STATE OF OREGON
BOARD OF DENTISTRY

DENTAL PRACTICE ACT

2015 LEGISLATIVE SESSION

ORS CHAPTER 679
DENTISTS

ORS CHAPTER 680.010 TO 680.210 AND 680.990
DENTAL HYGIENISTS

OTHER RELATED STATUTES
2011 LEGISLATIVE SESSION

OREGON ADMINISTRATIVE RULES
CHAPTER 818

ALL CHANGES MADE THROUGH NOVEMBER 1, 2016

OREGON BOARD OF DENTISTRY

Dental Practice Act, Administrative Rules and Related Statutes

The first Act regulating the practice of dentistry was adopted by the Oregon Legislature on February 23, 1887. The Oregon Dental Practice Act is comprised of Oregon Revised Statutes, Chapters 679 (green pages), 680.010 to 680.210 and 680.990 (yellow pages). These statutes, enacted by the Oregon Legislature authorize the Board to regulate the practice of dentistry and dental hygiene. Administrative Rules of the Board are found in OAR 818-001-0000 through 818-042-0130 (white pages). Also included in this publication are other statutes that relate to regulating a health profession or other statutes that licensees of the Board should be aware of (blue pages). Because the statutes and rules are subject to revision, they are published in a format suitable for insertion in a three-ring binder.

This publication reflects the statutes and rules in effect as of the dates published on the cover. It is every licensee's responsibility to be aware of the current laws and rules of their profession. Copies of the Dental Practice Act, Administrative Rules and related statutes are available from the Board at no cost, or may be accessed through the Board's Web site.

OREGON BOARD OF DENTISTRY
1500 SW 1st Avenue, Suite 770
Portland, OR 97201
Phone: (971) 673-3200
Fax: (971) 673-3202
E-Mail: information@oregondentistry.org
Web Site: www.oregon.gov/dentistry

The Mission of the Oregon Board of Dentistry is to promote high quality oral health care in the State of Oregon by equitably regulating dental professionals.

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Chapter 679

2015 EDITION

Dentists

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GENERAL PROVISIONS

679.010 Definitions. As used in this chapter and ORS 680.010 to 680.205, unless the context requires otherwise:

(1) "Dental assistant" means a person who, under the supervision of a dentist, renders assistance to a dentist, dental hygienist, dental technician or another dental assistant or who, under the supervision of a dental hygienist, renders assistance to a dental hygienist providing dental hygiene.

(2) "Dental hygiene" is that portion of dentistry that includes, but is not limited to:

(a) The rendering of educational, preventive and therapeutic dental services and diagnosis and treatment planning for such services;

(b) Prediagnostic risk assessment, scaling, root planing, curettage, the application of sealants and fluoride and any related intraoral or extraoral procedure required in the performance of such services; and

(c) Prescribing, dispensing and administering prescription drugs for the services described in paragraphs (a) and (b) of this subsection.

(3) "Dental hygienist" means a person who, under the supervision of a dentist, practices dental hygiene.

(4) "Dental technician" means a person who, at the authorization of a dentist, makes, provides, repairs or alters oral prosthetic appliances and other artificial materials and devices that are returned to a dentist and inserted into the human oral cavity or that come in contact with its adjacent structures and tissues.

(5) "Dentist" means a person who may perform any intraoral or extraoral procedure required in the practice of dentistry.

(6) "Dentist of record" means a dentist that either authorizes treatment for, supervises treatment of or provides treatment for a patient in a dental office or clinic owned or operated by an institution as described in ORS 679.020 (3).

(7)(a) "Dentistry" means the healing art concerned with:

(A) The examination, diagnosis, treatment planning, treatment, care and prevention of conditions within the human oral cavity and maxillofacial region, and of conditions of adjacent or related tissues and structures; and

(B) The prescribing, dispensing and administering of prescription drugs for purposes related to the activities described in subparagraph (A) of this paragraph.

(b) "Dentistry" includes, but is not limited to, the cutting, altering, repairing, removing, replacing or repositioning of hard or soft tissues and other acts or procedures as determined by the Oregon Board of Dentistry and included in the curricula of:

(A) Dental schools accredited by the Commission on Dental Accreditation of the American Dental Association;

(B) Post-graduate training programs; or

(C) Continuing education courses.

(8) "Direct supervision" means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

(9) "Expanded practice dental hygienist" means a dental hygienist who performs dental hygiene services in accordance with ORS 680.205 as authorized by an expanded practice dental hygienist permit issued by the board under ORS 680.200.

