to provide services
 44 in a single location in more than one of the following practice areas:

45 (a) *[Cosmetology]* **Barbering, esthetics, hair design or nail technology,** as provided in ORS

1 690.005 to 690.235;

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

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

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

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

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

7 (a) Owns the facility to be licensed;

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

10 (c) Has paid all required fees, as determined by the agency; and

11 (d) Has filed an application in the form and manner required by the agency.

12 (3)(a) A single facility license expires annually, **unless otherwise specified by rule adopted**
13 **by the agency**, on a date determined by the agency.

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

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

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

21 (a) Application [for licensure];

22 (b) [An] Original license;

23 (c) License renewal;

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

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

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

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

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

36 [(7)] (6) A single facility license holder shall ensure that the:

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

38 (b) Facility authorized by the single facility license complies with all statutes and rules gov-
39 erning facilities in which services in the practice areas authorized by the license of the holder are
40 provided.

41 [(8)] (7) The agency may suspend, condition, limit, revoke or refuse to issue or renew a single
42 facility license, or may place on probation or otherwise discipline a single facility license holder, for
43 the reasons specified in ORS 676.612, 690.167, 690.407 or 690.515 or for failure to comply with sub-
44 section [(7)] (6) of this section.

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

1 676.620. In performing its powers and duties under [*chapter 885, Oregon Laws 1999*] **ORS 676.605**
 2 **to 676.625 and 676.992**, the Oregon Health Licensing Agency may utilize the administrative assist-
 3 ance of the Oregon Department of Administrative Services. The agency shall pay to the department
 4 a proportionate share of the cost of such administrative services, such share to be fixed by biennial
 5 negotiation between the agency and the department.

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

7 676.625. (1) **The Oregon Health Licensing Agency shall establish by rule and shall collect**
 8 **fees and charges to carry out the agency's responsibilities under ORS 676.605 to 676.625 and**
 9 **676.992 and any responsibility imposed on the agency pertaining to the boards, councils and**
 10 **programs administered and regulated by the agency pursuant to ORS 676.606.**

11 [(1)] (2) The Oregon Health Licensing Agency Account is established in the General Fund of the
 12 State Treasury. The account shall consist of the moneys credited to the account by the Legislative
 13 Assembly. All moneys in the account are appropriated continuously to and shall be used by the
 14 Oregon Health Licensing Agency for payment of expenses of the agency in carrying out the duties,
 15 **functions** and obligations of the **agency, and for payment of the expenses of the** boards, councils
 16 and programs administered and regulated by the agency pursuant to ORS 676.606. **The agency shall**
 17 **keep a record of all moneys credited to the account and report the source from which the**
 18 **moneys are derived and the activity of each board, council or program that generated the**
 19 **moneys.**

20 [(2)] (3) Subject to prior approval of the Oregon Department of Administrative Services and a
 21 report to the Emergency Board prior to adopting fees and charges credited to the account, the fees
 22 and charges [*shall*] **may** not exceed the cost of administering the **agency and the** boards, councils
 23 and programs within the agency [*pertaining to the purposes for which the fee or charge is*
 24 *established*], as authorized by the Legislative Assembly within the agency's budget, as the budget
 25 may be modified by the Emergency Board.

26 [(3)] (4) [*The agency shall keep a record of all moneys deposited into the account. The record shall*
 27 *indicate by separate cumulative accounts the source from which the moneys are derived and the indi-*
 28 *vidual activity of each board, council or program.*] **All moneys credited to the account pursuant**
 29 **to ORS 675.405, 676.617, 680.525, 687.435, 688.728, 688.834, 690.235, 690.415, 690.550, 694.185 and**
 30 **700.080, and moneys credited to the account from other agency and program fees established**
 31 **by the agency by rule, are continuously appropriated to the agency for carrying out the du-**
 32 **ties, functions and powers of the agency under ORS 676.605 to 676.625 and 676.992.**

33 [(4)] (5) The moneys received from civil penalties assessed under ORS 676.992 shall be deposited
 34 and accounted for as are other moneys received by the agency and shall be for the administration
 35 and enforcement of [*those laws of*] **the statutes governing** the boards, councils and programs ad-
 36 ministered by the agency.

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

38 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other
 39 penalty or remedy provided by law, the Oregon Health Licensing Agency may impose a civil penalty
 40 not to exceed \$5,000 for each violation of the following statutes and any rule adopted thereunder:

- 41 (a) ORS 688.701 to 688.734 (athletic training);
- 42 (b) ORS 690.500 to 690.570 (body piercing);
- 43 (c) ORS 690.005 to 690.235 (cosmetology);
- 44 (d) ORS 680.500 to 680.570 (denture technology);
- 45 (e) ORS 687.405 to 687.495 (direct entry midwifery);

- 1 (f) ORS 690.350 to 690.430 (electrology and permanent coloring or tattooing);
- 2 (g) ORS 694.015 to 694.185 (dealing in hearing aids);
- 3 (h) ORS 688.800 to 688.840 (respiratory therapy);
- 4 (i) ORS chapter 700 (environmental sanitation);
- 5 (j) ORS 676.617 (single facility licensure); *[and]*
- 6 (k) ORS 675.360 to 675.410 (sex offender treatment)[.]; **and**

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

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

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

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

- 16 (a) The immediacy and extent to which the violation threatens the public health or safety;
- 17 (b) Any prior violations of statutes, rules or orders;
- 18 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-
 19 lation; and
- 20 (d) Any other aggravating or mitigating factors.

21 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

22 (6) The moneys received by the agency from civil penalties under this section shall be paid into
 23 the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Ac-
 24 count established under ORS 676.625. Such moneys are continuously appropriated to the agency for
 25 the administration and enforcement of the laws the agency is charged with administering and en-
 26 forcing that govern the person against whom the penalty was imposed.

