

Enrolled
House Bill 2101

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Health Licensing Agency)

CHAPTER

AN ACT

Relating to the Oregon Health Licensing Agency; creating new provisions; amending ORS 345.430, 675.370, 675.375, 675.380, 675.400, 676.185, 676.605, 676.606, 676.607, 676.608, 676.610, 676.612, 676.613, 676.615, 676.618, 676.625, 676.992, 678.720, 678.730, 678.740, 678.770, 680.505, 680.515, 680.527, 687.410, 687.420, 687.425, 688.709, 688.715, 688.720, 688.815, 688.819, 688.830, 690.005, 690.015, 690.046, 690.047, 690.055, 690.057, 690.105, 690.123, 690.155, 690.165, 690.360, 690.365, 690.385, 690.405, 691.435, 691.445, 691.465, 691.475, 694.025, 694.055, 694.065, 694.085, 694.142, 700.030, 700.035, 700.050, 700.053, 700.059 and 700.062; repealing ORS 675.405, 676.617, 678.760, 678.775, 680.525, 680.530, 687.435, 688.724, 688.728, 688.834, 690.085, 690.095, 690.235, 690.415, 691.479, 694.125, 694.185, 700.080, 700.100 and 700.105; and declaring an emergency.

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

OREGON HEALTH LICENSING AGENCY
(Consolidation of Authorizations)

SECTION 1. Sections 2 to 4 of this 2013 Act are added to and made a part of ORS 676.605 to 676.625.

SECTION 2. As used in ORS 676.605 to 676.625:

- (1) "Active authorization" means an authorization that is current and not suspended.
- (2) "Authorization" means a certificate, license, permit or registration issued by the Oregon Health Licensing Agency that allows a person to practice one of the occupations or professions or maintain a facility subject to the authority of the boards and councils listed in ORS 676.606.
- (3) "Expired authorization" means an authorization that has been not current for more than three years.
- (4) "Inactive authorization" means an authorization that has been not current for three years or less.

SECTION 3. (1) Except as provided in subsection (2) or (7) of this section, an authorization issued by the Oregon Health Licensing Agency becomes not current on the last day of the month, one year from the date of issuance.

(2) A certificate issued under ORS 690.005 to 690.235 becomes not current on the last day of the month, two years from the date of issuance.

(3) In order to renew an authorization, the holder of the authorization shall submit to the agency on or before the date on which the authorization becomes not current:

- (a) A renewal application;
 - (b) Fees established by the agency under section 4 of this 2013 Act; and
 - (c) Any other information required by the agency by rule.
- (4) In order to activate an inactive authorization, the holder of the authorization shall submit to the agency within three years after the authorization becomes not current:
- (a) An activation application;
 - (b) Fees established by the agency under section 4 of this 2013 Act; and
 - (c) Any other information required by the agency by rule.
- (5) In order to obtain a new authorization, the holder of an expired authorization shall submit a new application, pay fees established by the agency under section 4 of this 2013 Act and meet all requirements for a new authorization.
- (6) If an authorization has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the agency may not issue or renew the authorization for at least one year after the denial, suspension or revocation.
- (7) The agency may vary the date on which an authorization becomes not current by providing the holder of the authorization with written notice of the new date and prorating the renewal fee accordingly.
- (8)(a) An authorization must be posted at all times in public view at the location where services are rendered, in accordance with rules adopted by the agency.
- (b) A facility authorization must be posted at all times in public view at the facility address on file with the agency.
- (9) This section does not apply to temporary authorizations or authorizations related to demonstration permits.

SECTION 4. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees for:

- (a) Application for authorization;
- (b) Original authorization;
- (c) Renewal of authorization;
- (d) Examinations and reexaminations;
- (e) Authorizations related to demonstration permits;
- (f) Temporary or provisional authorization;
- (g) Replacement authorization;
- (h) Late renewal of authorization;
- (i) Reciprocity;
- (j) Authorizations related to freelance licenses and independent contractor registrations;
- (k) Authorizations related to facilities;
- (L) Renewal of dormant authorization;
- (m) Activation of inactive authorization;
- (n) Verification of authorization;
- (o) Duplicate authorization;
- (p) Education or training provided by the agency; and
- (q) Providing copies of official documentation or records and for recovering administrative costs associated with compiling, photocopying, preparing and delivering the documentation or records.

(2) All moneys collected by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account established under ORS 676.625. Fees established under this section may not exceed the cost of administering the agency and the boards and councils within the agency, and are subject to ORS 676.625 (3).

(Applicability)

SECTION 5. Section 3 of this 2013 Act applies to authorizations issued on or after the operative date specified in section 66 of this 2013 Act.

(Amended Provisions)

SECTION 6. ORS 676.185 is amended to read:

676.185. As used in ORS 676.185 to 676.200:

(1) "Health profession licensing board" means:

(a) A health professional regulatory board as defined in ORS 676.160; or

(b) The Oregon Health Licensing Agency for a board[,] **or** council [*or program*] listed in ORS 676.606.

(2) "Impaired professional" means a licensee who is unable to practice with professional skill and safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability or by reason of a mental health disorder.

(3) "Licensee" means a health professional licensed or certified by or registered with a health profession licensing board.

SECTION 7. ORS 676.605 is amended to read:

676.605. (1) To provide for the more effective coordination of administrative and regulatory functions of certain health boards[, *councils and programs*] **and councils** involved in protecting the public through the licensing and regulation of health-related professions and occupations practiced in this state under uniform mission and goals, there is hereby created the Oregon Health Licensing Agency.

(2) The mission of the agency is to serve the public by providing a uniform structure and accountability for the boards[, *councils and programs*] **and councils** under its administration to protect the public from harm. The agency's focus is to:

(a) Promote effective health policy that protects the public from incompetent or unauthorized individuals and allows consumers to select a provider from a range of safe options.

(b) Provide outreach and training to stakeholders to improve compliance with public health and safety standards, and to involve stakeholders in the regulation of the various disciplines and fields of practice.

(c) Form partnerships and work in collaboration with each constituency, local and state governmental agencies, educators, organizations and other affected entities to encourage diverse opinions and perspectives.

(d) Provide the boards[, *councils and programs*] **and councils** with a standardized administrative forum and procedures for operation, fiscal services, licensing, enforcement and complaint resolution.

(e) Resolve disputes between regulatory entities regarding the scope of practice of persons [*licensed*] **with authorization** by those entities **in the professions and occupations overseen by those boards and councils.**

SECTION 8. ORS 676.606 is amended to read:

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

(1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

(2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;

(3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;

(4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

(5) Respiratory Therapist and Polysomnographic Technologist Licensing Board, as provided in ORS 688.800 to 688.840;

(6) Environmental Health Registration Board, as provided in ORS chapter 700;

(7) Board of Body Art Practitioners, as provided in ORS 690.350 to 690.415;

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

(9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;

- (10) Nursing Home Administrators Board, as provided in ORS 678.710 to 678.820; and
- (11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485.

SECTION 9. ORS 676.607 is amended to read:

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

- (a) Budgeting;
 - (b) Record keeping;
 - (c) Staffing;
 - (d) Contracting;
 - (e) Consumer protection and investigating complaints;
 - (f) [*Approving*] **Establishing** and collecting fees;
 - (g) Establishing and administering uniform application processes for the issuance of [*certificates, licenses, permits and registrations*] **authorizations**;
 - (h) Issuing and renewing [*certificates, licenses, permits and registrations*] **authorizations**;
 - (i) Conditioning, limiting, suspending, revoking or refusing to issue or renew [*a certificate, license, permit or registration*] **an authorization** or otherwise disciplining applicants[, *certificate holders, licensees, permit holders and registration*] **and authorization** holders;
 - (j) Sanctioning any examination service provider, interpreter or proctor who is under contract or agreement with the agency and who compromises the security, confidentiality or integrity of examinations developed or conducted pursuant to the statutory authority of the boards and councils listed in ORS 676.606;
 - (k) Enforcing all administrative rules adopted under any statute the agency is charged with enforcing, including board[, *council and program*] **and council** administrative rules establishing professional code of conduct and practice standards, [*continuing education requirements,*] the scope of professional practice and requirements for obtaining informed consent before providing certain services or performing any procedure on clients;
 - (L) Preparing, tracking and reporting agency performance measures;
 - (m) Implementing regulatory streamlining initiatives to reduce regulatory burdens without compromising regulatory standards;
 - (n) Preparing and circulating printed and electronic materials for educating or otherwise assisting applicants, [*certificate holders, licensees, permit holders and registration*] **authorization** holders and the public;
 - (o) Adopting rules for the issuance of waivers or provisional authorizations to practice, and establishing special conditions of practice, during a state of emergency declared by the Governor under ORS 401.165;
 - (p) Referring impaired practitioners to a diversion program approved or recognized by the agency and establishing criteria by rule for monitoring the impaired practitioner's progress and successful completion of the program; [*and*]
 - (q) Establishing requirements for additional education, training or supervised experience to achieve compliance with the laws and rules governing professional practice[.];
 - (r) **Establishing by rule continuing education requirements for renewal of an authorization if the agency determines that continuing education is appropriate for renewal of the authorization;**
 - (s) **Exempting from authorization requirements a person who provides services at charitable or fund raising events, after the agency has considered and evaluated the written request for an exemption on an individual basis; and**
 - (t) **Establishing requirements by rule for the issuance of a provisional authorization for purposes related to education or training.**
- (2) The enumeration of duties, functions and powers in subsection (1) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the agency by other statutes.