(10) "General supervision" means supervision requiring that a dentist authorize the procedures by standing orders, practice agreements or collaboration agreements, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

(11) "Indirect supervision" means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed. [Amended by 1983 c.169 §1; 1997 c.251 §4; 1999 c.188 §1; 2003 c.83 §1; 2005 c.52 §2; 2007 c.379 §1; 2011 c.716 §3; 2013 c.310 §1; 2015 c.15 §1; 2015 c.349 §1]

679.020 Practice of dentistry or operating dental office without license prohibited; exceptions. (1) A person may not practice dentistry without a license.

(2) Only a person licensed as a dentist by the Oregon Board of Dentistry may own, operate, conduct or maintain a dental practice, office or clinic in this state.

(3) The restrictions of subsection (2) of this section, as they relate to owning and operating a dental office or clinic, do not apply to a dental office or clinic owned or operated by any of the following:

(a) A labor organization as defined in ORS 243.650 and 663.005 (6), or to any nonprofit organization formed by or on behalf of such labor organization for the purpose of providing dental services. Such labor organization must have had an active existence for at least three years, have a constitution and bylaws, and be maintained in good faith for purposes other than providing dental services.

(b) The School of Dentistry of the Oregon Health and Science University.

(c) Public universities listed in ORS 352.002.

(d) Local governments.

(e) Institutions or programs accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training.

(f) Nonprofit corporations organized under Oregon law to provide dental services to rural areas and medically underserved populations of migrant, rural community or homeless individuals under 42 U.S.C. 254b or 254c or health centers qualified under 42 U.S.C. 1396d(l)(2)(B) operating in compliance with other applicable state and federal law.

(g) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as providing dental services by volunteer licensed dentists to populations with limited access to dental care at no charge or a substantially reduced charge.

(h) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as having an existing program that provides medical and dental care to medically underserved children with special needs at an existing single fixed location or multiple mobile locations.

(4) For the purpose of owning or operating a dental office or clinic, an entity described in subsection (3) of this section must:

(a) Except as provided in ORS 679.022, name an actively licensed dentist as its dental director, who shall be subject to the provisions of ORS 679.140 in the capacity as dental director. The dental director, or an actively licensed dentist designated by the director, shall have responsibility for the clinical practice of dentistry, which includes, but is not limited to:

(A) Diagnosis of conditions within the human oral cavity and its adjacent tissues and structures.

(B) Prescribing drugs that are administered to patients in the practice of dentistry.

(C) The treatment plan of any dental patient.

(D) Overall quality of patient care that is rendered or performed in the practice of dentistry.

(E) Supervision of dental hygienists, dental assistants or other personnel involved in direct patient care and the authorization for procedures performed by them in accordance with the standards of supervision established by statute or by the rules of the board.

(F) Other specific services within the scope of clinical dental practice.

(G) Retention of patient dental records as required by statute or by rule of the board.

(H) Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.

(b) Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care utilized by the entity. The records must be available to the board upon written request.

(5) Subsections (1) and (2) of this section do not apply to an expanded practice dental hygienist who renders services authorized by a permit issued by the board pursuant to ORS 680.200.

(6) Nothing in this chapter precludes a person or entity not licensed by the board from:

(a) Ownership or leasehold of any tangible or intangible assets used in a dental office or clinic. These assets include real property, furnishings, equipment and inventory but do not include dental records of patients related to clinical care.

(b) Employing or contracting for the services of personnel other than licensed dentists.

(c) Management of the business aspects of a dental office or clinic that do not include the clinical practice of dentistry.

(7) If all of the ownership interests of a dentist or dentists in a dental office or clinic are held by an administrator, executor, personal representative, guardian, conservator or receiver of the estate of a former shareholder, member or partner, the administrator, executor, personal representative, guardian, conservator or receiver may retain the ownership interest for a period of 12 months following the creation of the ownership interest. The board shall extend the ownership period for an additional 12 months upon 30 days' notice and may grant additional extensions upon reasonable request. [Amended by 1977 c.192 §1; 1985 c.323 §3; 1995 c.286 §29; 1997 c.251 §6; 2003 c.322 §1; 2009 c.223 §1; 2011 c.637 §284; 2011 c.716 §4; 2013 c.310 §2; 2015 c.391 §1]

679.022 Exemption from naming licensed dentist as director for accredited institutions and programs. (1) ORS 679.020 (4)(a) does not apply to institutions or programs accredited by the Commission on Dental Accreditation of the American Dental

Association to provide education and training.

(2) Institutions or programs described in subsection (1) of this section must:

(a) Maintain a list of the dentists of record that provide dental care in a dental clinic or office owned or operated by the institution or program; and

(b) Provide the list maintained under this subsection to the Oregon Board of Dentistry when requested by the board. [2013 c.310 §3]

679.025 License required to practice dentistry; exemptions. (1) A person may not practice dentistry or purport to be a dentist without a valid license to practice dentistry issued by the Oregon Board of Dentistry.