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

28 680.525. (1) The Oregon Health Licensing Agency shall establish by rule **and collect fees and**
 29 **charges for the following** related to denture technologists *[to be collected for]*:

- 30 (a) Application;
- 31 (b) Examinations;
- 32 (c) **Original** license;
- 33 (d) License renewal;
- 34 (e) License *[restoration]* **reactivation**;
- 35 (f) Replacement or duplicate license;
- 36 (g) *[Delinquency; and]* **Delinquent renewal**;
- 37 **(h) Reciprocity; and**

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

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

44 *[(3) The fees established by the agency under this section are subject to the prior approval of the*
 45 *Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS*

1 680.500 to 680.570 pertaining to the purpose for which the fee is established, as authorized by the
 2 Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency
 3 Board.]

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

5 680.530. (1)[(a)] **Except as provided in subsection (2) of this section,** licenses to practice
 6 denture technology issued by the Oregon Health Licensing Agency [*shall*] expire one year from the
 7 date of issuance [*unless*] **and must be** renewed on or before the expiration date by payment of the
 8 required renewal fee and submission of satisfactory evidence of completion of continuing education
 9 courses as specified by rule.

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

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

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

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

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

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

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

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

34 680.556. (1) There is established, within the Oregon Health Licensing Agency, the State Board
 35 of Denture Technology.

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

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

40 (4) The term of office of each member is [*three*] **four** years, but a member serves at the pleasure
 41 of the Governor. [*Before the expiration of the term of a member, the Governor shall appoint a successor*
 42 *whose term begins on July 1 next following. A member is eligible for reappointment. If a person serves*
 43 *two consecutive terms, a period of three years must pass before the person may be appointed to the*
 44 *board again. If there is a vacancy for any cause, the Governor shall make an appointment to become*
 45 *immediately effective for the unexpired term.*] **Vacancies shall be filled by the Governor by ap-**

1 **pointment for the unexpired term. A member shall hold the member's office until the ap-**
 2 **pointment and qualification of a successor. A member is eligible for reappointment. If a**
 3 **person serves two consecutive full terms, a period of at least four years must elapse before**
 4 **the person is again eligible for appointment to serve on the board.**

5 (5) *[The agency shall provide the board with such administrative services and employees as the*
 6 *board requires to carry out its duties for the administration of ORS 680.500 to 680.570 and 680.990*
 7 *(2).]* **A member of the board may be removed by the Governor for neglect of duty, incompe-**
 8 **tence or unethical conduct.**

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

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

12 687.425. (1) **Except as provided in subsection (2) of this section,** a license issued by the
 13 Oregon Health Licensing Agency for a direct entry midwife *[shall expire]* **expires** after one year.
 14 The agency shall renew a license upon receipt of the renewal application and fee and proof of cur-
 15 rent cardiopulmonary resuscitation certification for infants and adults.*[, if]* The applicant *[is other-*
 16 *wise]* **must be** in compliance with the rules adopted by the State Board of Direct Entry Midwifery
 17 and the agency.

18 (2) The agency shall establish a procedure for the renewal of licenses. *[Notwithstanding sub-*
 19 *section (1) of this section,]* The agency may vary the renewal date of a license by giving the applicant
 20 written notice of the renewal date being assigned and by making prorated adjustments to the re-
 21 newal fee.

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

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

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

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

36 *[(5)]* (6) The agency may mail a notice of renewal to the last-known address of the license
 37 holder.

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

39 687.435. (1) The Oregon Health Licensing Agency shall¹ *[, in consultation with the State Board of*
 40 *Direct Entry Midwifery,]* establish by rule and collect fees². *[Fees established pursuant to this section*
 41 *may not exceed]* **and charges for the following related to direct entry midwives:**

- 42 (a) *[License application, \$100]* **Application;**
- 43 (b) *[Initial license, \$2,000]* **Original license;**
- 44 (c) *[Annual renewal for active license, \$2,000]* **License renewal;**
- 45 (d) *[Written examination, \$500]* **Examinations;**

1 [(e) Oral examination, \$150;]

2 [(f)] (e) [Late fee, \$50] **Delinquent renewal;**

3 [(g)] (f) **Replacement or** duplicate license[, \$25];

4 [(h)] (g) Reciprocity [license, \$500; and];

5 [(i)] (h) License reactivation[, \$500.]; **and**

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

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

15 [(3)] (2) All moneys received by the agency under this section shall be paid into the General
 16 Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are
 17 appropriated continuously to and shall be used by the agency **as authorized by ORS 676.625.** [only
 18 for the administration and enforcement of ORS 687.405 to 687.495.]

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

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

23 687.470. (1) There is established within the Oregon Health Licensing Agency the State Board
 24 of Direct Entry Midwifery consisting of seven members appointed by the Governor.

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

35 (3) The membership of the board shall include:

36 [(1)] (a) Four licensed direct entry midwives.

37 [(2)] (b) [Two] **One** certified nurse [midwives] **midwife.**

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

40 (d) **One public member.**

41 (4) **A member of the board may be removed by the Governor for neglect of duty, incom-**
 42 **petence or unethical conduct.**

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

44 688.705. (1) There is [created in] **established within** the Oregon Health Licensing Agency the
 45 Board of Athletic Trainers, consisting of five members appointed by the [Director of the Oregon

1 *Health Licensing Agency*] **Governor**. In making appointments to the board, the [*director must*] **Gov-**
 2 **ernor shall** take into consideration [*any*] nominations received from professional organizations of
 3 athletic trainers that are based in Oregon.

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

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

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

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

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

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

18 (4) A member of the board may be removed by the [*director*] **Governor** for neglect of duty, in-
 19 competence or unethical conduct.

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

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

22 688.724. (1) **Except as provided in subsection (5) of this section,** an athletic trainer regis-
 23 tration [*is issued for a one-year period. All registrations shall expire*] **expires** on the last day of the
 24 month, one year from the date of issuance.

