

Enrolled Senate Bill 131

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Board of Naturopathic Examiners)

CHAPTER

AN ACT

Relating to name of board regulating naturopathic medicine; creating new provisions; and amending ORS 30.302, 433.010, 433.035, 433.235, 656.005, 656.799, 676.160, 676.440, 685.010, 685.020, 685.030, 685.060, 685.070, 685.080, 685.085, 685.091, 685.100, 685.102, 685.104, 685.106, 685.110, 685.112, 685.115, 685.125, 685.135, 685.145, 685.160, 685.170, 685.195, 685.201, 685.205, 685.210, 685.220, 685.225, 685.990 and 742.400.

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

SECTION 1. ORS 685.160 is amended to read:

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

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

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

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

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

(3) **All members of the board must be residents of this state.**

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

SECTION 2. ORS 30.302 is amended to read:

30.302. (1) As used in this section, "retired physician" means any person:

(a) Who holds a degree of Doctor of Medicine or Doctor of Osteopathy or has met the minimum educational requirements for licensure to practice naturopathic medicine;

(b) Who has been licensed and is currently retired in accordance with the provisions of ORS chapter 677 or 685;

(c) Who is registered with the Oregon Medical Board as a retired emeritus physician or who complies with the requirements of the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** as a retired naturopath;

(d) Who registers with the county health officer in the county in which the physician or naturopath practices; and

(e) Who provides medical care as a volunteer without compensation solely through referrals from the county health officer specified in paragraph (d) of this subsection.

(2) Any retired physician who treats patients pursuant to this section shall be considered to be an agent of a public body for the purposes of ORS 30.260 to 30.300.

SECTION 3. ORS 433.010 is amended to read:

433.010. (1) No person shall willfully cause the spread of any communicable disease within this state.

(2) Whenever Oregon Revised Statutes require a person to secure a health certificate, such certificate shall be acquired from a physician licensed by the Oregon Medical Board or the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** in accordance with the rules of the Department of Human Services.

SECTION 4. ORS 433.035 is amended to read:

433.035. (1)(a) The Public Health Director or a local public health administrator may require testing or medical examination of any person who may have, or may have been exposed to, a communicable disease identified by rule of the Department of Human Services to be a reportable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency declared by the Governor as authorized by ORS 433.441. The Public Health Director or the local public health administrator must issue a written order for testing or medical examination pursuant to this section.

(b) A written order must:

(A) Include findings stating the communicable disease that the Public Health Director or the local public health administrator believes the person has and the reasons for that belief.

(B) State whether medical or laboratory confirmation of the disease is feasible and possible and whether such confirmation would enable control measures to be taken to minimize infection of others with the disease.

(C) Include a statement that the person may refuse to submit to the testing or medical examination and that if the testing or examination is refused, the Public Health Director or the local public health administrator may seek the imposition of a public health measure, including isolation or quarantine pursuant to ORS 433.121 or 433.123.

(2) When a person is directed to submit to a test or examination under this section and the person agrees to do so, the person shall submit to any testing or examination as may be necessary to establish the presence or absence of the communicable disease for which the testing or examination was directed. The examination shall be carried out by the local health officer or a physician licensed by the Oregon Medical Board or the [*Board of Naturopathic Examiners.*] **Oregon Board of Naturopathic Medicine.** A written report of the results of the test or examination shall be provided to the person ordering the test or examination, and upon request, to the person tested or examined. Laboratory examinations, if any, shall be carried out by the laboratory of the department whenever the examinations are within the scope of the tests conducted by the laboratory. If treatment is needed, the person or the parent or guardian of the person shall be liable for the costs of treatment based on the examination carried out under this section, if the person liable is able to pay the treatment costs. Cost of any examination performed by a physician in private practice shall be paid from public funds available to the local public health administrator, if any, or from county funds available for general governmental expenses in the county that the local public health administrator serves or in the county where the person tested or examined resides if the local public health administrator serves more than one county or the test or examination was ordered by the Public Health Director or local public health administrator.

(3) If a person has a communicable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency, the Public Health Director or the local public health administrator may issue an order requiring the person to complete an appropriate prescribed course of medication or other treatment for the communicable disease, including directly observed therapy if appropriate, and to follow infection control provisions for the disease. The order shall also include statements that the person may refuse the medication or other treatment and that the person's failure to comply with the order issued under this subsection may result in the Public Health Director or the local public health administrator seeking the imposition of a public health measure, including isolation or quarantine as authorized by ORS 433.121 and 433.123.

(4) The Public Health Director or the local public health administrator must make every effort to obtain voluntary compliance from a person for any testing, medical examination and treatment required under this section.

(5) Any action taken by the Public Health Director or the local public health administrator under this section to compel testing, medical examination or treatment of a person who has a communicable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency must be the least restrictive alternative available to accomplish the results necessary to minimize the transmission of the disease to others.

SECTION 5. ORS 433.235 is amended to read:

433.235. As used in ORS 433.235 to 433.284:

(1) "Administrator" means the principal or other person having general control and supervision of a school or children's facility.

(2) "Children's facility" or "facility" means:

(a) A certified child care facility as described in ORS 657A.030 and 657A.250 to 657A.450, except as exempted by rule of the Department of Human Services;

(b) A program operated by, or sharing the premises with, a certified child care facility, school or post-secondary institution where care is provided to children, six weeks of age to kindergarten entry, except as exempted by rule of the department; or

(c) A program providing child care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the department.

(3) "Local health department" means the district or county board of health, public health officer, public health administrator or health department having jurisdiction within the area.

(4) "Parent" means a parent or guardian of a child or any adult responsible for the child.

(5) "Physician" means a physician licensed by the Oregon Medical Board or by the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** or a physician similarly licensed by another state or country in which the physician practices or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.

(6) "School" means a public, private, parochial, charter or alternative educational program offering kindergarten through grade 12 or any part thereof, except as exempted by rule of the Department of Human Services.

SECTION 6. ORS 656.005 is amended to read:

656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered employment, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which the injury occurred.

(2) "Beneficiary" means an injured worker, and the husband, wife, child or dependent of a worker, who is entitled to receive payments under this chapter. "Beneficiary" does not include:

(a) A spouse of an injured worker living in a state of abandonment for more than one year at the time of the injury or subsequently. A spouse who has lived separate and apart from the worker for a period of two years and who has not during that time received or attempted by process of law to collect funds for support or maintenance is considered living in a state of abandonment.