(2) The requirements of this section do not apply to:

(a) Dentists licensed in another state or country making a clinical presentation sponsored by a bona fide dental society or association or an accredited dental educational institution approved by the board.

(b) Bona fide full-time students of dentistry who, during the period of their enrollment and as a part of the course of study in an Oregon accredited dental education program, engage in clinical studies on the premises of such institution or in a clinical setting located off the premises of the institution if the facility, the instructional staff and the course of study to be pursued at the off-premises location meet minimum requirements prescribed by the rules of the board and the clinical study is performed under the direct supervision of a member of the faculty.

(c) Bona fide full-time students of dentistry who, during the period of their enrollment and as a part of the course of study in a dental education program located outside of Oregon that is accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, engage in community-based or clinical studies as an elective or required rotation in a clinical setting located in Oregon if the community-based or clinical studies meet minimum requirements prescribed by the rules of the board and are performed under the direct supervision of a member of the faculty of the Oregon Health and Science University School of Dentistry.

(d) Candidates who are preparing for a licensure examination to practice dentistry and whose application has been accepted by the board or its agent, if such clinical preparation is conducted in a clinic located on premises approved for that purpose by the board and if the procedures are limited to examination only. This exception shall exist for a period not to exceed two weeks immediately prior to a regularly scheduled licensure examination.

(e) Dentists practicing in the discharge of official duties as employees of the United States Government and any of its agencies.

(f) Instructors of dentistry, whether full- or part-time, while exclusively engaged in teaching activities and while employed in accredited dental educational institutions.

(g) Dentists employed by public health agencies who are not engaged in the direct delivery of clinical dental services to patients.

(h) Persons licensed to practice medicine in the State of Oregon in the regular discharge of their duties.

(i) Persons qualified to perform services relating to general anesthesia or sedation under the direct supervision of a licensed dentist.

(j) Dentists licensed in another state or country and in good standing, while practicing dentistry without compensation for no more than five consecutive days in any 12-month period, provided the dentist submits an application to the board at least 10 days before practicing dentistry under this paragraph and the application is approved by the board.

(k) Persons practicing dentistry upon themselves as the patient.

(L) Dental hygienists, dental assistants or dental technicians performing services under the supervision of a licensed dentist in accordance with the rules adopted by the board.

(m) A person licensed as a denturist under ORS 680.500 to 680.565 engaged in the practice of denture technology.

(n) An expanded practice dental hygienist who renders services authorized by a permit issued by the board pursuant to ORS 680.200. [1953 c.574 §2; 1955 c.560 §1; 1957 c.552 §4; 1963 c.284 §1; 1971 c.48 §1; 1973 c.390 §1; 1975 c.693 §19; 1979 c.1 §16; 1983 c.169 §2; 1993 c.142 §1; 1997 c.251 §5; 2005 c.504 §1; 2011 c.716 §5; 2012 c.80 §1; 2013 c.114 §1]

679.026 [1971 c.48 §2; 1975 c.693 §20; 1977 c.192 §2; 1981 c.185 §1; repealed by 1983 c.169 §34]

679.027 Enjoining violations. The Attorney General, or the prosecuting attorney of any county, or the Oregon Board of Dentistry, in its own name, may maintain an action for an injunction against any person violating any provision of ORS 679.020, 679.025, 679.170 or 679.176. Any person who has been so enjoined may be punished for contempt by the court issuing the injunction. An injunction may be issued without proof of actual damage sustained by any person. An injunction shall not relieve a person from criminal prosecution for violation of any provision of ORS 679.020, 679.025, 679.170 or

679.176 or from any other civil, criminal or disciplinary remedy. [1957 c.552 §2; 1963 c.284 §2; 1979 c.284 §192; 1983 c.169 §3]

679.030 [Amended by 1953 c.574 §5; repealed by 1977 c.192 §13]

679.040 [Amended by 1963 c.284 §3; repealed by 2003 c.83 §12]

679.050 Nonresident dentists giving or receiving instruction; hospital permits. (1) If a reputable and duly licensed practitioner in dentistry of another state or country is asked to appear and demonstrate, receive or give instruction in the practice of dentistry before any qualified dental college or dental organization or dental study group recognized by the Oregon Board of Dentistry, the secretary of the board shall issue on written request of an authorized officer of such college or dental organization or dental study group, without fee, a permit for such purpose. A permit shall be issued upon such terms as the board shall prescribe.