SECTION 10. ORS 676.608 is amended to read:

676.608. (1) As used in this section,[:]

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

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

(2)(a) The **Oregon Health Licensing Agency** shall carry out all investigatory duties **relating to the boards and councils listed in ORS 676.606.**

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

(c) When the agency receives a complaint by any person against [*a*] **an authorization** holder, the agency shall investigate the complaint as provided in ORS 676.165.

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

(a) Take evidence;

(b) Administer oaths;

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

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

(e) Require answers to interrogatories;

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

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

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

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

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

(7) In all investigations and hearings, the agency and any person affected [*thereby*] **by the investigation or hearing** may have the benefit of counsel.

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

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

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

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

SECTION 11. ORS 676.610 is amended to read:

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

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

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

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

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

(3) The Director of the Oregon Health Licensing Agency is responsible for carrying out the duties, functions and powers under ORS 675.360 to 675.410, 676.605 to 676.625, 676.992, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.415, 691.405 to 691.485 and 694.015 to 694.185 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the Oregon Health Licensing Agency by other statutes.

SECTION 12. ORS 676.612 is amended to read:

676.612. (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 678.780, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit [a *certificate, license, permit or registration to practice issued by the agency*] **an authorization** or may discipline or place on probation [a *holder of a certificate, license, permit or registration*] **an authorization holder** for commission of the prohibited acts listed in subsection (2) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Under investigation by the agency.

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

(5) If [*a certificate, license, permit or registration*] **an authorization** is suspended, the **authorization** holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the [*certificate, license, permit or registration*] **authorization** may be reinstated by the agency if the conditions of suspension no longer exist and the **authorization** holder has satisfied

all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement.

SECTION 13. ORS 676.613 is amended to read:

676.613. (1) In addition to all other remedies, when it appears to the Oregon Health Licensing Agency that a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that violates any provision of ORS 675.360 to 675.410, [676.617,] 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.415, 691.405 to 691.485 or 694.015 to 694.185 or ORS chapter 700, the agency may, through the Attorney General or the district attorney of the county in which the act, practice or transaction occurs or will occur, apply to the court for an injunction restraining the person from the act, practice or transaction.

(2) A court may issue an injunction under this section without proof of actual damages. An injunction issued under this section does not relieve a person from any other prosecution or enforcement action taken for violation of statutes listed in subsection (1) of this section.

SECTION 14. ORS 676.615 is amended to read:

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

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

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

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

SECTION 15. ORS 676.618 is amended to read:

676.618. (1) Upon its own motion or upon any complaint, the Oregon Health Licensing Agency may conduct an inspection to determine whether a facility or a part of the facility that is the subject of the inspection complies with the [*licensing*] **authorization**, safety, infection control and sterilization requirements imposed by statute or rule of the agency or the boards[, *councils and programs*] **and councils** administered by the agency.

(2) The agency shall provide for the periodic inspection of facilities, business premises or other locations where services are performed by the practitioners of the occupations or professions subject to the authority of the boards[, *councils and programs*] **and councils** that are administered and regulated by the agency pursuant to ORS 676.606.

SECTION 16. ORS 676.625 is amended to read:

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

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

the moneys are derived and the activity of each board[, *council or program*] **or council** that generated the moneys.

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

(4) All moneys credited to the account pursuant to [*ORS 675.405, 676.617, 680.525, 687.435, 688.728, 688.834, 690.235, 690.415, 691.479, 694.185 and 700.080*] **section 4 of this 2013 Act**, and moneys credited to the account from other agency and program fees established by the agency by rule, are continuously appropriated to the agency for carrying out the duties, functions and powers of the agency under ORS 676.605 to 676.625 and 676.992.

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

SECTION 17. ORS 676.992 is amended to read:

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

- (a) ORS 688.701 to 688.734 (athletic training);
- (b) ORS 690.005 to 690.235 (cosmetology);
- (c) ORS 680.500 to 680.565 (denture technology);
- (d) ORS 687.405 to 687.495 (direct entry midwifery);
- (e) ORS 690.350 to 690.415 (tattooing, electrolysis, body piercing, dermal implanting and scarification);
- (f) ORS 694.015 to 694.185 (dealing in hearing aids);
- (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);
- (h) ORS chapter 700 (environmental sanitation);
- [*i*] *ORS 676.617 (single facility licensure);*]
- [*j*] (i) ORS 675.360 to 675.410 (sex offender treatment);
- [*k*] (j) ORS 678.710 to 678.820 (nursing home administrators);
- [*L*] (k) ORS 691.405 to 691.485 (dietitians); and
- [*m*] (L) ORS 676.612 (prohibited acts).

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

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

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

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

(6) The moneys received by the agency from civil penalties under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account established under ORS 676.625. Such moneys are continuously appropriated to the agency for

the administration and enforcement of the laws the agency is charged with administering and enforcing that govern the person against whom the penalty was imposed.

NURSING HOME ADMINISTRATORS

SECTION 18. ORS 678.720 is amended to read:

678.720. (1) Unless an individual holds [*a valid*] **an active** license issued under the provisions of ORS 678.710 to 678.820, an individual may not:

(a) Practice or offer to practice as a nursing home administrator; or

(b) Use in connection with the name of the individual the words or letters “nursing home administrator,” “NHA” or any other words, letters or abbreviations or insignia tending to indicate that the individual is a licensed nursing home administrator.

(2) A nursing home shall be conducted or operated under the supervision of a nursing home administrator who holds [*a valid*] **an active** license issued under the provisions of ORS 678.710 to 678.820.

SECTION 19. ORS 678.730 is amended to read:

678.730. (1) An individual qualifies for licensure as a nursing home administrator if the individual:

[(a) Meets the education, training and other standards established by rules of the Nursing Home Administrators Board. The board shall establish standards that accept one year of experience as an administrator serving a dual facility in lieu of any residency or intern requirement that may be established by the board; and]

(a) Has a baccalaureate degree from an accredited school of higher education;

(b) Has passed an examination as provided in ORS 678.740; and

(c) Has completed training requirements established by the Nursing Home Administrators Board by rule.

[(2) A license holder may renew a license as provided by ORS 678.760. The board may require up to 50 hours of continuing education in any one-year period for a renewed license.]

[(3) In establishing educational standards pursuant to subsection (1)(a) of this section, the board shall require a baccalaureate degree from an accredited school of higher education. However, the educational requirement does not apply to any person who:]

[(a) Was a licensed administrator in any jurisdiction of the United States prior to January 1, 1983; or]

[(b) Was an administrator of a dual facility meeting the experience requirements pursuant to subsection (1)(a) of this section.]

(2) The requirement that an individual have a baccalaureate degree under subsection (1)(a) of this section does not apply to a person who was licensed as a nursing home administrator in any state or territory of the United States before January 1, 1983.

(3) The training requirements established under subsection (1)(c) of this section do not apply to a person who has at least one year of experience as an administrator of a dual facility.

(4) Notwithstanding the requirements established under subsection (1) of this section, upon the request of the governing body of a hospital, as defined in ORS 442.015, the board shall adopt standards by rule that deem a health care administrator to have met the requirements for licensure as a nursing home administrator if the health care administrator possesses an advanced degree in management and has at least 10 years of experience in health care management.