- (b) A person who intentionally causes the compensable injury to or death of an injured worker.
- (3) "Board" means the Workers' Compensation Board.
- (4) "Carrier-insured employer" means an employer who provides workers' compensation coverage with a guaranty contract insurer.
- (5) "Child" includes a posthumous child, a child legally adopted prior to the injury, a child toward whom the worker stands in loco parentis, [*an illegitimate*] a child **born out of wedlock** and a stepchild, if such stepchild was, at the time of the injury, a member of the worker's family and substantially dependent upon the worker for support. [*An invalid*] A dependent child **who is an invalid** is a child, for purposes of benefits, regardless of age, so long as the child was an invalid at the time of the accident and thereafter remains an invalid substantially dependent on the worker for support. For purposes of this chapter, [*an invalid*] a dependent child **who is an invalid** is considered to be a child under 18 years of age.
- (6) "Claim" means a written request for compensation from a subject worker or someone on the worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.
- (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death; an injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations:
- (A) No injury or disease is compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition.
- (B) If an otherwise compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only if, so long as and to the extent that the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.
- (b) "Compensable injury" does not include:
- (A) Injury to any active participant in assaults or combats which are not connected to the job assignment and which amount to a deviation from customary duties;
- (B) Injury incurred while engaging in or performing, or as the result of engaging in or performing, any recreational or social activities primarily for the worker's personal pleasure; or
- (C) Injury the major contributing cause of which is demonstrated to be by a preponderance of the evidence the injured worker's consumption of alcoholic beverages or the unlawful consumption of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of such consumption.
- (c) A "disabling compensable injury" is an injury which entitles the worker to compensation for disability or death. An injury is not disabling if no temporary benefits are due and payable, unless there is a reasonable expectation that permanent disability will result from the injury.
- (d) A "nondisabling compensable injury" is any injury which requires medical services only.
- (8) "Compensation" includes all benefits, including medical services, provided for a compensable injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pursuant to this chapter.
- (9) "Department" means the Department of Consumer and Business Services.
- (10) "Dependent" means any of the following-named relatives of a worker whose death results from any injury: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the accident, are dependent in whole or in part for their support upon the earnings of the worker. Unless otherwise provided by treaty, aliens not residing within the United States at the time of the accident other than father, mother, husband, wife or children are not included within the term "dependent."
- (11) "Director" means the Director of the Department of Consumer and Business Services.

(12)(a) “Doctor” or “physician” means a person duly licensed to practice one or more of the healing arts in any country or in any state, territory or possession of the United States within the limits of the license of the licentiate.

(b) Except as otherwise provided for workers subject to a managed care contract, “attending physician” means a doctor, physician or physician assistant who is primarily responsible for the treatment of a worker’s compensable injury and who is:

(A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the Oregon Medical Board or an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States; or

(B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative total of 18 visits, whichever occurs first, to any of the medical service providers listed in this subparagraph, a:

(i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(ii) Podiatric physician and surgeon licensed by the Oregon Medical Board under ORS 677.805 to 677.840 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(iii) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or possession of the United States; or

(iv) Doctor of naturopathy or naturopathic physician licensed by the [*Board of Naturopathic Examiners licensed*] **Oregon Board of Naturopathic Medicine** under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States.

(c) Except as otherwise provided for workers subject to a managed care contract, “attending physician” does not include a physician who provides care in a hospital emergency room and refers the injured worker to a primary care physician for follow-up care and treatment.

(d) “Consulting physician” means a doctor or physician who examines a worker or the worker’s medical record to advise the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 regarding treatment of a worker’s compensable injury.

(13)(a) “Employer” means any person, including receiver, administrator, executor or trustee, and the state, state agencies, counties, municipal corporations, school districts and other public corporations or political subdivisions, who contracts to pay a remuneration for and secures the right to direct and control the services of any person.

(b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of a temporary service provider is not the employer of temporary workers provided by the temporary service provider.

(c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning for that term provided in ORS 656.850.

(14) “Guaranty contract insurer” and “insurer” mean the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers’ compensation insurance in this state or an assigned claims agent selected by the director under ORS 656.054.

(15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

(16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

(17) “Medically stationary” means that no further material improvement would reasonably be expected from medical treatment, or the passage of time.

(18) “Noncomplying employer” means a subject employer who has failed to comply with ORS 656.017.

(19) "Objective findings" in support of medical evidence are verifiable indications of injury or disease that may include, but are not limited to, range of motion, atrophy, muscle strength and palpable muscle spasm. "Objective findings" does not include physical findings or subjective responses to physical examinations that are not reproducible, measurable or observable.

(20) "Palliative care" means medical service rendered to reduce or moderate temporarily the intensity of an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal or permanently alleviate or eliminate a medical condition.

(21) "Party" means a claimant for compensation, the employer of the injured worker at the time of injury and the insurer, if any, of such employer.

(22) "Payroll" means a record of wages payable to workers for their services and includes commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or similar advantage received from the employer. However, "payroll" does not include overtime pay, vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments to reward workers for safe working practices. Bonus pay is limited to payments which are not anticipated under the contract of employment and which are paid at the sole discretion of the employer. The exclusion from payroll of bonus payments to reward workers for safe working practices is only for the purpose of calculations based on payroll to determine premium for workers' compensation insurance, and does not affect any other calculation or determination based on payroll for the purposes of this chapter.

(23) "Person" includes partnership, joint venture, association, limited liability company and corporation.

(24)(a) "Preexisting condition" means, for all industrial injury claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment, provided that:

(A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the worker has been diagnosed with such condition, or has obtained medical services for the symptoms of the condition regardless of diagnosis; and

(B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes the initial injury;

(ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the new medical condition; or

(iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment precedes the onset of the worsened condition.

(b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim for worsening in such claims pursuant to ORS 656.273 or 656.278.

(c) For the purposes of industrial injury claims, a condition does not contribute to disability or need for treatment if the condition merely renders the worker more susceptible to the injury.

(25) "Self-insured employer" means an employer or group of employers certified under ORS 656.430 as meeting the qualifications set out by ORS 656.407.

(26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656.752.

(27) "Subject employer" means an employer who is subject to this chapter as provided by ORS 656.023.

(28) "Subject worker" means a worker who is subject to this chapter as provided by ORS 656.027.