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

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

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

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

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

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

44 688.728. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and**
 45 **charges for the following** related to athletic trainers [*for*]:

- 1 (a) Application [*for athletic trainer registrations, permits and waivers*];
- 2 (b) [*Athletic trainer*] **Original** registration;
- 3 (c) **Registration** renewal [*of athletic trainer registration*];
- 4 (d) Temporary practice registration;
- 5 (e) Examinations [*and reexaminations*];
- 6 (f) [*Reinstatement*] **Registration reactivation**;
- 7 (g) [*Delinquency in*] **Delinquent** renewal [*of a registration*];
- 8 (h) [*Duplication*] **Replacement or duplicate registration**;
- 9 (i) Reciprocity; and
- 10 (j) Providing copies of official documents or records and for recovering administrative costs as-
- 11 sociated with compiling, photocopying or preparing and delivering the records.

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

16 [(3) *The fees established by the agency under this section are subject to the prior approval of the*
 17 *Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS*
 18 *688.701 to 688.734, pertaining to the purpose for which the fee is established, as authorized by the*
 19 *Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency*
 20 *Board.*]

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

22 688.815. (1) An applicant for a license to practice respiratory care shall submit to the Oregon
 23 Health Licensing Agency written evidence that the applicant:

- 24 (a) Is at least 18 years of age;
- 25 (b) Has completed an approved four-year high school course of study or the equivalent as de-
- 26 termined by the appropriate educational agency; and
- 27 (c) Has completed a respiratory care education program approved by the American Medical
- 28 Association in collaboration with the Joint Review Committee for Respiratory Therapy Education
- 29 or their successors or equivalent organizations, as approved by the Respiratory Therapist Licensing
- 30 Board.

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

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

- 35 (a) An applicant who is currently licensed to practice respiratory care under the laws of another
- 36 state, territory or country if the qualifications of the applicant are considered by the agency to be
- 37 equivalent to those required in this state; or
- 38 (b) An applicant holding a credential conferred by the National Board for Respiratory Care as
- 39 a Certified Respiratory Therapist (CRT) or as a Registered Respiratory Therapist (RRT), or both,
- 40 providing the credential has not been suspended or revoked.

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

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

44 (b) **The licensee must submit to the agency a completed renewal application, required**
 45 **renewal fee and satisfactory evidence of having completed any required continuing education**

1 **credits on or before the expiration date of the license as specified by agency rule.**

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

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

8 **(8) The agency may vary the date of license renewal by giving the applicant written no-**
 9 **tice of the renewal date being assigned and by making prorated adjustments to the renewal**
 10 **fee.**

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

12 688.820. (1) There is established within the Oregon Health Licensing Agency the Respiratory
 13 Therapist Licensing Board, consisting of five members appointed by the Governor. **The membership**
 14 **of the board shall include:**

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

16 **(b) One public member.**

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

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

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

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

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

33 688.834. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and**
 34 **charges for the following** related to respiratory [*therapists for*] **care practitioners:**

35 (a) Application;

36 (b) Examinations;

37 (c) **Original** license;

38 (d) License renewal;

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

40 (f) Replacement or duplicate license;

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

42 **(h) Reciprocity; and**

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

45 (2) All moneys received by the agency under subsection (1) of this section shall be paid into the

1 General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account,
 2 and are appropriated continuously to and shall be used by the agency [*only for the administration*
 3 *and enforcement of ORS 688.800 to 688.840.*] **as authorized by ORS 676.625.**

4 [(3) *The fees established by the agency under this section are subject to the prior approval of the*
 5 *Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS*
 6 *688.800 to 688.840 pertaining to the purpose for which the fee is established, as authorized by the*
 7 *Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency*
 8 *Board.*]

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

10 690.005. As used in ORS 690.005 to 690.235:

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

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

14 (b) Applying hair tonics, dressings and rinses.

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

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

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

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

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

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

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

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

32 (b) Temporary removal of hair.

33 (c) Makeup artistry.

34 (d) Facial and body wrapping.

35 (e) Facial and body waxing.

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

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

39 (a) Barbering.

40 (b) Esthetics.

41 (c) Hair design.

42 (d) Nail technology.

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

45 [(9)] **(10) "Hair design" means any of the following practices, when done upon the human body**

1 for cosmetic purposes and not for medical diagnosis or treatment of disease or physical or mental
2 ailments:

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

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

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

8 [(10)] (11) "Independent contractor" means a practitioner who qualifies as an independent con-
9 tractor under ORS 670.600 and who is not under the control and direction of a facility license
10 holder.

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

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

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

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

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

21 [(13)] (14) "Practitioner" means a person certified to perform services included within a field of
22 practice.

23 [(14)] (15) "Registration" means a written authorization issued to an independent contractor to
24 hold forth to the public as a business entity providing services in a field of practice.

25 [(15)] (16) "School" means an educational establishment that has a license issued by the De-
26 partment of Education and is operated for the purpose of teaching one or more fields of practice.

27 [(16)] (17) "Temporary facility permit" means a written authorization issued under ORS 690.055
28 to provide services on a temporary basis in one or more fields of practice.

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

30 690.015. (1) This section establishes prohibitions relating to the practice of hair design, barber-
31 ing, esthetics and nail technology. The prohibitions under this section are subject to the exemptions
32 under ORS 690.025. A person who commits an act prohibited under this section is subject to the
33 penalties under ORS 690.992 in addition to any administrative action taken by or any civil penalty
34 imposed by the Oregon Health Licensing Agency under ORS 676.612.

35 (2) A person may not:

36 (a) Perform or attempt to perform [*as a practitioner*] **services in a field of practice** without a
37 certificate, demonstration permit, **registration** or [*certificate of identification*] **freelance authori-**
38 **zation.**

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

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

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

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

45 (e) Display a sign or in any way advertise or purport to offer services in a field of practice

1 without first obtaining a permit, certificate, independent contractor registration or facility license.

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

4 (g) Allow an individual in the employ or under the supervision or control of the person to per-
5 form in a field of practice without a certificate or permit.