SECTION 20. ORS 678.740 is amended to read:

678.740. (1) Examinations for licensure as a nursing home administrator shall be conducted at such times and places as the Nursing Home Administrators Board designates, but not less than once a year. [*The fee for examination or reexamination shall be determined by the Oregon Health Licensing Agency under ORS 678.775.*]

(2) At the time of taking an examination for licensure as a nursing home administrator, an applicant shall pay an examination or reexamination fee established by the Oregon Health Licensing Agency under section 4 of this 2013 Act.

[(2)] **(3)** The board shall, consistent with the purposes for which the examination is given, determine the subjects, scope, content and the minimum passing grade for examinations.

SECTION 21. ORS 678.770 is amended to read:

678.770. (1) The Nursing Home Administrators Board may establish by rule standards for the issuance of a license by endorsement, without examination, to an applicant who:

(a) Meets the requirements as established by the board; and

(b) On the date of making application, is a nursing home administrator licensed under the laws of any other state or territory of the United States if the requirements for licensing of nursing home administrators in the state or territory in which the applicant is licensed are not less than those required by ORS 678.710 to 678.820.

(2) Each applicant under this section shall pay to the Oregon Health Licensing Agency at the time of filing the application [*a fee determined by the agency under ORS 678.775*] **the applicable fees established under section 4 of this 2013 Act.**

DENTURISTS

SECTION 22. ORS 680.505 is amended to read:

680.505. Unless [*the*] **a** person holds [*a valid*] **an active** license issued under ORS 680.500 to 680.565, a person [*shall*] **may** not:

(1) Engage, or offer to engage, in the practice of denture technology; or

(2) Use in connection with the name of the person the word “denturist” or any other words, letters or abbreviations or insignia tending to indicate that such person is engaged in the practice of denture technology.

SECTION 23. ORS 680.515, as amended by section 9, chapter 43, Oregon Laws 2012, is amended to read:

680.515. (1) Subject to the provisions of ORS 676.612, [*upon application accompanied by payment of required fees,*] the Oregon Health Licensing Agency shall issue a license to practice denture technology to an applicant who, **in addition to submitting an application and paying the applicable fees established under section 4 of this 2013 Act:**

(a) Provides to the agency official transcripts verifying completion of an associate degree program in denture technology, or the equivalent in formal, post-secondary education, approved by the agency in consultation with the Oregon Student Access Commission and the Department of Education.

(b) Provides to the agency documentation of 1,000 hours of supervised clinical practice in denture technology, completed while enrolled in or after having completed a course of study offered in a post-secondary educational institution, or through equivalent supervised experience, as determined by the agency in consultation with the commission and the department.

(c) Passes a written and a practical examination prescribed, recognized or approved by the State Board of Denture Technology. An applicant who fails the practical examination must complete additional hours of clinical and laboratory training in an approved work experience program, as determined by the board, to qualify for reexamination.

(d) Meets other requirements established by the agency by rule.

(2) The educational program required by subsection (1)(a) of this section must include pertinent courses in anatomy, including histology, microbiology, physiology, pharmacology, pathology emphasizing periodontology, dental materials, medical emergencies, geriatrics, professional ethics, clinical denture technology and denture laboratory technology.

(3) Notwithstanding subsection (1)(a) of this section, the board may accept educational training obtained in any other state or country if, upon review of satisfactory evidence, the agency deter-

mines that the educational program in the other state or country meets the educational standards prescribed under this section.

(4) An applicant meets the requirements of subsection (1)(a) or (b) of this section if the applicant provides the agency with documentation of military training or experience that the agency determines is substantially equivalent to the training or experience required by subsection (1)(a) or (b) of this section.

(5) Notwithstanding subsection (1)(c) of this section, the agency may adopt rules providing for waiver of the practical examination requirement.

(6) The agency may adopt rules allowing for issuance of a temporary license to practice denture technology.

SECTION 24. ORS 680.527 is amended to read:

680.527. The Oregon Health Licensing Agency may issue a license to practice denture technology, without examination, to any person who:

(1) Submits an application and pays the *[fees required under ORS 680.525]* **applicable fees established under section 4 of this 2013 Act;**

(2) Has satisfied the educational requirements established by ORS 680.515;

(3) Is a dentist licensed under the laws of any other state, the District of Columbia, Canada or a territory of the United States, and the standards for licensing of dentists in the licensing jurisdiction are determined by the agency to be substantially equivalent to those of ORS 680.500 to 680.565;

(4) Has passed a written and practical examination that the agency determines to be substantially equivalent to the examination required for licensure in this state; and

(5) Has engaged in the full-time active practice of denture technology as a licensed dentist in another jurisdiction for a minimum of two years immediately preceding the date of application for licensure under this section.

DIRECT ENTRY MIDWIVES

SECTION 25. ORS 687.410 is amended to read:

687.410. *[No]* A person *[shall]* **may not** use the title “licensed direct entry midwife,” any abbreviation thereof or the initials “L.D.M.” unless the person possesses *[a valid]* **an active** license issued under ORS 687.405 to 687.495.

SECTION 26. ORS 687.420 is amended to read:

687.420. (1) The State Board of Direct Entry Midwifery shall establish standards for qualifications for the licensure of direct entry midwives. Such standards shall include:

(a) Sufficient knowledge in the following areas:

(A) Techniques in taking patient histories;

(B) Anatomy and physiology of the female reproductive system;

(C) Appropriate use of diagnostic testing;

(D) Necessity for referral;

(E) Pathology in childbirth;

(F) Mechanisms of labor;

(G) Aseptic techniques;

(H) Postpartum care;

(I) Examinations of newborn infants; and

(J) Family planning;

(b) Successful passage of written and oral examinations;

(c) Participation in:

(A) 25 assisted deliveries;

(B) 25 deliveries for which the midwife was the primary care provider;

(C) 100 prenatal care visits;

(D) 25 newborn examinations; and

- (E) 40 postnatal examinations;
- (d) Current certification in cardiopulmonary resuscitation for infants and adults; and
- (e) A written plan for emergency transport.

(2) *[Any]* A person who desires to become licensed as a direct entry midwife shall submit an application to the Oregon Health Licensing Agency stating the applicant's qualifications for licensure. If the applicant meets the standards established under subsection (1) of this section and the applicant is not disqualified from licensure under ORS 676.612, the agency shall issue an annual license to the direct entry midwife. The agency shall impose *[a fee]* **the applicable fees** for licensure and examination *[in the amount established pursuant to ORS 687.435]* **established under section 4 of this 2013 Act.**

(3) *[Any]* A direct entry midwife licensed under this section is entitled to payment under the rules of the medical assistance program for services provided to any eligible recipient of medical assistance.

SECTION 27. ORS 687.425 is amended to read:

687.425. (1) *[Except as provided in subsection (2) of this section, a license issued by the Oregon Health Licensing Agency for a direct entry midwife expires after one year.]* The **Oregon Health Licensing Agency** shall renew a **direct entry midwife** license upon:

(a) The applicant's satisfaction of the requirements for renewal under section 3 of this 2013 Act;

(b) Receipt of *[the renewal application and fee and]* proof of current cardiopulmonary resuscitation certification for infants and adults*.[The applicant must be in compliance with the rules adopted by the State Board of Direct Entry Midwifery and the agency.]*;

(c) Receipt of the applicable renewal fee established under section 4 of this 2013 Act; and

(d) The applicant's satisfaction of the requirements for renewal prescribed by the State Board of Direct Entry Midwifery under subsections (2) and (3) of this section.

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

[(3)] (2) The board shall prescribe requirements for license renewal including, but not limited to, continuing education that must include training in use of legend drugs and devices. *[In addition to continuing education requirements,]*

(3) The board shall require a midwife who has attended fewer than five births in the previous year *[shall be required]* to take an additional 10 hours of continuing education as prescribed by the board. *[All licensing requirements shall be approved by the board by rule.]*

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

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

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

ATHLETIC TRAINERS

SECTION 28. ORS 688.709 is amended to read:

688.709. The Board of Athletic Trainers shall:

(1) Advise the Oregon Health Licensing Agency about the adoption of rules necessary for the administration of ORS 688.701 to 688.734.

(2) Determine training and education requirements for registration as described in ORS 688.720.