(29) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including reasonable value of board, rent, housing, lodging or similar advantage received from the employer, and includes the amount of tips required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips

reported, whichever amount is greater. The State Accident Insurance Fund Corporation may establish assumed minimum and maximum wages, in conformity with recognized insurance principles, at which any worker shall be carried upon the payroll of the employer for the purpose of determining the premium of the employer.

(30) "Worker" means any person, including a minor whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, subject to the direction and control of an employer and includes salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations, but does not include any person whose services are performed as an inmate or ward of a state institution or as part of the eligibility requirements for a general or public assistance grant. For the purpose of determining entitlement to temporary disability benefits or permanent total disability benefits under this chapter, "worker" does not include a person who has withdrawn from the workforce during the period for which such benefits are sought.

(31) "Independent contractor" has the meaning for that term provided in ORS 670.600.

SECTION 7. ORS 656.005, as amended by sections 6 and 7, chapter 241, Oregon Laws 2007, is amended to read:

656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered employment, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which the injury occurred.

(2) "Beneficiary" means an injured worker, and the husband, wife, child or dependent of a worker, who is entitled to receive payments under this chapter. "Beneficiary" does not include:

(a) A spouse of an injured worker living in a state of abandonment for more than one year at the time of the injury or subsequently. A spouse who has lived separate and apart from the worker for a period of two years and who has not during that time received or attempted by process of law to collect funds for support or maintenance is considered living in a state of abandonment.

(b) A person who intentionally causes the compensable injury to or death of an injured worker.

(3) "Board" means the Workers' Compensation Board.

(4) "Carrier-insured employer" means an employer who provides workers' compensation coverage with the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in this state.

(5) "Child" includes a posthumous child, a child legally adopted prior to the injury, a child toward whom the worker stands in loco parentis, [*an illegitimate*] a child **born out of wedlock** and a stepchild, if such stepchild was, at the time of the injury, a member of the worker's family and substantially dependent upon the worker for support. [*An invalid*] **A dependent child who is an invalid** is a child, for purposes of benefits, regardless of age, so long as the child was an invalid at the time of the accident and thereafter remains an invalid substantially dependent on the worker for support. For purposes of this chapter, [*an invalid*] a dependent child **who is an invalid** is considered to be a child under 18 years of age.

(6) "Claim" means a written request for compensation from a subject worker or someone on the worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

(7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death; an injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations:

(A) No injury or disease is compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition.

(B) If an otherwise compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only if, so long as and to the extent that the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(b) "Compensable injury" does not include:

(A) Injury to any active participant in assaults or combats which are not connected to the job assignment and which amount to a deviation from customary duties;

(B) Injury incurred while engaging in or performing, or as the result of engaging in or performing, any recreational or social activities primarily for the worker's personal pleasure; or

(C) Injury the major contributing cause of which is demonstrated to be by a preponderance of the evidence the injured worker's consumption of alcoholic beverages or the unlawful consumption of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of such consumption.

(c) A "disabling compensable injury" is an injury which entitles the worker to compensation for disability or death. An injury is not disabling if no temporary benefits are due and payable, unless there is a reasonable expectation that permanent disability will result from the injury.

(d) A "nondisabling compensable injury" is any injury which requires medical services only.

(8) "Compensation" includes all benefits, including medical services, provided for a compensable injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pursuant to this chapter.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Dependent" means any of the following-named relatives of a worker whose death results from any injury: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the accident, are dependent in whole or in part for their support upon the earnings of the worker. Unless otherwise provided by treaty, aliens not residing within the United States at the time of the accident other than father, mother, husband, wife or children are not included within the term "dependent."

(11) "Director" means the Director of the Department of Consumer and Business Services.

(12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the healing arts in any country or in any state, territory or possession of the United States within the limits of the license of the licentiate.

(b) Except as otherwise provided for workers subject to a managed care contract, "attending physician" means a doctor, physician or physician assistant who is primarily responsible for the treatment of a worker's compensable injury and who is:

(A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the Oregon Medical Board or an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States; or

(B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative total of 18 visits, whichever occurs first, to any of the medical service providers listed in this subparagraph, a:

(i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(ii) Podiatric physician and surgeon licensed by the Oregon Medical Board under ORS 677.805 to 677.840 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(iii) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or possession of the United States; or

(iv) Doctor of naturopathy or naturopathic physician licensed by the [*Board of Naturopathic Examiners licensed*] **Oregon Board of Naturopathic Medicine** under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States.

(c) Except as otherwise provided for workers subject to a managed care contract, “attending physician” does not include a physician who provides care in a hospital emergency room and refers the injured worker to a primary care physician for follow-up care and treatment.

(d) “Consulting physician” means a doctor or physician who examines a worker or the worker’s medical record to advise the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 regarding treatment of a worker’s compensable injury.

(13)(a) “Employer” means any person, including receiver, administrator, executor or trustee, and the state, state agencies, counties, municipal corporations, school districts and other public corporations or political subdivisions, who contracts to pay a remuneration for and secures the right to direct and control the services of any person.

(b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of a temporary service provider is not the employer of temporary workers provided by the temporary service provider.

(c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning for that term provided in ORS 656.850.

(14) “Insurer” means the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers’ compensation insurance in this state or an assigned claims agent selected by the director under ORS 656.054.

(15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

(16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

(17) “Medically stationary” means that no further material improvement would reasonably be expected from medical treatment, or the passage of time.

(18) “Noncomplying employer” means a subject employer who has failed to comply with ORS 656.017.

(19) “Objective findings” in support of medical evidence are verifiable indications of injury or disease that may include, but are not limited to, range of motion, atrophy, muscle strength and palpable muscle spasm. “Objective findings” does not include physical findings or subjective responses to physical examinations that are not reproducible, measurable or observable.

(20) “Palliative care” means medical service rendered to reduce or moderate temporarily the intensity of an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal or permanently alleviate or eliminate a medical condition.

(21) “Party” means a claimant for compensation, the employer of the injured worker at the time of injury and the insurer, if any, of such employer.

(22) “Payroll” means a record of wages payable to workers for their services and includes commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or similar advantage received from the employer. However, “payroll” does not include overtime pay, vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments to reward workers for safe working practices. Bonus pay is limited to payments which are not anticipated under the contract of employment and which are paid at the sole discretion of the employer. The exclusion from payroll of bonus payments to reward workers for safe working practices is only for the purpose of calculations based on payroll to determine premium for workers’ compensation insurance, and does not affect any other calculation or determination based on payroll for the purposes of this chapter.

(23) “Person” includes partnership, joint venture, association, limited liability company and corporation.