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

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

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

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

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

16 690.025. ORS 690.005 to 690.235 do not apply to:

17 (1) Persons who perform service without compensation in case of emergency or in domestic ad-
18 ministration.

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

21 (3) Persons identified by the **Oregon Health Licensing** Agency or Board of Cosmetology by rule
22 who are acting under the authority of a hospital or long term care facility licensed under ORS
23 441.025 or a residential facility licensed under ORS 443.415.

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

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

27 (6) Commissioned medical and surgical officers and personnel of the United States Armed Ser-
28 vices while operating on a military base and personnel of correctional institutions while operating
29 on the premises of a correctional facility.

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

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

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

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

39 690.047. (1) The Board of Cosmetology may choose to waive all or part of the educational re-
40 quirement for an applicant in a field of practice and allow the applicant to take the certification
41 examination, provided that [*the applicant is otherwise qualified to take the examination and*]:

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

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

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

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

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

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

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

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

10 (c) Paid the required fees; and

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

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

13 690.048. (1) The Oregon Health Licensing Agency shall issue a certificate to each applicant who
14 qualifies under ORS 690.046 or **690.047**. The certificate is prima facie evidence of the right of the
15 holder to practice in a field of practice for which the holder has qualified and purports to be a
16 practitioner.

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

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

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

23 690.055. (1) To be issued a license to operate a facility, each applicant shall:

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

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

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

29 (d) Pay the required fees.

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

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

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

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

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

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

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

40 [(f)] (e) Comply with the applicable health and safety laws and rules of the Department of Hu-
41 man Services and any other state agencies.

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

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

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

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

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

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

5 690.057. (1) To be issued a registration to operate as an independent contractor, each applicant
 6 shall:

7 (a) Be 18 years of age or older.

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

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

12 (d) Pay the required fees.

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

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

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

18 690.085. (1) *[All practitioner certificates shall expire]* **Except as provided in subsection (3) of**
 19 **this section, a certificate issued by the Oregon Health Licensing Agency expires** on the last
 20 day of the month, two years from the date of issuance, *[unless]. A certificate may be renewed* prior
 21 to the expiration date by payment of the required renewal fee and compliance with other require-
 22 ments as established by the Board of Cosmetology.

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

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

31 (4) *[A certificate, registration or license not renewed before it expires may be renewed by payment*
 32 *of the required renewal and late fees and by compliance with other requirements for renewal as deter-*
 33 *mined by the board.]* **The agency shall adopt by rule requirements for late renewal and reactiva-**
 34 **tion of an expired certificate, license or registration.**

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

37 (a) Submits an application for certification;

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

40 (c) Submits payment of *[the application, examination and certificate fees at the time of reapplica-*
 41 *tion.]* **required fees; and**

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

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

44 690.095. Every holder of a certificate, registration, license, permit or *[certificate of identification*
 45 *shall]* **freelance authorization must** display the document in public view where services are being

1 rendered.

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

3 690.123. (1) The Oregon Health Licensing Agency may issue a practitioner a [*certificate of iden-*
4 *tification*] **freelance authorization** to practice outside of or away from a licensed facility.

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

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

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

12 690.155. (1) There is [*created*] **established** within the Oregon Health Licensing Agency the Board
13 of Cosmetology consisting of seven members appointed by the Governor. [*Each member of the board*
14 *shall serve for a term of three years and until a successor is appointed and qualified.*] At all times the
15 membership of the board shall be so constituted that:

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

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

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

25 (3) [*A member of the board serves at the pleasure of the Governor. Vacancies shall be filled by the*
26 *Governor, by appointment for the unexpired term.*] **A member of the board may be removed by the**
27 **Governor for neglect of duty, incompetence or unethical conduct.**

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

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

31 690.165. In addition to the powers otherwise granted by ORS 345.430 and 690.005 to 690.235, the
32 Board of Cosmetology shall have the power to:

33 (1) Determine whether applicants are qualified to take certification examinations.

34 (2) Administer, approve or recognize certification examinations and designate the time, place
35 and administrators of certification examinations.

36 (3) Contract for the administration of examinations as part of regional or national examinations
37 and contract with independent testing services for examination administration.

38 (4) Pursuant to ORS 676.607, direct the Oregon Health Licensing Agency to issue certificates,
39 registrations, licenses, permits and [*certificates of identification*] **freelance authorizations** to indi-
40 viduals determined by the board to be qualified.

41 (5) Except as otherwise provided in ORS 690.205 (2) or other provision of law, adopt rules es-
42 tablishing and enforcing standards for safety, infection control, professional conduct and any other
43 matters relating to fields of practice, facilities or locations used by persons providing services reg-
44 ulated by ORS 690.005 to 690.235.

45 (6) Pursuant to ORS 676.612 and 690.167, direct the agency to suspend, revoke, limit or refuse

1 to issue or renew certificates, registrations, licenses or permits or impose a period of probationary
 2 activity on the holder thereof.

3 (7) Do any act necessary or proper to effect and carry out the duties required of the board by
 4 ORS 690.005 to 690.235.

5 (8) Adopt rules prescribing standards of professional conduct for persons practicing hair design,
 6 barbering, esthetics or nail technology.

7 (9) Consult with the agency about the issuance and renewal of a single facility license under
 8 ORS 676.617 authorizing a facility to provide *[cosmetology]* **barbering, esthetics, hair design or**
 9 **nail technology** services.

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

11 690.167. In the manner prescribed in ORS chapter 183 for contested cases and at the direction
 12 of the Board of Cosmetology, the Oregon Health Licensing Agency may impose a form of discipline
 13 listed in ORS 676.612 against any person practicing barbering, *[cosmetology,]* hair design, esthetics
 14 or nail technology for any of the grounds listed in ORS 676.612 and for any violation of the pro-
 15 visions of ORS 690.005 to 690.235, or the rules adopted thereunder.