(2) If a reputable and duly licensed practitioner in dentistry of another state has been granted staff privileges, either limited, special or general, by any duly licensed hospital in this state, the secretary of the board shall issue on written request and verification of an authorized officer of such hospital, a permit for such nonresident practitioner to practice dentistry in said hospital. [Amended by 1963 c.284 §4; 1965 c.122 §3; 1967 c.282 §1; 1973 c.390 §2; 2013 c.114 §2]

LICENSING

679.060 Application for license; fees; grounds for refusal of license. (1) Any person desiring to practice dentistry in this state shall file an application with the Oregon Board of Dentistry.

(2) At the time of making the application, the applicant shall:

(a) Pay to the board the required application and examination fee.

(b) Furnish the board with evidence satisfactory to the board of details of any convictions recorded in any police records. Such details are subject to the findings required by ORS 670.280.

(c) Present to the board a diploma or evidence satisfactory to the board of having graduated from an accredited dental education program approved by the board.

(3) If an applicant has been in practice in another state or states the applicant shall furnish an affidavit from the secretary of the board of dental examiners or similar body of such state or states that the applicant has been engaged in the legal practice of dentistry in such state or states for a period of time prescribed by the rules of the Oregon Board of Dentistry.

(4) The board may refuse to issue a license to or renew a license of an applicant who has been convicted of a violation of the law if the board makes the findings required by ORS 670.280. A certified copy of the record of conviction is conclusive evidence of conviction.

(5) The board may refuse to issue a license to or renew a license of an applicant who has been disciplined by a state licensing or regulatory agency of this or another state regarding any health care profession when, in the judgment of the board, the act or conduct resulting in the disciplinary action bears a demonstrable relationship to the ability of the licensee or applicant to practice dentistry in accordance with the provisions of this chapter. A certified copy of the record of the disciplinary action is conclusive evidence of the disciplinary action.

(6) The board may refuse to issue a license to or renew a license of an applicant who has falsified a license application, or any person for any cause described under ORS 679.140 or 679.170.

(7) Fees paid are not refundable. [Amended by 1963 c.284 §5; 1973 c.390 §3; 1973 c.827 §69; 1973 c.829 §62a; 1977 c.444 §1; 1981 c.232 §1; 1983 c.169 §6; 1985 c.323 §4; 1995 c.199 §1; 2003 c.83 §2]

679.065 Qualifications of applicants; rules. (1) An applicant for a dental license shall be entitled to take the examination to practice dentistry in Oregon if the applicant:

(a) Is 18 years of age or older; and

(b) Is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, which must have been approved by the Oregon Board of Dentistry.

(2) Foreign trained graduates of dental programs may apply for the dental licensure examination, providing the applicant meets the board's requirements, by rule, as will reasonably assure that an applicant's training and education are sufficient for licensure. [1983 c.169 §5]

679.070 Examination; certain other examination results in lieu of examination. (1) The Oregon Board of Dentistry may administer written, laboratory or clinical examinations to test professional knowledge and skills.

(2) The examination shall be elementary and practical in character but sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on any subjects pertaining to dental science. The written examination may be supplemented by oral examination. Demonstrations of the

applicant's skill in operative and prosthetic dentistry also may be required.

(3) The board may accept the results of national standardized examinations in satisfaction of the written examination as authorized by this section, and shall accept the results of regional testing agencies or of clinical board examinations administered by other states in satisfaction of the laboratory or clinical examination authorized under this section, provided:

(a) The test or examination was taken within five years of the date of application; and

(b) The applicant received a passing score on the test or examination as established by the board by rule.

(4) The board shall accept the results of regional testing agencies or of clinical board examinations administered by other states in satisfaction of the examinations authorized under this section for applicants who have engaged in the active practice of dentistry in other states, in Oregon or in the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for at least 3,500 hours in the five years immediately preceding application and who meet all other requirements for licensure. [Amended by 1965 c.122 §4; 1983 c.169 §7; 1999 c.489 §1; 2001 c.193 §1; 2003 c.83 §3; 2005 c.229 §1]

679.080 Reexamination of applicants; rules. The Oregon Board of Dentistry may adopt rules requiring additional education and examination of applicants who have failed the licensing examination three times. [Amended by 1973 c.829 §63; 1977 c.444 §2; 1983 c.169 §8; 2003 c.83 §4]

679.090 Issuance of license. The Oregon Board of Dentistry shall, upon the applicant's satisfactory completion of the educational requirements and written, laboratory and clinical examinations authorized under this chapter and upon receipt of the requisite fees, issue or renew the appropriate dental license. [Amended by 1963 c.284 §6; 1971 c.34 §1; 1983 c.169 §9]

679.100 [Repealed by 1963 c.284 §17]

679.105 [1997 c.662 §1; repealed by 2003 c.83 §12]

679.110 [Repealed by 1983 c.169 §34]

679.115 Licensing of dental instructor; requirements. (1) Notwithstanding any other provision of this chapter, the Oregon Board of Dentistry shall issue a dental instructor's license to practice dentistry to any person who furnishes the board with evidence satisfactory to the board that the applicant meets the requirements of subsection (2) of this section.