(24)(a) “Preexisting condition” means, for all industrial injury claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment, provided that:

(A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the worker has been diagnosed with such condition, or has obtained medical services for the symptoms of the condition regardless of diagnosis; and

(B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes the initial injury;

(ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the new medical condition; or

(iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment precedes the onset of the worsened condition.

(b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim for worsening in such claims pursuant to ORS 656.273 or 656.278.

(c) For the purposes of industrial injury claims, a condition does not contribute to disability or need for treatment if the condition merely renders the worker more susceptible to the injury.

(25) "Self-insured employer" means an employer or group of employers certified under ORS 656.430 as meeting the qualifications set out by ORS 656.407.

(26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656.752.

(27) "Subject employer" means an employer who is subject to this chapter as provided by ORS 656.023.

(28) "Subject worker" means a worker who is subject to this chapter as provided by ORS 656.027.

(29) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including reasonable value of board, rent, housing, lodging or similar advantage received from the employer, and includes the amount of tips required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips reported, whichever amount is greater. The State Accident Insurance Fund Corporation may establish assumed minimum and maximum wages, in conformity with recognized insurance principles, at which any worker shall be carried upon the payroll of the employer for the purpose of determining the premium of the employer.

(30) "Worker" means any person, including a minor whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, subject to the direction and control of an employer and includes salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations, but does not include any person whose services are performed as an inmate or ward of a state institution or as part of the eligibility requirements for a general or public assistance grant. For the purpose of determining entitlement to temporary disability benefits or permanent total disability benefits under this chapter, "worker" does not include a person who has withdrawn from the workforce during the period for which such benefits are sought.

(31) "Independent contractor" has the meaning for that term provided in ORS 670.600.

SECTION 8. ORS 656.799 is amended to read:

656.799. (1) The Director of the Department of Consumer and Business Services shall develop and make available to medical service providers informational materials about the workers' compensation system including, but not limited to, the management of indemnity claims, standards for the authorization of temporary disability benefits, return to work responsibilities and programs, and workers' compensation rules and procedures for medical service providers.

(2) Prior to providing compensable medical services or authorizing temporary disability benefits under ORS 656.245, a medical service provider must certify, in a form acceptable to the director, that the medical service provider has reviewed the materials developed under this section.

(3) As used in this section, "medical service provider" means a:

(a) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(b) Podiatric physician and surgeon licensed by the Oregon Medical Board under ORS 677.805 to 677.840 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(c) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or possession of the United States; or

(d) Doctor of naturopathy or naturopathic physician licensed by the [*Board of Naturopathic Examiners licensed*] **Oregon Board of Naturopathic Medicine** under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States.

SECTION 9. ORS 676.160 is amended to read:

676.160. As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

- (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- (2) State Board of Chiropractic Examiners;
- (3) State Board of Clinical Social Workers;
- (4) Oregon Board of Licensed Professional Counselors and Therapists;
- (5) Oregon Board of Dentistry;
- (6) Board of Examiners of Licensed Dietitians;
- (7) State Board of Massage Therapists;
- (8) State Mortuary and Cemetery Board;
- (9) [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine**;
- (10) Oregon State Board of Nursing;
- (11) Board of Examiners of Nursing Home Administrators;
- (12) Oregon Board of Optometry;
- (13) State Board of Pharmacy;
- (14) Oregon Medical Board;
- (15) Occupational Therapy Licensing Board;
- (16) Physical Therapist Licensing Board;
- (17) State Board of Psychologist Examiners;
- (18) Board of Radiologic Technology;
- (19) Oregon State Veterinary Medical Examining Board; and
- (20) Department of Human Services to the extent that the department certifies emergency medical technicians.

SECTION 10. ORS 676.440 is amended to read:

676.440. (1) Health professional regulatory boards shall encourage the development of state-of-the-art multidisciplinary pain management services and the availability of these services to the public.

(2) As used in subsection (1) of this section, “health professional regulatory boards” means the:

- (a) Oregon Medical Board;
- (b) [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine**;
- (c) Oregon Board of Dentistry;
- (d) Oregon State Board of Nursing;
- (e) Physical Therapist Licensing Board;
- (f) State Board of Chiropractic Examiners;
- (g) State Board of Pharmacy; and
- (h) State Board of Psychologist Examiners.

SECTION 11. ORS 685.010 is amended to read:

685.010. As used in this chapter:

(1) “Accredited naturopathic school or college” means any naturopathic school or college offering a four-year full-time resident program of study in naturopathy leading to a doctoral degree in naturopathic medicine, such program having been approved by the [*board*] **Oregon Board of Naturopathic Medicine** to meet the standards specifically incorporated into board rules.

[2] “Board” means the Board of Naturopathic Examiners.]

[3] (2) “Drugs” means all medicines and preparations and all substances, except nonpoisonous plant or animal substances in therapeutic dosages, food and water, substances listed on the formulary established under ORS 685.145 (3), over-the-counter substances, nonprescriptive and non Drug Enforcement Agency regulated homeopathic substances and nutritional supplements, used or intended to be used for the diagnosis, cure, treatment, mitigation or prevention of diseases or abnormalities of humans, which are recognized in the latest editions of the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia, official National Formulary, or any supplement to any of them, or otherwise established as drugs.

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

[5] (4) “Naturopathic medicine” means the discipline that includes physiotherapy, natural healing processes and minor surgery and has as its objective the maintaining of the body in, or of restoring it to, a state of normal health.

[6] (5) “Naturopathic physician” means a person who holds a degree of Doctor of Naturopathic Medicine and is licensed under this chapter.

[7] (6) “Nonpoisonous” means a substance taken in accepted therapeutic dosage that by its action on organs or tissue does not adversely impair function or destroy human life.

[8] (7) “Plant or animal substances” means those substances found in nature that comprise the whole or parts of plants or animals and constituents thereof and that have not had changes made in their molecular structure as found in nature.

SECTION 12. ORS 685.020 is amended to read:

685.020. (1) Except as provided in subsection (3) of this section, no person shall practice, attempt to practice, or claim to practice naturopathic medicine in this state without first complying with the provisions of this chapter.

(2) Only licensees under this chapter may use any or all of the following terms, consistent with academic degrees earned: “Doctor of Naturopathy” or its abbreviation, “N.D.,” “Naturopath” or “Naturopathic Physician.” However, none of these terms, or any combination of them, shall be so used as to convey the idea that the physician who uses them practices anything other than naturopathic medicine.