(3) Determine qualifications and documentation required for registrations, permits, temporary registrations and waivers.

(4) Determine requirements for reciprocity and equivalency for the practice of athletic training.

(5) Establish a code of professional responsibility and standards of practice for registered athletic trainers.

(6) Develop, approve or recognize a written examination to test an applicant's knowledge of the basic and clinical sciences relating to athletic training techniques and methods and any other subjects the board may determine to be necessary to assess an applicant's fitness to practice athletic training.

(7) Establish standards for acceptable performance, including but not limited to a passing score on the approved or recognized competency examination.

[*(8) Establish continuing education requirements for renewal of registration.*]

[*(9)*] (8) Establish policies and criteria for the assessment of the quality of the practice of athletic trainers.

[*(10)*] (9) Adopt rules that include provisions describing procedures, when appropriate, for collaboration between athletic trainers and physicians licensed pursuant to ORS chapter 677.

SECTION 29. ORS 688.715 is amended to read:

688.715. The Oregon Health Licensing Agency is granted authority to carry out the following duties:

(1) Adopt rules that are necessary to conduct business, carry out duties and administer the provisions of ORS 688.701 to 688.734.

(2) Issue registrations, including temporary registrations, permits, waivers and other authorizations to practice athletic training as determined by the Board of Athletic Trainers.

[*(3) Establish and collect fees and charges to carry out its legal responsibilities.*]

[*(4)*] (3) Authorize all necessary disbursements to carry out the provisions of ORS 688.701 to 688.734, including but not limited to payment for necessary supplies, office equipment, books and expenses for the conduct of examinations, payment for legal and investigative services rendered to the agency and such other expenditures as are provided for in ORS 688.701 to 688.734.

[*(5)*] (4) Employ inspectors, examiners, special agents, investigators, clerical assistants and accountants as are necessary for the investigation and prosecution of alleged violations and the enforcement of ORS 688.701 to 688.734, and for such other purposes as the agency may require. Nothing in ORS 688.701 to 688.734 shall be construed to prevent assistance being rendered by an employee of the agency in any hearing called by it. However, all obligations for salaries and expenses incurred under ORS 688.701 to 688.734 shall be paid only from the fees accruing to the agency under ORS 688.701 to 688.734.

[*(6)*] (5) [*The agency shall*] Provide the board with such administrative services and employees as the board requires to carry out its duties.

[*(7)*] (6) Maintain an accurate record of all proceedings of the board and of all its meetings, receipts and disbursements, civil penalties and orders for violation of ORS 688.701 to 688.734, records for registration to practice athletic training together with the addresses of those registered, and the names of all persons whose registration has been subject to disciplinary action.

[*(8)*] (7) Investigate complaints, take disciplinary action, including assessment of civil penalties, and provide opportunity for hearing according to ORS 183.745.

[*(9)*] (8) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out duties of the board granted under ORS 688.701 to 688.734.

SECTION 30. ORS 688.720, as amended by section 19, chapter 43, Oregon Laws 2012, is amended to read:

688.720. The [*Board of Athletic Trainers*] **Oregon Health Licensing Agency** shall issue a registration as an athletic trainer under ORS 688.701 to 688.734 to an applicant who has:

(1) Provided to the [*board*] **agency** adequate proof of:

(a) Receipt of a bachelor's degree from an accredited four-year college or university and has met the minimum athletic training curriculum requirements established by the Board of **Athletic Trainers** and adopted by rule; or

(b) Military experience or training that the Board of **Athletic Trainers** determines is substantially equivalent to the education required by paragraph (a) of this subsection;

(2) Successfully completed the certification examination administered by the National Athletic Trainers Association Board of Certification or equivalent examination approved [*or recognized*] by the Board of Athletic Trainers;

(3) Completed any other requirements for registration as determined by the Board of Athletic Trainers and adopted by rule;

(4) Submitted to the [*Board of Athletic Trainers*] **agency** adequate documentation that the applicant is at least 18 years of age; and

(5) Paid [*all fees required*] **the applicable fees** for registration **established under section 4 of this 2013 Act.**

SECTION 30a. If House Bill 2102 becomes law, section 30 of this 2013 Act (amending ORS 688.720) is repealed and ORS 688.720, as amended by section 19, chapter 43, Oregon Laws 2012, and section 2, chapter 62, Oregon Laws 2013 (Enrolled House Bill 2102), is amended to read:

688.720. (1) The Oregon Health Licensing Agency shall issue a registration as an athletic trainer under ORS 688.701 to 688.734 to an applicant who has:

(a) Provided to the [*Board of Athletic Trainers*] **agency** adequate proof of:

(A) Receipt of a bachelor's degree from an accredited four-year college or university and having met the minimum athletic training curriculum requirements established by the Board of **Athletic Trainers** by rule; or

(B) Military experience or training that the board determines is substantially equivalent to the education required by subparagraph (A) of this paragraph;

(b) Successfully completed the certification examination administered by the national Board of Certification, or an equivalent examination approved by the Board of Athletic Trainers;

(c) Completed any other requirements for registration as determined by the Board of **Athletic Trainers** by rule;

(d) Submitted to the [*board*] **agency** adequate documentation that the applicant is at least 18 years of age; and

(e) Paid [*all fees required*] **the applicable fees** for registration **established under section 4 of this 2013 Act.**

(2) The agency shall issue a registration under this section to an applicant who has not successfully completed an examination under subsection (1) of this section if the applicant:

(a) Furnishes documentation that demonstrates that the applicant meets the education, experience or training requirements described in subsection (1)(a) of this section; and

(b) Is registered as an athletic trainer in another state or by a national association and the board determines that the registration requirements of the other state or the association are substantially equivalent to the registration requirements described in subsection (1)(c) of this section.

RESPIRATORY THERAPISTS AND POLYSOMNOGRAPHIC TECHNOLOGISTS

SECTION 31. ORS 688.815, as amended by section 20, chapter 43, Oregon Laws 2012, is amended to read:

688.815. (1) An applicant for a license to practice respiratory care shall:

(a) Submit to the Oregon Health Licensing Agency written evidence that the applicant:

(A) Is at least 18 years of age;

(B) Has completed an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and

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

(b) Pass an examination approved by the board.

(2) An applicant meets the requirements of subsection (1)(a)(C) of this section if the applicant provides the agency with documentation of military training or experience that the board determines is substantially equivalent to the education required by subsection (1)(a)(C) of this section.

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

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

(b) An applicant holding an active credential conferred by the National Board for Respiratory Care as a Certified Respiratory Therapist (CRT) or as a Registered Respiratory Therapist (RRT), or both.

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

[(5) To renew a license to practice respiratory care, a licensee must submit to the agency a completed renewal application, required renewal fee and satisfactory evidence of completion of any required continuing education credits on or before the expiration date of the license as specified by agency rule.]

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

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

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

SECTION 32. ORS 688.819, as amended by section 21, chapter 43, Oregon Laws 2012, is amended to read:

688.819. (1) An applicant for a polysomnographic technologist license shall:

(a) Submit to the Oregon Health Licensing Agency written evidence that the applicant:

(A) Is at least 18 years of age;

(B) Has completed an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and

(C) Has completed a polysomnography education program approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board; and

(b) Pass an examination approved by the board.

(2) An applicant meets the requirements of subsection (1)(a)(C) of this section if the applicant provides the agency with documentation of military training or experience that the board determines is substantially equivalent to the education required by subsection (1)(a)(C) of this section.

(3) The agency may issue a polysomnographic technologist license by endorsement or reciprocity to:

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

(b) An applicant holding an active credential approved by the board.

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

[(5) To renew a polysomnographic technologist license, a licensee must submit to the agency a completed renewal application, required renewal fee and satisfactory evidence of completion of any required continuing education credits on or before the expiration date of the license as specified by agency rule.]

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

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

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

[9] *The agency may issue a temporary permit to practice polysomnography in accordance with rules adopted by the agency.*]

SECTION 33. ORS 688.830 is amended to read:

688.830. (1) The Oregon Health Licensing Agency shall:

(a) Determine the qualifications and fitness of applicants for licensure, renewal of license and reciprocal licenses under ORS 688.800 to 688.840.

(b) Adopt rules that are necessary to conduct its business related to, carry out its duties under and administer ORS 688.800 to 688.840.