16 **SECTION 43.** ORS 690.225 is amended to read:

17 690.225. (1) In addition to any other duties prescribed by law, the Oregon Health Licensing
 18 Agency shall provide for the inspection of facilities *[and schools licensed to teach practitioner skills*
 19 *under ORS 345.010 to 345.450]*.

20 (2) Inspections conducted under this section shall determine whether the facilities comply with
 21 the health, safety, infection control and licensing rules of the Board of Cosmetology *[and whether*
 22 *the schools comply with the health, safety and infection control requirements under ORS 345.010 to*
 23 *345.450 and rules of the agency. A report of the results of the inspection shall be submitted to the De-*
 24 *partment of Education]*.

25 (3) **In exercising its powers and performing its duties under ORS 676.605 to 676.625,**
 26 **676.992 and 690.005 to 690.235, the Oregon Health Licensing Agency may provide administra-**
 27 **tive services to the Department of Education for career schools, as defined in ORS 345.010,**
 28 **licensed to teach practitioner skills. The department shall pay to the agency the cost of the**
 29 **administrative services, to be fixed by biennial negotiation between the agency and the de-**
 30 **partment.**

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

32 690.235. (1) The Oregon Health Licensing Agency¹, *in consultation with the Board of*
 33 *Cosmetology,* shall establish by rule and collect fees *[related to the practice of cosmetology. Fees may*
 34 *be assessed]* **and charges** for the following **related to barbering, esthetics, hair design and nail**
 35 **technology:**

- 36 (a) Application *[for a certificate, license or permit]*.
- 37 (b) *[Issuance of an]* Original *[two-year practitioner]* certificate.
- 38 (c) *[Renewal of a two-year practitioner]* Certificate **renewal**.
- 39 (d) *[Each initial examination section in an individual field of practice and reexamination of failed*
 40 *sections]* **Examination**.
- 41 (e) *[Issuance of a]* Demonstration permit.
- 42 (f) *[Issuance of a facility]* **Original** license.
- 43 (g) *[Renewal of a facility]* License **renewal**.
- 44 (h) *[Issuance of a]* Temporary facility permit.
- 45 (i) *[Issuance of an independent contractor]* **Original** registration.

- 1 (j) *[Renewal of an independent contractor]* Registration **renewal**.
- 2 (k) *[Issuance of a duplicate or]* Replacement **or duplicate** certificate, license or permit.
- 3 (L) *[Late renewal fee]* **Delinquent renewal**.
- 4 (m) Reciprocity *[fee]*.
- 5 (n) *[Issuance of a certificate of identification]* **Freelance authorization**.
- 6 (o) **Reactivation**.

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

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

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

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

21 **SECTION 45.** ORS 690.360 is amended to read:

22 690.360. *[No]* **A person [shall] may not:**

- 23 (1) Sell, barter or offer to sell or barter a license;
- 24 (2) Purchase or procure by barter a license with intent to use it as evidence of the person's
 25 qualification to practice electrolysis or tattooing;
- 26 (3) Alter materially a license with fraudulent intent;
- 27 (4) Use or attempt to use as a valid license a license which has been purchased, fraudulently
 28 obtained, counterfeited or materially altered; or
- 29 (5) Willfully make a false, material statement in an application for licensure or for renewal of
 30 a license.
- 31 (6) Operate an electrology facility or tattoo facility without obtaining an electrology facility li-
 32 cense or tattoo facility license.

33 **(7) Perform tattooing on a person who is under 18 years of age, regardless of consent by**
 34 **a parent or legal guardian, except when tattooing is authorized by a physician's written**
 35 **statement or prescribed by a physician exclusively for medical repigmentation as defined by**
 36 **rules adopted pursuant to ORS 676.607, 676.615 and 690.405.**

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

38 690.365. (1) An applicant for licensure shall pay a fee established by the Oregon Health Licens-
 39 ing Agency under ORS 690.350 to 690.430 and shall show to the satisfaction of the agency that the
 40 applicant:

- 41 (a) Has complied with the provisions of ORS 690.350 to 690.430 and the applicable rules of the
 42 agency;
- 43 (b) Is not less than 18 years of age;
- 44 (c) Has a high school diploma or equivalent education;
- 45 (d) Has submitted evidence of completion of education and training prescribed and approved by

1 the agency under ORS 690.410; and

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

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

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

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

12 690.385. *[(1) Except as otherwise provided in this section, a license issued under ORS 690.365 ex-*
 13 *pires one year after the date of issue unless renewed by payment of the required renewal fee. The*
 14 *Oregon Health Licensing Agency, however, may vary the date of license renewal by giving to the ap-*
 15 *plicant written notice of the renewal date being assigned and by making prorated adjustments in the*
 16 *renewal fee. If payment is transmitted by postal service, the envelope must be postmarked on or before*
 17 *the expiration of the license. If the license expires, the license may be renewed on payment of a renewal*
 18 *fee and late penalty fee established by the agency under ORS 690.350 to 690.430.]*

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

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

24 **(1) Except as provided in subsection (2) of this section, a license issued under ORS 690.365**
 25 **expires one year from the date of issuance. The licensee is responsible for filing a license**
 26 **renewal application form. The licensee must submit to the Oregon Health Licensing Agency**
 27 **a completed renewal application, required renewal fee and satisfactory evidence of having**
 28 **completed any required continuing education credits on or before the expiration date of the**
 29 **license as specified by agency rule.**

30 **(2) The agency may vary the date of license renewal by giving the applicant written no-**
 31 **tice of the renewal date being assigned and by making prorated adjustments to the renewal**
 32 **fee.**

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

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

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

39 690.405. The powers and duties of the Oregon Health Licensing Agency as related to ORS
 40 690.350 to 690.430 are as follows:

41 (1) To authorize all disbursements necessary to carry out the provisions of ORS 690.350 to
 42 690.430;

43 (2) To determine training and experience requirements for taking the examination and to su-
 44 pervise and administer examinations to test the knowledge of applicants for licensure;

45 (3) To license persons who apply to the agency and who have qualified to practice electrolysis,

1 permanent coloring or tattooing;

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

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

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

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

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

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

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

13 (11) To issue a tattoo facility license or a temporary **tattoo** facility permit to qualified appli-
14 cants upon compliance with ORS 690.350 to 690.430;

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

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

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

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

21 690.415. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and**
22 **charges for the following** related to electrologists and permanent color technicians and tattoo
23 artists [*for*]:

24 (a) Application.