(3) Subsection (1) of this section does not apply to a bona fide student of naturopathic medicine who, during the period of the student’s enrollment and as part of a doctoral course of study in an Oregon accredited naturopathic educational institution, engages in clinical training under the supervision of institution faculty, if the clinical training facility and level of supervision meet the standards adopted by the [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** by rule.

SECTION 13. ORS 685.060 is amended to read:

685.060. (1) The minimum educational requirements for a license under the provisions of this chapter [shall be:] **are:**

(a) At least two years’ satisfactory liberal arts and sciences study, or either, in a college or university accredited by either the Northwest Association of Schools and Colleges or a like regional association or in a college or university in Oregon approved for granting degrees by the Oregon Student Assistance Commission as evidenced by certificate or transcript of credits from the college or university; and

(b) Graduation from an accredited naturopathic school or college.

(2)(a) The areas of study required of an applicant for a license to practice naturopathic medicine in this state [shall] include basic sciences, clinical sciences and any naturopathic subjects specified by the [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** by rule.

(b) The board may not include major surgery as a required area of study under paragraph (a) of this subsection.

SECTION 14. ORS 685.070 is amended to read:

685.070. Any person who wishes to practice naturopathic medicine in this state shall make application to the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** for an examination for a license to practice naturopathic medicine. The application shall be filed with the board not less than 20 days before the date of the examination upon blanks provided by the board. The applicant shall pay to the board the appropriate nonrefundable examination fee.

SECTION 15. ORS 685.080 is amended to read:

685.080. (1) An applicant for licensure under this chapter shall:

(a) Provide evidence satisfactory to the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** of having successfully passed the basic science and the core clinical science examinations administered by the North American Board of Naturopathic Examiners; and

(b) Pass any additional examinations required for licensure by the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** by rule.

(2) Notwithstanding subsection (1)(a) of this section, the board may waive the basic science examination requirement for licensure for an applicant who is qualified in basic science as a result of successful performance on an examination determined by the board to be comparable to the basic science examination required under subsection (1)(a) of this section and to have been taken recently enough to ensure the currency of the applicant's knowledge.

(3) At a time and place designated by the board, an applicant for licensure shall take any examinations required by the board by rule. The board shall publish the time and place of the examinations at least 30 days prior to the date of the examinations.

(4) If the applicant passes the required examinations and satisfies all other requirements for licensure under this chapter, upon payment of the initial license fee assessed under ORS 685.100, the board shall issue to the applicant a license to practice naturopathic medicine.

(5) If an applicant fails to pass either the basic science or core clinical science section of the examination, or fails to pass the sections of the examination covering those subjects required by the board by rule, then without losing credits for sections passed, the applicant [*shall be permitted to*] **may** retake each section a total of two times within a period of two years. If, after three attempts, the applicant has not passed the basic science or core clinical science section of the examination, the applicant shall be required to wait one year [*and*] **to** retake the section.

SECTION 16. ORS 685.085 is amended to read:

685.085. A person licensed to practice naturopathic medicine under the laws of another state or territory of the United States, the District of Columbia or Canada who demonstrates to the satisfaction of the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** that the person possesses qualifications at least equal to those required of persons eligible for licensing under this chapter may be issued a license to practice in this state without written examination upon payment of the license fee required under ORS 685.100.

SECTION 17. ORS 685.091 is amended to read:

685.091. (1) A naturopathic physician licensed to practice naturopathic medicine under the laws of another jurisdiction with licensing requirements and a scope of practice found to be comparable to those for this state by the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** may be exempted from the licensure requirement in ORS 685.020 if that physician:

(a) Is practicing in Oregon on a temporary assignment for specific educational events not to exceed 15 days in a calendar year; and

(b) Is actively engaged in the practice of naturopathic medicine in the jurisdiction in which the person is licensed.

(2) A naturopathic physician granted an exemption under subsection (1) of this section:

(a) Must comply with the provisions of this chapter and rules adopted by the board governing the practice of naturopathic medicine; and

(b) Is subject to the disciplinary authority of the board under ORS 685.110 for any violation of the provisions of this chapter and of rules adopted by the board.

(3) The board may refuse to grant or may revoke an exemption of a naturopathic physician for a violation of the provisions of this chapter or of rules adopted by the board.

SECTION 18. ORS 685.100 is amended to read:

685.100. (1) Upon approval of an application for a licensure, the [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** shall issue a license certificate that shall be displayed at all times in the office of the person to whom it was issued while the license is active.

(2) A person holding an active license issued under this chapter may apply to the board for license renewal. A completed renewal application consists of:

(a) A completed board renewal form containing any information required by the board to determine the applicant's eligibility for license renewal;

(b) Proof of compliance with continuing education requirements set by the board; and

(c) Payment of the active license renewal fee established by the board under subsection (8) of this section.

(3) Failure to submit a completed renewal application annually by December 31, or by such date as may be specified by board rule, [shall result] **results** in the lapse of the license. A lapsed license may be restored by the board upon receipt, not more than 30 days after the license lapses, of a completed renewal application and payment of the restoration fee under subsection (8) of this section.

(4) A license that has lapsed for more than one month may be restored by the board upon payment of the restoration fee established by the board and submission of a completed renewal application and any other information required by the board.

(5) A person holding an active license under this chapter may convert the license to inactive status by meeting the requirements set by rule of the board and paying any required fees. A person holding a license issued under this chapter who is at least 70 years of age and retired from the practice of naturopathic medicine may convert the license to retired status by meeting the requirements set by rule of the board and paying any required fees.

(6)(a) A person who chooses to allow a license to become inactive may file a written application to reactivate a license that has been inactive for one year or less by paying the restoration fee and the renewal fee for an active license and demonstrating compliance with ORS 685.102. A fee paid to place the license in inactive status [shall] **may** not be credited toward payment of the renewal fee for an active license. The board may prorate the renewal fee.

(b) A person who chooses to allow a license to become inactive may file a written application to reactivate a license that has been inactive for more than one year by paying the renewal fee for an active license and demonstrating compliance with the continuing education requirement set by rule of the board under ORS 685.102 (6). The board may prorate the renewal fee.

(7) The executive director of the board shall issue a renewal notice to each person holding a license under this chapter at least 60 days before the renewal application is due.

(8) The board shall assess fees for:

(a) An initial license.

(b) Examination.

(c) Renewal of an active license.

(d) Yearly renewal of an inactive or retired license.