(c) Examine, approve, issue, deny, revoke, suspend and renew licenses to practice respiratory care and polysomnography under ORS 688.800 to 688.840.

(d) Maintain a public record of persons licensed by the agency to practice respiratory care and polysomnography.

(2) The Respiratory Therapist and Polysomnographic Technologist Licensing Board shall:

(a) Establish standards of practice and professional responsibility for persons licensed by the agency.

[b] *Establish continuing education requirements for renewal of a license.*]

[c] (b) Provide for waivers of examinations, grandfathering requirements and temporary licenses as considered appropriate.

COSMETOLOGISTS

SECTION 34. ORS 690.005 is amended to read:

690.005. As used in ORS 690.005 to 690.235:

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

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

(b) Applying hair tonics, dressings and rinses.

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

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

[2] "Board" means the Board of Cosmetology, created within the Oregon Health Licensing Agency.]

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

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

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

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

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

- (b) Temporary removal of hair.
- (c) Makeup artistry.
- (d) Facial and body wrapping.
- (e) Facial and body waxing.

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

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

- (a) Barbering.
- (b) Esthetics.
- (c) Hair design.
- (d) Nail technology.

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

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

- (a) Shaving, trimming or cutting of the beard or mustache.
- (b) Styling, permanent waving, relaxing, cutting, singeing, bleaching, coloring, shampooing, conditioning, applying hair products or similar work upon the hair of an individual.
- (c) Massaging the scalp and neck when performed in conjunction with activities in paragraph (a) or (b) of this subsection.

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

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

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

- (a) Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise treating the nails of the hands or feet.
- (b) Massaging, cleansing, treating or beautifying the hands, arms below the elbow, feet or legs below the knee.
- (c) Applying, sculpturing or removing artificial nails of the hands or feet.

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

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

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

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

SECTION 35. ORS 690.015 is amended to read:

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

(2) A person may not:

- (a) Perform or attempt to perform services in a field of practice without [a] **an active** certificate, demonstration permit, registration or freelance [*authorization*] **license**.

- (b) Operate a facility without a license or temporary facility permit.
- (c) Perform or attempt to perform services in a field of practice *[in a facility that does not have a license or temporary facility permit]* **outside a licensed facility or temporary facility unless the person holds a freelance license issued under ORS 690.123.**
- (d) Practice hair design, barbering, esthetics or nail technology as an independent contractor without a registration.
- (e) Display a sign or in any way advertise or purport to offer services in a field of practice without first obtaining a permit, certificate, independent contractor registration or facility license.
- (f) Knowingly make a false statement on an application to obtain or renew a certificate, registration, license or permit *[or to obtain a freelance authorization]*.
- (g) Allow an individual in the employ or under the supervision or control of the person to perform in a field of practice without a certificate or permit.
- (h) Sell, barter or offer to sell or barter a document evidencing a certificate, registration, license[,] **or** permit *[or freelance authorization]*.
- (i) Purchase or procure by barter a document evidencing a certificate with intent to use it as evidence of the person's qualification as a practitioner.
- (j) Materially alter with fraudulent intent a document evidencing a certificate, registration, license[,] **or** permit *[or freelance authorization]*.
- (k) Use or attempt to use *[as valid]* a fraudulently obtained, counterfeited or materially altered document evidencing a certificate, registration, license[,] **or** permit *[or freelance authorization]*.

SECTION 36. ORS 690.046 is amended to read:

690.046. To qualify for certification as a practitioner of hair design, barbering, esthetics or nail technology, an applicant shall:

- (1) Successfully complete all courses required by rule of the State Board of Education for graduation from a school teaching one or more fields of practice.
- (2) Successfully pass the certification examination approved, administered or recognized by the Board of Cosmetology for the field of practice in which certification is sought.
- (3) Pay *[all appropriate fees]* **the applicable fees established under section 4 of this 2013 Act.**
- (4) Meet any additional requirements the Board of Cosmetology may impose by rule for certification in a particular field of practice.

SECTION 37. ORS 690.047, as amended by section 24, chapter 43, Oregon Laws 2012, is amended to read:

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

- (a) The applicant's education or training, including relevant education or training obtained in the military, is determined by the board to be substantially equivalent to Oregon certification requirements;
- (b) The applicant is otherwise qualified to take the examination; and
- (c) The *[applicant's certification in another state is in good standing]* **applicant holds an active certification that was issued in another state or a territory of the United States and has not been subject to disciplinary action by the other certifying body.**

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

- (a) Completed post-graduate education approved by the agency that is separate from the education or training required for entry-level certification;
- (b) Passed an examination approved or recognized by the board; **and**
- (c) Paid the *[required fees; and]* **applicable fees established under section 4 of this 2013 Act.** *[(d) Completed prescribed continuing education credits as determined by agency rule.]*

SECTION 38. ORS 690.055 is amended to read:

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

- (a) Be 18 years of age or older, if the applicant is a natural person.
- (b) Comply with the rules of the Board of Cosmetology concerning health, safety and infection control.
- (c) Comply with the applicable health and safety laws and rules of the Oregon Health Authority and any other state agencies.
- (d) Pay the *[required fees]* **applicable fees established under section 4 of this 2013 Act.**
- (e) If the applicant is an entity other than a natural person, be formed and operated in accordance with Oregon law.
 - (2) To be issued a temporary facility permit, each applicant must:
 - (a) Operate the facility on a temporary basis for a period not to exceed 30 consecutive calendar days and in accordance with rules of the board.
 - (b) Be 18 years of age or older, if the applicant is a natural person.
 - (c) Apply on forms prescribed by the Oregon Health Licensing Agency prior to opening for business.
 - (d) Comply with the rules of the board concerning health, safety and infection control.
 - (e) Comply with the applicable health and safety laws and rules of the Oregon Health Authority and any other state agencies.
- (f) Pay the *[appropriate application and permit fees]* **applicable fees established under section 4 of this 2013 Act.**
- (g) If the applicant is an entity other than a natural person, be formed and operated in accordance with Oregon law.
 - (3) The agency may *[issue a single facility license to an applicant pursuant to ORS 676.617]* **adopt rules for the administration of this section.**
 - (4) A license issued under this section shall confer on a facility owner the right to operate the facility and to advertise the services for which the facility is licensed.

SECTION 39. ORS 690.057 is amended to read:

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

- (a) Be 18 years of age or older.
- (b) Comply with the rules of the Board of Cosmetology concerning health, safety and infection control.
- (c) Comply with the applicable health and safety laws and rules of the Oregon Health Authority and any other state agencies.
- (d) Pay the *[required fees]* **applicable fees established under section 4 of this 2013 Act.**
- (e) Hold an active certificate in good standing.
 - (2) A registration shall confer the right to an independent contractor to advertise and directly offer practitioner services to the public in a licensed facility or a facility operating under a temporary facility permit.

SECTION 40. ORS 690.105 is amended to read:

690.105. (1) A person not certified under ORS 690.048 who wishes to practice, demonstrate and teach a field of practice, or perform a field of practice, temporarily and primarily for educational purposes and who is otherwise qualified as determined by the Board of Cosmetology shall first obtain a demonstration permit from the Oregon Health Licensing Agency.

- (2) The permit shall specify:
 - (a) The purpose for which it is granted.
 - (b) The period during which the person is permitted to practice, demonstrate and teach, which period shall not exceed 30 days.
 - (c) The time and place of exercising the privilege granted by the permit.
- (3) A person may be granted a permit if the person:
 - (a) Makes application to the agency for the permit.

(b) Is currently licensed or certified to practice or teach a field of practice in another state and presents satisfactory evidence of that fact to the agency, or is otherwise qualified as determined by the board.

(c) Describes the purpose for which the permit is sought.

(d) Pays the [required application and permit fees] **applicable fees established under section 4 of this 2013 Act.**

SECTION 41. ORS 690.123 is amended to read:

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

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

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

SECTION 42. ORS 690.155 is amended to read:

690.155. (1) There is established within the Oregon Health Licensing Agency the Board of Cosmetology consisting of seven members appointed by the Governor. At all times the membership of the board shall be so constituted that:

(a) Six members of the board shall be practitioners with [valid] **active** certificates.

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

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

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

SECTION 43. ORS 690.165 is amended to read:

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

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

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

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

(4) Pursuant to ORS 676.607, direct the Oregon Health Licensing Agency to issue certificates, registrations, licenses[,] **and** permits [*and freelance authorizations*] to individuals determined by the board to be qualified.

