

Senate Bill 107

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for Oregon Health Licensing Agency)

SUMMARY

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

Modifies certain provisions relating to Nursing Home Administrators Board, Respiratory Therapist and Polysomnographic Technologist Licensing Board, Board of Cosmetology, Board of Body Art Practitioners and Oregon Health Licensing Agency.

A BILL FOR AN ACT

Relating to regulated professions; creating new provisions; and amending ORS 676.992, 678.770, 688.819, 690.005, 690.350, 694.085, 694.155 and 694.185.

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

NURSING HOME ADMINISTRATORS BOARD

SECTION 1. 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.

RESPIRATORY THERAPIST AND POLYSOMNOGRAPHIC TECHNOLOGIST LICENSING BOARD

SECTION 2. 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 **or training program, or a polysomnography program that combines education and training**, approved by the Respiratory Therapist and

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

1 Polysomnographic Technologist Licensing Board; and

2 (b) Pass an examination approved by the board.

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

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

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

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

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

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

19 (6) The agency shall adopt by rule requirements for late renewal of a license, reactivation of
20 an expired license or reinstatement of a license that has been expired for more than three consec-
21 utive years.

22 (7) If a polysomnographic technologist license has been denied, suspended or revoked for com-
23 mission of a prohibited act under ORS 676.612, the agency may refuse to issue or renew the license
24 for up to one year from the date of denial, suspension or revocation.

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

27 (9) The agency may issue a temporary permit to practice polysomnography in accordance with
28 rules adopted by the agency.

29
30 **BOARD OF COSMETOLOGY**

31
32 **SECTION 3.** ORS 690.005 is amended to read:

33 690.005. As used in ORS 690.005 to 690.235:

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

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

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

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

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

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

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

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

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

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

8 (a) The use of the hands or mechanical or [*electrical*] **electric** apparatuses or appliances for
9 cleansing, stimulating, manipulating, exfoliating or applying lotions or creams.

10 (b) Temporary removal of hair.

11 (c) Makeup artistry.

12 **(d) Eyelash services.**

13 [*d*] **(e)** Facial and body wrapping.

14 [*e*] **(f)** Facial and body waxing.

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

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

18 (a) Barbering.

19 (b) Esthetics.

20 (c) Hair design.

21 (d) Nail technology.

22 (9) "Freelance authorization" means a written authorization that allows a practitioner to prac-
23 tice outside or away from a licensed facility.

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

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

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

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

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

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

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

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

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

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

44 (14) "Practitioner" means a person certified to perform services included within a field of prac-
45 tice.

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

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

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

7
 8 **BOARD OF BODY ART PRACTITIONERS**

9
 10 **SECTION 4.** ORS 690.350 is amended to read:

11 690.350. As used in ORS 690.350 to 690.415, unless the context requires otherwise:

12 (1) "Body piercing" means the puncturing of a part of the body of a live human being to create
 13 a permanent hole for ornamentation or decoration.

14 (2) "Dermal implanting" means the insertion of an object under the skin of a live human being
 15 for ornamentation or decoration.

16 **(3)(a) "Earlobe piercing" means the puncturing of the soft lower part of the external ear**
 17 **of a live human being for ornamentation or decoration.**

18 **(b) "Earlobe piercing" does not include the puncturing of ear cartilage.**

19 [(3)] (4) "Electrolysis" means the process by which hair, with a series of treatments, is perma-
 20 nently removed from the skin by inserting a needle-conductor into the hair follicle and directing
 21 electrical energy toward the hair cell. The word "electrolysis" is used in generic form in ORS
 22 690.350 to 690.415 and refers to modalities of galvanic electrolysis, thermolysis and combinations
 23 thereof.

24 [(4)] (5) "Facility" means a fixed or mobile place of business operated on a regular or irregular
 25 basis for the purpose of providing services in one or more fields of practice.

26 [(5)] (6) "Field of practice" means:

27 (a) Tattooing;

28 (b) Body piercing;

29 **(c) Earlobe piercing;**

30 [(c)] (d) Electrolysis;

31 [(d)] (e) Dermal implanting; or

32 [(e)] (f) Scarification.