(e) Restoration of an inactive, lapsed or revoked license.

(f) A certificate of special competency in natural childbirth.

(g) A duplicate license.

(h) A wall certificate.

(i) Copies of public documents, mailing labels, lists and diskettes.

(9) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section [shall] **may** not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the

Legislative Assembly within the board's budget, as the budget may be modified by the Emergency Board.

SECTION 19. ORS 685.102 is amended to read:

685.102. (1) Except as provided in subsections (2) and (5) of this section, each person holding a license under this chapter shall submit annually by December 31, evidence satisfactory to the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** of successful completion of an approved program of continuing education of at least 25 hours in naturopathic medicine, completed in the calendar year preceding the date on which the evidence is submitted, and completion during the renewal period, or documentation of previous completion, of:

(a) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under ORS 409.500; or

(b) An equivalent pain management education program, as determined by the board.

(2) The board may exempt any person holding a license under this chapter from the requirements of subsection (1) of this section upon application showing evidence satisfactory to the board of inability to comply with the requirements because of physical or mental condition or because of other unusual or extenuating circumstances. However, a person may not be exempted from the requirements of subsection (1) of this section more than once in any five-year period.

(3) Notwithstanding subsection (2) of this section, a person holding a license under this chapter may be exempted from the requirements of subsection (1) of this section upon application showing evidence satisfactory to the board that the applicant is or will be in the next calendar year at least 70 years of age and is retired or will retire in the next calendar year from the practice of naturopathic medicine.

(4) The board shall require licensees to obtain continuing education for the use of pharmacological substances for diagnostic, preventive and therapeutic purposes in order to maintain current licensure.

(5) A person whose license is in inactive status must submit by December 31 of each year evidence satisfactory to the board of completion of 10 hours of approved continuing education in the calendar year preceding the date on which the evidence is submitted.

(6) Notwithstanding subsections (1), (2) and (5) of this section, in the case of an applicant under ORS 685.100 (6)(b) for reactivation of an inactive license, the continuing education requirement for reactivation shall be set by rule of the board.

SECTION 20. ORS 685.104 is amended to read:

685.104. (1) The [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** shall refuse to issue the certificate of registration to any person holding a license under this chapter who fails to submit with any fees due the proof required under ORS 685.102, unless the board has exempted the person from the requirements of ORS 685.102 (1). The board shall return any fees submitted by a person that fails to submit proof required under ORS 685.102 or that fails to submit all fees due.

(2) After January 1 of any year, the board may issue a certificate of registration to any holder of a license under this chapter who had been refused such certificate under subsection (1) of this section upon submission of the evidence required under ORS 685.102 (1), accompanied by the required license renewal fee for each year the fee remains unpaid and a restoration fee of \$75 for each year the license remains revoked.

(3) If the person completes an approved program after January 1 to meet the requirements of ORS 685.102 for the year beginning January 1, such completion does not meet the requirements of ORS 685.102 for the subsequent year.

SECTION 21. ORS 685.106 is amended to read:

685.106. (1) The [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** may offer a program of continuing education in naturopathic medicine to meet the requirements of ORS 685.102. The board may also approve a program to be presented by persons reasonably qualified to do so.

(2) Any person seeking approval of a program of continuing education in naturopathic medicine, to be offered to assist persons holding licenses under this chapter to comply with the requirements of ORS 685.102 (1), shall submit to the board, at such time as the board may require, copies of courses of study to be offered and proof of such other qualifications as the board may require. Approval granted to any program of continuing education shall be reviewed periodically and approval may be withdrawn from any program that fails to meet the requirements of the board.

(3) Any program of continuing education in naturopathic medicine offered or approved under this section shall consist of study covering new, review, experimental, research and specialty subjects in the field of naturopathic medicine.

SECTION 22. ORS 685.110 is amended to read:

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

- (1) [The use of] **Using** fraud or deception in securing a license.
- (2) [The impersonation of] **Impersonating** another physician.
- (3) Practicing naturopathic medicine under an assumed name.
- (4) [The performance of] **Performing** an abortion.
- (5) [The conviction] **Being convicted** of a crime involving moral turpitude.
- (6) Any other reason that renders the applicant or licensee unfit to perform the duties of a naturopathic physician.
- (7) [Conviction] **Being convicted** of a crime relating to practice of naturopathic medicine.
- (8) **Committing** negligence related to the practice of naturopathic medicine.
- (9) **Using** [Habitual or excessive use of] intoxicants, drugs or controlled substances **when the use is habitual or excessive.**
- (10) Prescribing or dispensing drugs outside the scope of practice.
- (11) [Commitment] **Being committed** to a mental institution for the treatment of a mental disease that affects the ability of the applicant or licensee to safely practice naturopathic medicine.
- (12) Obtaining a fee through fraud or misrepresentation.
- (13) **Committing** gross or repeated malpractice.
- (14) Representing to a patient that a manifestly incurable condition of sickness, disease or injury can be permanently cured.
- (15) **Engaging in** any conduct or practice contrary to a recognized standard of ethics of the profession or any conduct or practice that does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition that does or might impair a physician's ability safely and skillfully to practice naturopathic medicine.
- (16) [Willful and consistent utilization of] **Willfully and consistently utilizing** any naturopathic service, X-ray equipment or treatment [that is] contrary to recognized standards of practice of the naturopathic profession.
- (17) [Failure] **Failing** to notify the board within 30 days of a change in the location of practice or of mailing address.
- (18) Attempting to practice naturopathic medicine or practicing or claiming to practice naturopathic medicine or any of its components in this state without first complying with the provisions of this chapter.
- (19) [Suspension or revocation of] **Having** a license to practice naturopathic medicine in another jurisdiction **suspended or revoked.**
- (20) Employing unlicensed persons to practice naturopathic medicine.
- (21) Practicing natural childbirth without first obtaining a certificate of special competency.
- (22) Representing that the licensee is a medical specialist or practices a medical specialty.
- (23) [Failure] **Failing** to respond in a timely manner to a request for information regarding a complaint or the investigation of a complaint by the board.

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

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

SECTION 23. ORS 685.115 is amended to read:

685.115. (1) Any information that the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** obtains under ORS 685.225 is confidential as provided under ORS 676.175.

(2) Any person who in good faith provides information to the board [*shall not be*] **is not** subject to an action for civil damages as a result thereof.