25 (b) Examination.

26 [*(c) Reexamination.*]

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

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

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

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

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

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

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

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

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

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

41 [*(3) The fees established by the agency under this section are subject to the prior approval of the*
42 *Oregon Department of Administrative Services. The fees established under this subsection shall not*
43 *exceed the cost of administering the regulatory program under ORS 690.350 to 690.430 pertaining to*
44 *the purpose for which the fee is established, as authorized by the Legislative Assembly within the*
45 *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.]* **A member of the council may be removed by the Governor for neglect of duty, incompetence or unethical conduct.**

[(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)] (5) The council shall meet at least once a year.

[(7)] (6) 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.

(c) **Provide genital or nipple piercing on any person under 18 years of age.**

[(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

1 Oregon Health Licensing Agency a registration program to provide for the registering of body
 2 piercing technicians.

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

5 (a) Files an application in the form and manner prescribed by the agency;

6 (b) Pays the application and registration fees prescribed by the agency;

7 (c) Affirms by written signature on a form prescribed by the agency receipt of:

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

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

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

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

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

18 [(4)] (3) The body piercing technician registration [*shall*] **must** be posted in a conspicuous place
 19 on the premises of a licensed body piercing facility.

20 [(5)] (4) **Except as provided in subsection (7) of this section**, a registration issued under this
 21 section expires [*annually*] **on the last day of the month, one year from the date of issuance**,
 22 and may be renewed upon application to the agency, payment of the renewal fee established pursu-
 23 ant to ORS 690.550 and compliance with ORS 690.500 to 690.550 and rules adopted by the agency
 24 pursuant to ORS 690.500 to 690.550. **The agency shall establish a procedure for the renewal of**
 25 **registrations.**

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

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

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

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

36 690.520. (1) [*In addition to any other duties prescribed by law,*] There is established within the
 37 Oregon Health Licensing Agency a licensing program to provide for the licensing of body piercing
 38 facilities.

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

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

43 (a) Files an application in the form and manner prescribed by the agency;

44 (b) Pays the application and license fees prescribed by the agency;

45 (c) Demonstrates compliance with all safety, infection control and sterilization requirements

1 adopted by the agency by rule; and

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

3 (4) **Except as provided in subsection (9) of this section**, a license issued under this section
 4 expires *[annually]* **on the last day of the month, one year from the date of issuance**, and may
 5 be renewed upon application to the agency, payment of the renewal fee established pursuant to ORS
 6 690.550 and compliance with ORS 690.500 to 690.550 and rules adopted by the agency pursuant to
 7 ORS 690.500 to 690.550. **The agency shall establish a procedure for the renewal of licenses.**

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

9
 10 *[(5)]* (6) The body piercing facility license *[shall]* **must** be posted in a conspicuous place on the
 11 premises of the facility.

12 *[(6)]* (7) The agency may issue a single facility license to an applicant pursuant to ORS 676.617.

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

16 (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.**

17
 18 **SECTION 54.** ORS 690.550 is amended to read:

19
 20 690.550. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and**
 21 **charges for the following** related to body piercing¹. *Fees may be assessed for*:

22 (a) *[Facility]* Application.

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

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

25 *[(d) Technician application.]*

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

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

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

29 (g) **Delinquent renewal.**

30 (h) **Permits.**

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

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

33
 34 *[(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.]*

35
 36
 37 *[(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.]*

38
 39
 40
 41 *[(4)]* (2) All moneys received by the agency under this section shall be paid into the General
 42 Fund in the State Treasury and credited to the Oregon Health Licensing Agency Account, and such
 43 moneys are appropriated continuously to and shall be used by the agency *[only for the expenditures,*
 44 *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.**
 45

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 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.

SECTION 56. ORS 694.055 is amended to read:

694.055. An applicant for licensure under this chapter shall pay a fee established by the Oregon Health Licensing Agency under ORS 694.185 and shall *[show]* **provide evidence** to the satisfaction of the agency that the applicant:

- (1) Is a person 18 years of age or older[.];
- (2) Has graduated from high school or has been awarded a General Educational Development (GED) certificate[.]; **and**
- (3)(a) Has completed *[the training and has the experience required under ORS 694.065.]* **a two-year certification program in the hearing sciences approved or recognized by the agency or has completed the equivalent education and training in core competencies as determined by rule of the agency; or**
- (b) **Is licensed as a hearing aid specialist in another state in which the requirements for such license are equivalent to the requirements imposed under ORS 694.015 to 694.185 and**

1 **rules of the agency.**

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

3 694.065. (1) Before an applicant may take the qualifying examination for licensure under ORS
4 694.015 to 694.185, the applicant must:

5 (a) Meet the **education**, training and **clinical** experience requirements established by the
6 Oregon Health Licensing Agency by rule;

7 (b) Meet the training requirements for licensure as an audiologist or for certification of a li-
8 censed physician by the American Board of Otolaryngology; or

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

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

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

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

21 [(5)] **(2)** The agency, in consultation with the Advisory Council on Hearing Aids, shall adopt
22 rules establishing standards for examination **content**, scope[,] **and** format, **for** minimum acceptable
23 performance and **for** reexamination qualifications.

24 **(3)** The examination shall be sufficiently thorough to determine the qualifications, fitness and
25 ability of the applicant to practice as a hearing aid specialist.