33 [(6)] (7) "License" means a written authorization issued under ORS 690.365 authorizing the
 34 holder to:

35 (a) Perform services in one or more fields of practice; or

36 (b) Operate a facility.

37 [(7)] (8) "Scarification" means injury of the skin to produce a scar on a live human being for
 38 permanent ornamentation or decoration.

39 [(8)] (9) "Tattooing" means the process by which a live human being is marked or colored by
 40 insertion of nontoxic dyes or pigments to form indelible marks for ornamentation or decoration.

41 [(9)] (10) "Temporary license" means a written authorization issued under ORS 690.365 tempo-
 42 rarily authorizing the holder to:

43 (a) Perform services in a field of practice; or

44 (b) Operate a facility.

45 **SECTION 5.** ORS 676.992 is amended to read:

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

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

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

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

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

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

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

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

37
 38 **OREGON HEALTH LICENSING AGENCY POWERS**
 39 **WITH RESPECT TO REGULATION OF HEARING AIDS**
 40

41 **SECTION 6.** ORS 694.155 is amended to read:

42 694.155. The powers and duties of the Oregon Health Licensing Agency with regard to dealing
 43 in hearing aids are as follows:

44 (1) To authorize all disbursements necessary to carry out the provisions of ORS 694.015 to
 45 694.185.

1 (2) To determine training and experience requirements prerequisite to taking the examination
 2 and to supervise and administer qualifying examinations to test the knowledge and proficiency of
 3 applicants for licensure.

4 **(3) To provide for waivers of examinations by rule.**

5 [(3)] (4) To license persons who apply to the agency and who have qualified to deal in hearing
 6 aids.

7 [(4)] (5) To purchase and maintain or rent audiometric equipment and facilities necessary to
 8 carry out the examination of applicants for licensure.

9 [(5)] (6) To issue and renew licenses **and temporary licenses.**

10 [(6)] (7) To suspend or revoke licenses in the manner provided in ORS chapter 183.

11 [(7)] (8) To appoint representatives to conduct or supervise the examination of applicants for
 12 licensure.

13 [(8)] (9) To designate the time and place for examining applicants for licensure.

14 [(9)] (10) To adopt rules not inconsistent with the laws of this state which are necessary to carry
 15 out the provisions of ORS 694.015 to 694.185.

16 [(10)] (11) With the advice of the Advisory Council on Hearing Aids, to prescribe safety and
 17 sanitation requirements, to require the periodic inspection of the audiometric testing equipment and
 18 to carry out the periodic inspection of facilities of persons who deal in hearing aids.

19 [(11)] (12) To appoint or employ subordinate employees.

20 [(12)] (13) To adopt rules specifying exemptions relating to assistive listening devices.

21 **SECTION 7.** ORS 694.085 is amended to read:

22 694.085. (1) Subject to ORS 676.612, the **Oregon Health Licensing Agency** shall grant a hearing
 23 aid specialist license to each applicant, without discrimination, who possesses the required training
 24 and experience and who satisfactorily passes the examination and pays the required fees. The li-
 25 cense is effective for one year following issuance.

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

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

31 (b) Passes an examination related to Oregon law in the area of hearing aid dispensing and pays
 32 the required fees.

33 **(3) Notwithstanding subsection (1) of this section, the agency may adopt rules for the**
 34 **issuance of a temporary license to an applicant who has not yet passed the examination if**
 35 **the applicant otherwise meets the qualifications for licensure.**

36 **SECTION 8.** ORS 694.185 is amended to read:

37 694.185. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees and
 38 charges for the following related to dealing in hearing aids:

39 (a) Application;

40 (b) Examinations;

41 (c) Original hearing aid specialist license;

42 (d) License renewal;

43 **(e) Temporary license;**

44 [(e)] (f) License reactivation;

45 [(f)] (g) Replacement or duplicate license;