SECTION 24. ORS 685.112 is amended to read:

685.112. A licensee or an applicant for licensure may request in writing to the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** a voluntary limitation of a license to practice naturopathic medicine. The board may grant the request for a voluntary limitation and has the authority, if it deems appropriate, to attach conditions to the license of the licensee or to the license issued to the applicant within the provisions of ORS 685.060 to 685.110 and 685.135. Removal of a voluntary limitation of a license to practice naturopathic medicine [*shall be*] **is** determined by the board. The board may not grant a voluntary limitation of a license to practice naturopathic medicine to a licensee who is under investigation by the board, **who is** on probation or whose license is under suspension.

SECTION 25. ORS 685.125 is amended to read:

685.125. (1) [*Where the Board of Naturopathic Examiners*] **If the Oregon Board of Naturopathic Medicine** proposes to refuse to issue or renew except for nonpayment of fees or nonsubmittal of continuing education hours a license, or proposes to impose any of the sanctions set forth in ORS 685.110, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided in ORS chapter 183.

SECTION 26. ORS 685.135 is amended to read:

685.135. (1) [*No naturopath shall*] **A naturopath may not** practice natural childbirth without first obtaining a certificate of special competency in natural childbirth in accordance with the provisions of this section.

(2) Upon payment of the fee required under ORS 685.100, the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** shall issue a certificate of special competency in natural childbirth to a licensed naturopath who meets the requirements prescribed by the board to practice natural childbirth.

(3) The board may adopt rules applicable to specialty certification:

(a) Which establish education, training and qualifications necessary for certification.

(b) Which limit or restrict specialty practice.

(c) Which define the scope of the specialty practice.

(d) Which establish procedures for maintaining certification.

(4) Only those naturopaths wishing to practice natural childbirth shall be required to satisfy educational and examination standards in these areas.

SECTION 27. ORS 685.145 is amended to read:

685.145. (1) The Council on Naturopathic Physicians Formulary is established and shall consist of seven members appointed as follows:

(a) One member of the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** appointed by the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine**;

(b) One physician licensed by the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** appointed by the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine**;

(c) Two pharmacists licensed by the State Board of Pharmacy appointed by the State Board of Pharmacy;

(d) One physician licensed by the Oregon Medical Board appointed by the Oregon Medical Board; and

(e) Two additional members appointed by the council who hold an advanced degree in a medical or pharmaceutical science.

(2) The chair of the council shall be elected by a majority of the members.

(3) The council established under subsection (1) of this section shall determine the substances to be included in the formulary that may be prescribed by a naturopathic physician acting under ORS 685.010 [(3)] (2). The council shall review the formulary periodically. Immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the board which must adopt the formulary by rule. When determined to be appropriate to the scope of practice of naturopathic physicians, the Council on Naturopathic Physicians Formulary may also consider synthetically produced substances and their salts having an identical or substantially identical molecular structure to a plant or animal substance as found in nature to be plant or animal substances.

(4) The term of each member of the council shall be two years. A member shall serve until a successor is appointed. If a vacancy occurs, it shall be filled for the unexpired term by a person with the same qualifications as a retiring member.

(5) Any member of the council who fails to attend two consecutive meetings of the council whether regular or special shall forfeit office unless a member is prevented from attending by serious illness of the council member or a member of the council member's family.

(6) Members of the council shall be entitled to compensation and expenses under ORS 292.495 payable from funds available to the [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine**.

SECTION 28. ORS 685.170 is amended to read:

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

SECTION 29. ORS 685.195 is amended to read:

685.195. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** may require the fingerprints of a person who:

(1) Is employed or applying for employment by the board in a position in which the person has or will have access to information that is made confidential under state or federal laws, rules or regulations;

(2) Provides services or seeks to provide services to the board as a contractor, vendor or volunteer in a position in which the person has or will have access to information that is made confidential under state or federal laws, rules or regulations;

(3) Is applying for a license or certificate that is issued by the board;

(4) Is applying for renewal of a license or certificate that is issued by the board; or

(5) Is under investigation by the board.

SECTION 30. ORS 685.201 is amended to read:

685.201. The [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** Account is established in the State Treasury, separate and distinct from the General Fund. All moneys received by the [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** under this chapter shall be deposited into the account and are continuously appropriated to the board to be used only for the administration and enforcement of this chapter. Any interest or other income from moneys in the account shall be credited to the account.

SECTION 31. ORS 685.205 is amended to read:

685.205. (1) The [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** shall appoint a peer review committee consisting of five members. The peer review committee shall evaluate complaints against naturopathic physicians which are referred to it by the board, and make recommendations to the board regarding those complaints. The board exercises ultimate authority and control over all complaints considered by the committee, approving or disapproving the recommendations of the committee.

(2) The members of a peer review committee shall be appointed from among those in the profession who are in active practice with five or more years of practice experience. Members [shall] **must** be representative of affiliated and nonaffiliated naturopathic physicians and representative of various aspects of the practice of naturopathic medicine. To be appointed a member must receive at least four votes from members of the state board. Members shall each serve two-year terms. No member may serve more than two consecutive terms.

(3) The peer review process shall be governed by rules of the board adopted pursuant to ORS chapter 183. The board shall provide appropriate training for members of peer review committees. The board by rule shall provide for a program of active supervision by the board over the conduct of the peer review committee to determine whether it comports with state regulatory policy and to correct abuses, if any.

(4) Members of a peer review committee acting pursuant to this section are agents of the board for purposes of ORS 30.260 to 30.300.

(5) Peer review [shall] **may** not be used to replace independent medical examinations.

(6) Any information provided to a peer review committee in the performance of its duties is confidential and [shall not be] **is not** subject to public disclosure or admissible as evidence in any judicial proceeding, except that as a part of a peer review report, this information may be disclosed to the board and the person being reviewed.

(7) Any person who reports or provides information to a peer review committee in the performance of its duties and who provides information in good faith [shall not be] **is not** subject to an action for civil damages as a result thereof.

(8) Upon receipt of a complaint under this chapter, the peer review committee shall conduct an investigation as described under ORS 676.165.

SECTION 32. ORS 685.210 is amended to read:

685.210. (1) The district attorneys of the state shall prosecute all persons charged with violation of any of the provisions of this chapter.

(2) Justice courts, municipal courts and circuit courts have concurrent jurisdiction for the prosecution of offenses under this chapter.