26 **(4)** The examination may be in the form of written, oral or practical demonstration of skills, or
27 a combination of any such types. *The examination shall cover at least the subjects listed in ORS
28 694.075.*, **and shall be held at such times and places as the agency determines, but at least
29 once each year.**

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

31 694.125. (1) *[All licenses]* **Except as provided in subsection (5) of this section, a license** is-
32 sued under ORS 694.015 to 694.185 *[expire]* **expires** one year following the date of issuance[,
33 unless]. **A license may be** renewed on or before the expiration date by payment of the required
34 renewal fee and submission of satisfactory evidence of completion of continuing education courses
35 as specified by rule **of the Oregon Health Licensing Agency.**

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

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

44 *[(4) A license that has expired more than three years before the date of application for renewal
45 may be reinstated upon application, payment of required fees and completion of other conditions for*

1 *license issuance as determined by rule.]*

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

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

7 [(6)] **(4)** The [*Oregon Health Licensing*] agency shall require proof of completion of continuing
 8 education as a condition of license renewal as determined by rule.

9 **(5) The agency may vary the date of license renewal by giving the applicant written no-**
 10 **tice of the renewal date being assigned and by making prorated adjustments to the renewal**
 11 **fee.**

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

13 694.142. The Oregon Health Licensing Agency shall adopt by rule standards of practice for
 14 hearing aid specialists in providing services to consumers. The standards must include, but are not
 15 limited to:

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

18 (a) Visible congenital or traumatic deformity of the ear;

19 (b) Active drainage from the ear within the previous 90 days or a history of active drainage from
 20 the ear;

21 (c) Sudden or rapidly progressive hearing loss within the previous 90 days;

22 (d) Acute or chronic dizziness;

23 (e) Unilateral hearing loss of sudden or recent onset within 90 days;

24 (f) Significant air-bone gap of greater than or equal to 15 decibels, American National Standards
 25 Institute, 500, 1,000 and 2,000 Hz average; or

26 (g) Any other condition that the agency may establish by rule.

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

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

34 [(a) *An otolaryngologist for examination and for a recommendation of corrective measures that may*
 35 *be required;]*

36 [(b) *A properly licensed medical physician for like examination and recommendation; or]*

37 [(c) *An audiologist licensed by the State of Oregon for an evaluation of the person's hearing and*
 38 *for a recommendation of corrective measures that may be required if the person is also examined by*
 39 *a properly licensed medical physician who gives approval for possible hearing aid use.]*

40 **(3)(a) Before fitting or dispensing a hearing aid to a person, the hearing aid specialist**
 41 **must obtain from the person a written statement signed by the licensed health care provider**
 42 **indicating that the person has undergone, within the six months prior to the fitting or dis-**
 43 **persing of the hearing aid, one of the following medical evaluations:**

44 **(A) An evaluation by an otolaryngologist for examination and for a recommendation of**
 45 **corrective measures that may be required;**

1 **(B) An evaluation by a properly licensed medical physician for examination and for a**
 2 **recommendation of corrective measures that may be required; or**

3 **(C) An evaluation by an audiologist licensed by the State of Oregon for an evaluation of**
 4 **the person’s hearing and for a recommendation of corrective measures that may be required,**
 5 **if the person is also examined by a properly licensed medical physician who gives approval**
 6 **for possible hearing aid use.**

7 **(b) A person who is 18 years of age or older may waive the medical evaluation required**
 8 **under paragraph (a) of this subsection by providing to the hearing aid specialist a certificate**
 9 **to that effect in a form prescribed by the agency.**

10 **(c) A person who is under 18 years of age or a parent or guardian of the person may not**
 11 **wave the medical evaluation required under paragraph (a) of this subsection.**

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

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

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

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

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

28 (6) *[If the person or the parent or guardian of the person refuses to seek a medical opinion from*
 29 *the physician to whom the person has been referred under subsection (2) or (3) of this section, the*
 30 *person dealing in hearing aids must obtain from the person or the parents or guardian of the person*
 31 *prior to fitting or dispensing a hearing aid a certificate to that effect in a form prescribed by the*
 32 *agency.]* Any person dealing in hearing aids or employees and putative agents thereof, upon making
 33 the required referral for a medical opinion **under subsection (2) of this section**, may not in any
 34 manner whatsoever disparage or discourage a prospective hearing aid user from seeking a medical
 35 opinion prior to the fitting and dispensing of a hearing aid.

36 (7) Nothing required to be performed by a person dealing in hearing aids under this section
 37 means that the person is engaged in the diagnosis of illness or the practice of medicine or any other
 38 activity prohibited by the provisions of ORS **694.036 and 694.042** *[and 694.095]* and this section.

39 **SECTION 60.** ORS 694.155 is amended to read:

40 694.155. The powers and duties of the Oregon Health Licensing Agency with regard to dealing
 41 in hearing aids are as follows:

42 *[(1) To authorize all disbursements necessary to carry out the provisions of ORS 694.015 to*
 43 *694.185.]*

44 *[(2)]* **(1)** To determine **education**, training and **clinical** experience requirements *[prerequisite to*
 45 *taking the examination]* **and applicant qualifications.**

1 **(2) To determine requirements for completing clinical experience involving direct client**
 2 **contact for individuals enrolled in an approved hearing sciences course of study.**

3 **(3) To issue temporary permits or a time-limited provisional registration as determined**
 4 **by rule.**

5 **(4) To approve, recognize or sanction a qualifying examination and establish prerequisites**
 6 **for eligibility to take the examination,** and to supervise and administer **or contract for** qualifying
 7 examinations to test the knowledge and proficiency of applicants for licensure.