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

(6) Pursuant to ORS 676.612 and 690.167, direct the agency to suspend, revoke, limit or refuse to issue or renew certificates, registrations, licenses or permits or impose a period of probationary activity on the holder [*thereof*].

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

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

(9) Consult with the agency about the issuance and renewal of a [*single facility license under ORS 676.617*] **license under ORS 690.055** authorizing a facility to provide barbering, esthetics, hair design or nail technology services.

SECTION 43a. ORS 345.430 is amended to read:

345.430. [*At the request of the Board of Cosmetology,*] The Superintendent of Public Instruction shall determine whether a person from out-of-state **who is not certified in hair design, barbering, esthetics or nail technology by another state** or **a person from** out-of-country seeking a certificate in hair design, barbering, esthetics or nail technology is qualified to take the test of the Board of Cosmetology. A determination shall be made by an evaluation of academic transcripts, apprenticeship records and work experience documentation. If documentation is not available, the superintendent may refer the person to a career school for evaluation and recommendation.

SECTION 43b. ORS 345.430, as amended by section 37, chapter 104, Oregon Laws 2012, is amended to read:

345.430. [*At the request of the Board of Cosmetology,*] The Higher Education Coordinating Commission shall determine whether a person from out-of-state **who is not certified in hair design, barbering, esthetics or nail technology by another state** or **a person from** out-of-country seeking a certificate in hair design, barbering, esthetics or nail technology is qualified to take the test of the Board of Cosmetology. A determination shall be made by an evaluation of academic transcripts, apprenticeship records and work experience documentation. If documentation is not available, the commission may refer the person to a career school for evaluation and recommendation.

BODY PIERCING TECHNICIANS

SECTION 44. ORS 690.360 is amended to read:

690.360. (1) A person may not:

- (a) Perform or attempt to perform services in a field of practice without a license to perform services in that field of practice;
- (b) Perform or attempt to perform services in a field of practice outside [*of*] a licensed facility;
- (c) Display a sign or in any way advertise or purport to offer services in a field of practice without a license to perform services in that field of practice;
- (d) Operate a facility, display a sign or in any way advertise or purport to offer services in a field of practice in a facility without a license to operate a facility or a temporary license to operate a facility;
- (e) Knowingly make a false statement on an application to obtain or renew a license;
- (f) Allow an individual in the employ or under the supervision or control of the person to perform services in a field of practice without a license to perform services in that field of practice;
- (g) Sell, barter or offer to sell or barter a document evidencing a license;
- (h) Purchase or procure by barter a document evidencing a license with intent to use the document as evidence of the person's qualification to provide services in a field of practice;
- (i) Materially alter with fraudulent intent a license or temporary license;
- (j) Use or attempt to use [*as valid*] a fraudulently obtained, counterfeited or materially altered license or temporary license; or
- (k) Use or attempt to use [*as valid*] a fraudulently obtained, counterfeited or materially altered license or temporary license.

(2) ORS 690.350 to 690.415 do not limit, preclude or otherwise interfere with the practice of other persons or health care providers licensed in this state.

(3) Subsection (1)(a), (b) or (d) of this section does not apply to:

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

(b) An individual self-administering body piercing.

SECTION 45. ORS 690.365 is amended to read:

690.365. (1)(a) The Oregon Health Licensing Agency shall issue a license to perform services in a field of practice to an applicant who:

(A) Shows to the satisfaction of the agency that the applicant:

(i) Is at least 18 years of age;

(ii) Has a high school diploma or equivalent education; and

(iii) Has submitted evidence of completion of education and training prescribed and approved by the agency;

(B) Has passed an examination approved, administered or recognized by the agency; and

(C) Pays **the applicable** fees established [by the agency] **under section 4 of this 2013 Act.**

(b) The agency may issue a temporary license to perform services in a field of practice as prescribed by agency rule.

(2)(a) The Oregon Health Licensing Agency shall issue a license to operate a facility to a person who:

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

(B) Pays **the applicable** fees established [by the agency] **under section 4 of this 2013 Act;** and

(C) Complies with other requirements established by the agency by rule.

(b) The agency shall conduct periodic inspections of facilities to determine compliance with safety, infection control and sterilization requirements.

(c) A person holding a license to operate a facility must post the license in a conspicuous place at all times on the premises of the facility.

(d) The agency may issue a temporary license to operate a facility in accordance with rules adopted by the agency.

SECTION 46. ORS 690.385 is amended to read:

690.385. (1) *[Except as provided in subsections (2) and (4) of this section, a license issued under ORS 690.365 expires one year from the date of issuance.]* To renew *[the license]* **a license issued under ORS 690.365,** the licensee must submit to the Oregon Health Licensing Agency:

(a) A completed renewal application;

(b) The *[required]* **applicable** renewal fee **established under section 4 of this 2013 Act;** and

(c) Satisfactory evidence of having completed any required continuing education credits on or before the expiration date of the license as specified by agency rule.

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

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

[(4) (2) A temporary license issued under ORS 690.365 expires as established by the agency by rule. [A temporary license may not be renewed.]

SECTION 47. ORS 690.405 is amended to read:

690.405. (1) The Oregon Health Licensing Agency shall:

(a) Determine the qualifications, training, education and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

(b) Adopt rules as necessary to administer ORS 690.350 to 690.415;

(c) Issue, deny, revoke, suspend and renew licenses;

(d) Maintain a public record of persons holding licenses;

(e) Establish standards of practice and professional responsibility for persons licensed by the agency to perform services in a field of practice;

(f) Select licensing examinations;

[(g) Establish continuing education requirements for renewal of a license;]

[(h) (g) Provide for waivers of examinations as appropriate;

[(i) (h) Appoint representatives to conduct or supervise examinations of applicants for licensure;

[(j)] (i) Inspect the facilities of persons who perform services in one or more fields of practice; and

[(k)] (j) Issue temporary licenses to qualified applicants in accordance with rules adopted by the agency.

(2) Before the agency adopts rules regulating body piercing of genitals or dermal implanting, the agency shall consult with the Oregon Medical Board to ensure that the rules protect public safety.

(3) The agency may consult with the Oregon Medical Board before adopting rules relating to other body art practices.

DIETITIANS

SECTION 48. ORS 691.435 is amended to read:

691.435. The Oregon Health Licensing Agency, in consultation with the Board of Licensed Dietitians, shall issue a dietitian license to an applicant who:

(1) Files an application as prescribed by the agency;

(2) Pays **the applicable** fees established [by the agency] **under section 4 of this 2013 Act**; and

(3) Demonstrates to the satisfaction of the agency that the applicant has:

(a) Received a baccalaureate or post-baccalaureate degree from a regionally accredited college or university in the United States with a major course of study in human nutrition, dietetics, foods and nutrition or food systems management approved by the board as meeting the standards for approval of the course of study under ORS 691.405 to 691.485;

(b) Completed a planned, continuous program of dietetic experience approved by the agency of 900 hours under the supervision of a licensed dietitian; and

(c) Passed an examination prescribed by the agency.

SECTION 49. ORS 691.445 is amended to read:

691.445. The Oregon Health Licensing Agency, in consultation with the Board of Licensed Dietitians, may waive the examination requirement and grant a dietitian license to an applicant who:

(1) Files an application as prescribed by the agency;

(2) Pays **the applicable** fees established [by the agency] **under section 4 of this 2013 Act**; and

(3) Presents satisfactory evidence of:

(a) Current registration as a dietitian with a credentialing body approved by the board; or

(b) Current licensure under the laws of any other state or territory in the United States, if the requirements for licensure of dietitians in the state or territory in which the applicant is licensed are not less than those required by ORS 691.405 to 691.485.

SECTION 50. ORS 691.465 is amended to read:

691.465. [(1) Except as provided in subsections (2) and (3) of this section, a license issued under ORS 691.405 to 691.485 expires one year from the date of issuance.] To renew [the license] **a license issued under ORS 691.405 to 691.485**, the licensee must submit to the Oregon Health Licensing Agency:

[(a)] (1) A completed renewal application;

[(b)] (2) The [required] **applicable** renewal fee **established under section 4 of this 2013 Act**; and

[(c)] (3) Satisfactory evidence of having completed any required continuing education credits on or before the expiration date of the license as specified by agency rule.