(3) The [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine**, in its own name, may maintain an action for an injunction against any person violating ORS 685.020. A person who has been so enjoined may be punished for contempt by the court issuing the injunction. An injunction may be issued without proof of actual damage sustained by any person. An injunction does not relieve a person from criminal prosecution for violation of ORS 685.020 or from any other civil, criminal or disciplinary remedy.

SECTION 33. ORS 685.220 is amended to read:

685.220. (1) Any [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** licensee shall, and any other person may, report to the board any suspected violation of the provisions of this chapter.

(2) Information pertaining to the report required by subsection (1) of this section shall remain confidential [and not be subject to public disclosure] **as provided in ORS 676.165.**

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

SECTION 34. ORS 685.225 is amended to read:

685.225. (1) Upon the complaint of any citizen of this state, or upon its own motion, the [Board of Naturopathic Examiners] **Oregon Board of Naturopathic Medicine** may investigate any alleged violation of this chapter.

- (2) In the conduct of investigations, the board may:
- (a) Take evidence;
 - (b) Take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases;
 - (c) Compel the appearance of witnesses, including the person charged, before the board in person the same as in civil cases;
 - (d) Require answers to interrogatories; and
 - (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.
- (3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas over the signature of the board chairperson and the seal of the board in the name of the State of Oregon.

SECTION 35. ORS 685.990 is amended to read:

685.990. (1) Violation of any provision of this chapter is a Class A misdemeanor.

(2)(a) In addition to any other sanctions authorized by law, the [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** may impose a civil penalty not to exceed \$5,000 for each violation of any provision of this chapter, or of any rule adopted by the board.

(b) Civil penalties imposed under this subsection shall be imposed as provided in ORS 183.745.

SECTION 36. ORS 742.400 is amended to read:

742.400. (1) As used in this section:

(a) "Claim" means a written demand for payment from or on behalf of a covered practitioner for an injury alleged to have been caused by professional negligence that is made in a complaint filed with a court of appropriate jurisdiction.

(b) "Covered practitioner" means a physician, podiatric physician and surgeon, physician assistant, nurse practitioner, optometrist, dentist, dental hygienist or naturopath.

(c) "Disposition of a claim" means:

(A) A judgment or award against the covered practitioner by a court, a jury or an arbitrator;

(B) A withdrawal or dismissal of the claim; or

(C) A settlement of the claim.

(d) "Reporter" means:

(A) A primary insurer;

(B) A public body required to defend, save harmless and indemnify an officer, employee or agent of the public body under ORS 30.260 to 30.300;

(C) An entity that self-insures or indemnifies for claims alleging professional negligence on the part of a covered practitioner; or

(D) A health maintenance organization as defined in ORS 750.005.

(2) Within 30 days after receiving notice of a claim, a reporter shall report the claim to the appropriate board, as follows:

(a) The Oregon Medical Board if the covered practitioner is a physician, podiatric physician and surgeon or physician assistant;

(b) The Oregon State Board of Nursing if the covered practitioner is a nurse practitioner;

(c) The Oregon Board of Optometry if the covered practitioner is an optometrist;

(d) The Oregon Board of Dentistry if the covered practitioner is a dentist or dental hygienist;

or

(e) The [*Board of Naturopathic Examiners*] **Oregon Board of Naturopathic Medicine** if the covered practitioner is a naturopath.

(3) The report required under subsection (2) of this section shall include:

(a) The name of the covered practitioner;

(b) The name of the person that filed the claim;

(c) The date on which the claim was filed; and

(d) The reason or reasons for the claim, except that the report may not disclose any data that is privileged under ORS 41.675.

(4) Within 30 days after the date of an action taken in disposition of a claim, a reporter shall notify the appropriate board identified in subsection (2) of this section of the disposition.

(5)(a) A board that receives a report of a claim under this section shall publicly post the report on the board's website if the claim results in a judicial finding or admission of liability or a money judgment, award or settlement that involves a payment to the claimant. The board may not publicly post information about claims that did not result in a judicial finding or admission of liability or a money judgment, award or settlement that involves a payment to the claimant but shall make the information available to the public upon request. The board shall remove from the board's website any record based on a reported claim against a covered practitioner if the board does not receive another report of a claim against the practitioner within four years after the date reported under subsection (3)(c) of this section.

(b) If a board discloses information about a claim that is the subject of a report received under this section, the board shall indicate in the disclosure whether the claim resulted in a judicial finding or an admission of liability or a money judgment, an award or a settlement that involves a payment to the claimant. A board may not publicly disclose or publish any allegations or factual assertions included in the claim unless the complaint resulted in a judicial finding or an admission of liability or a money judgment, an award or a settlement that involves a payment to the claimant.

(c) For purposes of this subsection, "judicial finding" means a finding of liability by a court, a jury or an arbitrator.

(6) A board that receives a report under this section shall provide copies of the report to each health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 that employs or grants staff privileges to the covered practitioner.

(7) A person that reports in good faith concerning any matter required to be reported under this section is immune from civil liability by reason of making the report.

SECTION 37. ORS 685.030 is amended to read:

685.030. Nothing in this chapter shall be construed to:

(1) Apply to any physician and surgeon, osteopath or chiropractor, or to any Christian Scientist or other person who by religious or spiritual means endeavors to prevent or cure disease or suffering in accord with the tenets of any church.

(2) Authorize licensees to practice optometry or administer chiropractic adjustments, or any system or method of treatment not authorized in this chapter, or to administer or write prescriptions for or dispense drugs, or do major surgery except that naturopathic physicians are not prohibited from recommending the use of specific and appropriate over-the-counter pharmaceuticals for their patients, or from prescribing codeine sulfate or codeine phosphate in an appropriate and safe manner.

(3) Prevent a licensee under this chapter from the administration of the anesthetics or antiseptics authorized in ORS 685.010 [(4)] (3), from ordering diagnostic tests, or from the use of radiopaque substances administered by mouth or rectum necessary for Roentgen diagnostic purposes.

(4) Authorize the administration of any substance by penetration of the skin or mucous membrane of the human body except for diagnostic and preventive purposes or for the therapeutic purpose of administering vitamins and minerals.

SECTION 38. (1) The amendments to ORS 685.160 by section 1 of this 2009 Act are intended to change the name of the "Board of Naturopathic Examiners" to the "Oregon Board of Naturopathic Medicine."

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

Passed by Senate February 24, 2009

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Secretary of Senate

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President of Senate

Passed by House March 17, 2009

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Speaker of House

Received by Governor:

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

Approved:

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

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Governor

Filed in Office of Secretary of State:

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

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Secretary of State