8 *[(3) To license persons who apply to the agency and who have qualified to deal in hearing aids.]*

9 *[(4) To purchase and maintain or rent audiometric equipment and facilities necessary to carry out*
 10 *the examination of applicants for licensure.]*

11 **(5) To issue and renew licenses to qualified persons.**

12 *[(6) To suspend or revoke licenses in the manner provided in ORS chapter 183.]*

13 *[(7) To appoint representatives to conduct or supervise the examination of applicants for*
 14 *licensure.]*

15 *[(8) To designate the time and place for examining applicants for licensure.]*

16 *[(9) To adopt rules not inconsistent with the laws of this state which are necessary to carry out]*

17 **(6) Subject to the provisions of ORS chapter 183, to adopt rules that are necessary to carry**
 18 **out the provisions of ORS 694.015 to 694.185.**

19 *[(10) (7) [With the advice of the Advisory Council on Hearing Aids,] To prescribe safety and*
 20 *[sanitation] infection control* requirements, to require the periodic inspection of the audiometric
 21 testing equipment and to carry out the periodic inspection of facilities of persons who deal in
 22 hearing aids.

23 *[(11) To appoint or employ subordinate employees.]*

24 *[(12) (8) To adopt rules specifying exemptions relating to assistive listening devices.*

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

26 694.165. (1) There is *[created]* **established** within the Oregon Health Licensing Agency the Ad-
 27 visory Council on Hearing Aids. The council shall consist of seven members to be appointed by the
 28 Governor.

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

31 (3) Membership on the council shall consist of:

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

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

36 (c) Four members who are experienced in the fitting of hearing aids and possess the qualifica-
 37 tions provided in ORS 694.055; and

38 (d) One member who is a consumer of hearing aids and does not possess the professional quali-
 39 fications of the other members.

40 (4) *[The term of office of a member is three years beginning on July 1 of the year of appointment.*
 41 *A member shall continue to serve until a successor has been appointed and qualifies. Before a member's*
 42 *term expires, the Governor shall appoint a successor to assume the duties of office on July 1 at the*
 43 *expiration of the predecessor's term. A vacancy in the office of a member shall be filled by appointment*
 44 *for the unexpired term.]* **The term of office of each member of the council is four years, but a**
 45 **member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor**

1 **by appointment for the unexpired term. A member shall hold the member's office until the**
 2 **appointment and qualification of a successor. A member is eligible for reappointment. If a**
 3 **person serves two consecutive full terms, a period of at least four years must elapse before**
 4 **the person is again eligible for appointment to serve on the council.**

5 (5) Members of the council are entitled to compensation and expenses as provided in ORS
 6 292.495.

7 **(6) A member of the council may be removed by the Governor for neglect of duty, in-**
 8 **competence or unethical conduct.**

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

10 694.185. (1) The Oregon Health Licensing Agency[, *by rule,*] shall establish **by rule** and collect
 11 fees **and charges for the following** related to dealing in hearing aids [*for*]:

- 12 (a) Application;
- 13 (b) Examinations;
- 14 (c) **Original** license;
- 15 (d) License renewal;
- 16 (e) License [*restoration*] **reactivation**;
- 17 (f) Replacement or duplicate license;
- 18 (g) [*Delinquency; and*] **Delinquent renewal**;
- 19 **(h) Permits**;
- 20 **(i) Reciprocity; and**

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

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

27 [*(3) The fees established by the agency under this section are subject to the prior approval of the*
 28 *Oregon Department of Administrative Services. The fees shall not exceed the cost of administering ORS*
 29 *694.015 to 694.185 pertaining to the purpose for which the fee is established, as authorized by the*
 30 *Legislative Assembly within the budget of the agency, as that budget may be modified by the Emergency*
 31 *Board.*]

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

33 694.991. (1) Violation of any provision of ORS 694.025[, 694.028,] **and** 694.032 [*and 694.145*] is a
 34 Class B misdemeanor.

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

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

38 700.080. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees **and**
 39 **charges for the following** related to environmental and waste water specialists [*for*]:

- 40 (a) Application.
- 41 (b) Examination [*of an applicant*].
- 42 (c) Trainee registration.
- 43 (d) Original registration [*issuance*].
- 44 (e) Registration renewal.
- 45 (f) Reciprocity.

1 (g) *[Delinquency payment]* **Delinquent renewal.**

2 (h) *[Duplicate or]* Replacement **or duplicate** certificate of registration.

3 (i) *[Restoration of an expired]* **Reactivation of** registration.

4 (j) Providing copies of official documents or records and for recovering administrative costs as-
5 sociated with compiling, photocopying or preparing and delivering the records.

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

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

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

15 700.100. (1)*[(a)]* **Except as provided in subsection (2) of this section,** registrations issued un-
16 der this chapter *[shall]* expire one year from the date of issuance.*[, unless renewed on or before the*
17 *expiration date by payment of the required renewal fee and submission of satisfactory evidence of*
18 *completion of continuing education courses as specified by the Oregon Health Licensing Agency by rule*
19 *and]* **The registrant is responsible for filing a registration renewal application form. The**
20 **registrant must submit to the Oregon Health Licensing Agency a completed renewal appli-**
21 **cation, required renewal fee and satisfactory evidence of having completed any required**
22 **continuing education credits on or before the expiration date of the registration as specified**
23 **by agency rule. The registrant must be in** compliance with all other requirements for renewal.

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

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

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

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

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

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

44 700.220. (1) The members of the Environmental Health Registration Board appointed by the
45 Governor shall be appointed from among the residents of this state and shall have the following

1 qualifications and terms of office:

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

4 (b) Four shall be persons registered under this chapter who have at least four years of experi-
5 ence in environmental sanitation.

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

7 (d) One shall be a public member.

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

17 *[(3) Any vacancy among the seven members appointed by the Governor shall be filled for the un-*
18 *expired term by appointment by the Governor.]*

19 *[(4) (3) [Any] A member of the [Environmental Health Registration] board may be removed by*
20 *the Governor for [misconduct, incapacity or] neglect of duty [or inability to serve],* **incompetence**
21 **or unethical conduct.**

22 *[(5) (4) The members of the board are entitled to compensation and expenses as provided in*
23 *ORS 292.495, to be paid from the Environmental Health Registration Account.*

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

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

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

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