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

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

SECTION 51. ORS 691.475 is amended to read:

691.475. The Oregon Health Licensing Agency, in consultation with the Board of Licensed Dietitians, shall:

- (1) Adopt rules necessary for the administration of ORS 691.405 to 691.485;
- (2) Issue, deny, revoke, suspend and renew dietitian licenses;
- (3) Determine the qualifications, training, education and fitness of applicants for licenses, renewals of licenses and reciprocal licenses for dietitians;
- (4) Determine requirements for reciprocity and equivalency for licensed dietetics practice;
- (5) Establish a code of professional responsibility and standards of practice for licensed dietitians;
- (6) Develop, approve or recognize examinations to test an applicant's knowledge relating to dietitian techniques and methods and any other subjects the board may determine to be necessary to assess an applicant's fitness to practice as a licensed dietitian; **and**
- (7) Provide for waivers of examinations.[: *and*]
- [(8) Establish continuing education requirements for renewal of a dietitian license.]*

HEARING AID SPECIALISTS

SECTION 52. ORS 694.025 is amended to read:

694.025. (1) A person may not deal in hearing aids or display a sign or in any other way advertise or represent that the person deals in hearing aids unless the person holds [*a valid*] **an active** license issued by the Oregon Health Licensing Agency as provided in ORS 694.015 to 694.185.

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

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

SECTION 53. ORS 694.055 is amended to read:

694.055. An applicant for licensure under this chapter shall pay [*a fee*] **the applicable fees** established [*by the Oregon Health Licensing Agency*] under [*ORS 694.185*] **section 4 of this 2013 Act** and shall [*show*] **demonstrate** 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.
- (3) Has completed the training and has the experience required under ORS 694.065.

SECTION 53a. ORS 694.065 is amended to read:

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

- (a) Meet the training and experience requirements established by the Oregon Health Licensing Agency by rule;
- (b) Meet the training requirements for licensure as an audiologist or for certification of a licensed physician by the American Board of Otolaryngology; or
- (c) Meet the requirements for certification by the National Board for Certification in Hearing Instrument Sciences.

(2) An individual seeking to obtain the experience and training specified in subsection (1)(a) of this section necessary to take the examination shall obtain a trainee registration from the agency pursuant to rules adopted by the agency. A trainee registration issued pursuant to this subsection shall allow the holder of the registration to obtain training and experience [*only*] under the direct supervision of a hearing aid specialist licensed in the State of Oregon **or an audiologist licensed under ORS chapter 681. An audiologist who supervises trainees must comply with ORS 694.015 to 694.185 and rules adopted under ORS 694.015 to 694.185, and is subject to ORS 694.991, when supervising trainees.**

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

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

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

SECTION 54. ORS 694.085 is amended to read:

694.085. (1) Subject to ORS 676.612, the agency shall grant a hearing aid specialist license to each applicant, without discrimination, who possesses the required training and experience and who satisfactorily passes the examination and pays the *[required fees]* **applicable fees established under section 4 of this 2013 Act**. The license is effective for one year following issuance.

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

(a) Is certified by the Educational Service Board of the American Speech-Language-Hearing Association or, if not so certified, satisfies the agency that the applicant possesses equivalent training and education achievements; and

(b) Passes an examination related to Oregon law in the area of hearing aid dispensing and pays the *[required]* **applicable fees established under section 4 of this 2013 Act**.

SECTION 54a. ORS 694.142 is amended to read:

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

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

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

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

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

(d) Acute or chronic dizziness;

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

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

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

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

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

(a) An otolaryngologist for examination and for a recommendation of corrective measures that may be required;

(b) A properly licensed medical physician for like examination and recommendation; or

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

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

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

(b) A person issued a temporary license shall deal in hearing aids [*only*] under supervision of a person licensed under this chapter **or an audiologist licensed under ORS chapter 681. An audiologist who supervises temporary licensees must comply with ORS 694.015 to 694.185 and rules adopted under ORS 694.015 to 694.185, and is subject to ORS 694.991, when supervising temporary licensees.**

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

(d) A person may not sell a hearing aid by direct mail. For purposes of this paragraph, delivery by mail of a replacement hearing aid or parts does not constitute sale by direct mail.

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

SEX OFFENDER THERAPISTS

SECTION 55. ORS 675.370 is amended to read:

675.370. (1) Unless a person has applied for and received certification under ORS 675.375 or 675.380, a person may not claim certification as or represent that person to be a:

(a) Certified clinical sex offender therapist; or

(b) Certified associate sex offender therapist.

(2) ORS 675.360 to 675.410 apply only to certified sex offender therapists who treat sex offenders.

(3) A person may not:

(a) Attempt to obtain a certificate or renewal of a certificate under ORS 675.360 to 675.380 by bribery or fraudulent representation; or

(b) Purport to the public to be engaged in the practice of sex offender treatment under the title “clinical sex offender therapist” or “associate sex offender therapist” unless the person possesses [*a valid*] **an active** certification under ORS 675.360 to 675.380.

(4) Nothing in ORS 675.360 to 675.410 is intended to limit or prevent the practice of an individual’s profession or to restrict a person from providing counseling or therapy if the person or individual does not represent to the public by title that the person or individual is a certified sex offender therapist.

(5) Each violation of subsections (3) to (5) of this section is a separate violation.

SECTION 56. ORS 675.375 is amended to read:

675.375. (1) To obtain certification as a clinical sex offender therapist or associate sex offender therapist, an applicant must complete an application developed and prescribed by the Sex Offender Treatment Board and file a professional disclosure statement with the Oregon Health Licensing Agency. The documents must be accompanied by [*a fee established by the agency*] **the applicable fees established under section 4 of this 2013 Act.**

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

- (a) Clinical sex offender therapist; and
- (b) Associate sex offender therapist.

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

- (a) Be in compliance with applicable provisions and rules adopted by the agency;
- (b) Have at least a master's degree in the behavioral sciences;
- (c) Have an active Oregon mental health professional license or equivalent license as determined by the agency;

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

- (A) 1,000 hours of direct treatment services; and
- (B) 500 hours of evaluations; and

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

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

- (a) Be in compliance with applicable provisions and rules adopted by the agency;
- (b) Have at least a bachelor's degree in the behavioral sciences;
- (c) Have had a minimum of 1,000 hours of direct clinical contact with sex offenders;
- (d) Have a minimum of 30 hours of formal training applicable to sex offender treatment and evaluation, achieved within the three years prior to application; and

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

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

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

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

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

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

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

SECTION 57. ORS 675.380 is amended to read:

675.380. Upon receipt of an application and the *[appropriate fees under ORS 675.375]* **applicable fees established under section 4 of this 2013 Act**, the Oregon Health Licensing Agency shall certify a clinical sex offender therapist or associate sex offender therapist if the applicant provides evidence to the satisfaction of the agency that the applicant is recognized as a clinical sex offender therapist or associate sex offender therapist in another state in which the requirements for such recognition are, in the judgment of the agency, in consultation with the Sex Offender Treatment Board, at least equivalent to the requirements of ORS 675.360 to 675.410 and rules of the agency.

SECTION 58. ORS 675.400 is amended to read:

675.400. The Sex Offender Treatment Board shall:

(1) Determine the qualifications and fitness of applicants for certification as clinical sex offender therapists or associate sex offender therapists under ORS 675.360 to 675.380.

(2) Establish standards of practice and professional responsibility for persons certified by the Oregon Health Licensing Agency.

(3) Adopt standards for training [*and continuing education required under ORS 675.360 to 675.380*], including but not limited to training related to the treatment of distinct sex offender populations, including adults, juveniles, persons with developmental disabilities and others.

(4) Advise the agency on all matters related to administering ORS 675.360 to 675.410 and recommend rules, standards and guidelines necessary for the administration of ORS 675.360 to 675.380.

ENVIRONMENTAL HEALTH SPECIALISTS AND WASTE WATER SPECIALISTS

SECTION 59. ORS 700.030 is amended to read:

700.030. (1) Subject to ORS 676.612, upon application accompanied by payment of [*required fees*] **the applicable fees established under section 4 of this 2013 Act**, the Oregon Health Licensing Agency shall issue a registration to any applicant who performs to the satisfaction of the Environmental Health Registration Board on an examination approved by the board and furnishes evidence satisfactory to the agency that the applicant:

(a) Has a bachelor's degree from an accredited college or university with at least 45 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation and two years of experience in environmental sanitation under the supervision of a registered environmental health specialist or a person possessing equal qualifications, as determined by the board. Accumulated schooling relevant to environmental sanitation gained while serving in the United States Public Health Service or a branch of the Armed Forces of the United States may be credited toward the educational requirement as evaluated by the current edition of the "Guide to Evaluation of Educational Experience in the Armed Services," by the American Council on Education; or

(b) Has a graduate degree in public or community health from an accredited college or university and one year of experience in environmental sanitation under the supervision of a registered environmental health specialist or a person possessing equal qualifications, as determined by the board.

(2) The agency, in consultation with the board, shall establish by rule requirements for registration as an environmental health specialist when an individual's date of employment precedes attainment of registration.

SECTION 60. ORS 700.035 is amended to read:

700.035. (1) Subject to ORS 676.612, upon application and payment of [*required fees*] **the applicable fees established under section 4 of this 2013 Act**, the Oregon Health Licensing Agency shall issue an environmental health specialist trainee registration to any applicant who performs to the satisfaction of the Environmental Health Registration Board on an examination approved by the board and furnishes evidence satisfactory to the agency that the applicant:

(a) Has a bachelor's degree with 45 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation from an accredited college or university; or

(b) Has at least 15 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation from an accredited college or university and has at least five years of experience in environmental sanitation or related activities, as determined by the board, under the supervision of a registered environmental health specialist or a person possessing equal qualifications, as determined by the board.

(2) A person may not be registered as an environmental health specialist trainee for more than two years' full-time employment in the environmental sanitation profession, or the equivalent hours if employment in environmental sanitation is less than full-time or 40 hours per week.

(3) The agency, in consultation with the board, shall establish by rule requirements for registration as an environmental health specialist trainee when an individual's date of employment precedes attainment of registration.

(4) An environmental health specialist trainee shall be supervised by a registered environmental health specialist or a person possessing equal qualifications as determined by the board.

SECTION 61. ORS 700.050 is amended to read:

700.050. (1) Examinations for registration as an environmental health specialist shall be held at least once every year at such time and place as the Oregon Health Licensing Agency may determine. The examination shall be sufficiently thorough to determine the qualifications, fitness and ability of the applicant to practice as an environmental health specialist and may be in the form of written, oral or practical demonstrations of skill. The examination shall cover subject areas determined by the Environmental Health Registration Board by rule.

(2) The agency shall notify each applicant whether the applicant passed or failed the examination.

(3) Upon written request to the agency, any applicant may discuss performance on the examination.

(4) Any applicant who fails to make a passing grade on the examination may be allowed to take the examination a second time upon payment of the *[required fee]* **applicable fee established under section 4 of this 2013 Act**. The agency, in consultation with the board, may require the applicant to undergo additional training as determined by the board before taking the examination a third or subsequent time.

(5) The agency shall give reasonable notice by mail of the time and place of examination to each applicant accepted for examination.

SECTION 62. ORS 700.053 is amended to read:

700.053. (1) An applicant for registration as a waste water specialist shall submit an application to the Oregon Health Licensing Agency in the manner required by the Environmental Health Registration Board. The application shall be on a form approved by the agency, include proof satisfactory to the board that the applicant meets the education and experience requirements under subsection (3) of this section and include payment of *[required fees]* **the applicable fees established under section 4 of this 2013 Act**.

(2) The agency shall issue a registration as a waste water specialist to an applicant whose application complies with subsection (1) of this section and who successfully completes the examination required under subsection (5) of this section and passes the examination required under subsection (6) of this section.

(3) An applicant for registration as a waste water specialist is required to have:

(a) A bachelor's degree from an accredited college or university, including at least 45 quarter hours or the equivalent in soil science courses and two years of experience in waste water treatment, disposal and reuse within this state supervised by a registered waste water specialist or by an equally qualified person as determined by the board;

(b) A graduate degree in soil science from an accredited college or university and one year of experience in waste water treatment, disposal and reuse within this state supervised by a registered waste water specialist or by an equally qualified person as determined by the board; or

(c) A graduate degree in soil science from an accredited college or university and to currently be certified as a professional soil scientist.

(4) Soil science schooling obtained while serving in the United States Public Health Service or a branch of the Armed Services of the United States may be credited toward the soil science course requirement under subsection (3)(a) of this section. The board may use any system it considers reliable in assigning credit for relevant schooling under this subsection, including but not limited to assigning credit in conformance with the "Guide to Evaluation of Educational Experience in the Armed Services" published by the American Council on Education.

(5) The board may, at its discretion, conduct an examination of candidates for registration as waste water specialists. The examination may be on any matter pertaining to the fitness of the applicant to be registered as a waste water specialist, but may not duplicate matters covered on the examination required under subsection (6) of this section.

(6) Every applicant for registration as a waste water specialist shall be given a written or practical examination prepared by the board and designed to test the technical competence of the applicant in all major areas of waste water sanitation.

SECTION 63. ORS 700.059 is amended to read:

700.059. (1) Examinations for registration as a waste water specialist shall be held at least once every year at such time and place as the Oregon Health Licensing Agency may determine. The Environmental Health Registration Board shall determine the content of the examination, utilizing such advisory committees as the board deems necessary.

(2) The agency shall notify each applicant whether the applicant passed or failed the examination.

(3) Upon written request to the board, any applicant may discuss performance on the examination.

(4) Any applicant who fails to make a passing grade on the examination may be allowed to take the examination a second time upon payment of *[required fees]* **the applicable fees established under section 4 of this 2013 Act**. However, any applicant who fails the examination a second time must obtain special permission from the board to take the examination a third or subsequent time.

(5) The agency shall give reasonable notice by mail of the time and place of examination to each applicant accepted for examination.

SECTION 64. ORS 700.062 is amended to read:

700.062. (1) Subject to ORS 676.612, upon application and payment of *[required fees established by the Oregon Health Licensing Agency]* **the applicable fees established under section 4 of this 2013 Act**, the **Oregon Health Licensing Agency** shall issue registration as a waste water specialist trainee to any applicant who furnishes evidence satisfactory to the agency that the applicant:

(a) Has a bachelor's degree from an accredited college or university, including at least 45 quarter hours or the equivalent in soil science courses; or

(b) Has a graduate degree in soil science from an accredited college or university.

(2) Soil science schooling obtained while serving in the United States Public Health Service or a branch of the Armed Services of the United States may be credited toward the soil science course requirement under this section. The Environmental Health Registration Board may use any system it considers reliable in assigning credit for relevant schooling under this subsection, including but not limited to assigning credit in conformance with the "Guide to Evaluation of Educational Experience in the Armed Services" published by the American Council on Education.

REPEALS

SECTION 65. ORS 675.405, 676.617, 678.760, 678.775, 680.525, 680.530, 687.435, 688.724, 688.728, 688.834, 690.085, 690.095, 690.235, 690.415, 691.479, 694.125, 694.185, 700.080, 700.100 and 700.105 are repealed.

SECTION 65a. Notwithstanding section 8, chapter 82, Oregon Laws 2013 (Enrolled Senate Bill 107) (amending ORS 694.185), if Senate Bill 107 becomes law, ORS 694.185 is repealed by section 65 of this 2013 Act.

OPERATIVE DATE

SECTION 66. (1) Sections 1 to 5 of this 2013 Act, the amendments to statutes by sections 6 to 64 of this 2013 Act and the repeal of statutes by section 65 of this 2013 Act become operative on January 1, 2014.

(2) The Oregon Health Licensing Agency may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the agency to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the agency by sections 1 to 5 of this 2013 Act, the amendments to statutes by sections 6 to 64 of this 2013 Act and the repeal of statutes by section 65 of this 2013 Act.

UNIT CAPTIONS

SECTION 67. The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

EMERGENCY CLAUSE

SECTION 68. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House April 8, 2013

Received by Governor:

Repassed by House May 30, 2013

.....M,....., 2013

Approved:

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Ramona J. Line, Chief Clerk of House

.....M,....., 2013

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Tina Kotek, Speaker of House

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John Kitzhaber, Governor

Passed by Senate May 28, 2013

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M,....., 2013

.....
Kate Brown, Secretary of State