(2) An applicant for a dental instructor's license must be a full-time instructor of dentistry engaged in dental activities, including but not limited to participation in a faculty practice plan, within the scope of the applicant's employment at Oregon Health and Science University and either:

(a) Be a graduate of an accredited dental school; or

(b) If the applicant is not a graduate of an accredited dental school, have a certificate or degree showing successful completion of an advanced dental education program of at least two years' duration from an accredited dental school and:

(A) Be licensed to practice dentistry in another state or a Canadian province;

(B) Have held an instructor's or faculty license to practice dentistry in another state or a Canadian province immediately prior to becoming an instructor of dentistry at Oregon Health and Science University;

(C) Have successfully passed any clinical examination recognized by the board for initial licensure; or

(D) Be certified by the appropriate national certifying examination body in a dental specialty recognized by the American Dental Association.

(3) The board may refuse to issue or renew a dental instructor's license to an applicant or licensee:

(a) Who has been convicted of an offense or disciplined by a dental licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant or licensee to practice dentistry in accordance with the provisions of this chapter;

(b) Who has falsified an application for licensure; or

(c) For cause as described under ORS 679.140 or 679.170.

(4) A person issued a dental instructor's license is restricted to the practice of dentistry for or on behalf of Oregon Health and Science University.

(5) A license issued to an applicant qualifying for a dental instructor's license who is a specialist by virtue of successful completion of an advanced dental education program is restricted to the specialty in which the dentist was trained.

(6) As used in this section, "accredited" means accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any. [1999 c.578 §8; 2001 c.188 §1; 2013 c.413 §1; 2015 c.394 §1]

679.120 License fees; waiver of fee; rules; renewal of license. (1) The Oregon Board of Dentistry may impose application fees for the following:

(a) Examinations, which may differ for general dentistry, foreign school graduate and specialty examinations.

(b) Biennial dentist license, active.

(c) Biennial dentist license, inactive.

(d) Permits and certificates.

(e) Delinquency.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section and ORS 680.075 shall not exceed the costs of administering the regulatory program of the board, as authorized by the Legislative Assembly within the board budget, as the budget may be modified by the Emergency Board.

(3)(a) The board may waive the payment of the license fee in the case of any licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because of retirement.

(b) Application to reinstate a license retired under paragraph (a) of this subsection or to convert an inactive status license to an active status license shall be made in accordance with the rules of the board and with the submission of the license fee prescribed for such license; provided, however, that if more than one year has expired since the license was retired or inactivated, satisfactory evidence of operative competence must be submitted to the board.

(4) Every dentist shall advise the board within 30 days of any change of address.

(5) Each dentist must renew the dentist's license every two years through submitting a renewal application and paying the license fee.

(6) Dentists licensed in even-numbered years must renew by March 31 of each even-numbered year. Dentists licensed in odd-numbered years must renew by March 31 of each odd-numbered year.

(7) A reasonable charge may be made in the event that the license fee or renewal application is more than 10 days delinquent.

(8) Fees paid are not refundable. [Amended by 1963 c.284 §7; 1967 c.19 §2; 1971 c.34 §2; 1973 c.390 §4; 1977 c.192 §3; 1977 c.444 §3a; 1981 c.232 §2; 1985 c.323 §5; 1989 c.338 §7; 1991 c.703 §25]

679.130 [Amended by 1973 c.390 §5; 1983 c.169 §10; 1991 c.67 §182; repealed by 1999 c.578 §6]

679.140 Discipline of licensee; grounds; procedure; sanctions. (1) The Oregon Board of Dentistry may discipline as provided in this section any person licensed to practice dentistry in this state for any of the following causes:

(a) Conviction of any violation of the law for which the court could impose a punishment if the board makes the finding required by ORS 670.280. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is entered, is conclusive evidence of the conviction.

(b) Renting or lending a license or diploma of the dentist to be used as the license or diploma of another person.

(c) Unprofessional conduct.

(d) Any violation of this chapter or ORS 680.010 to 680.205, of rules adopted pursuant to this chapter or ORS 680.010 to 680.205 or of an order issued by the board.

(e) Engaging in or permitting the performance of unacceptable patient care by the dentist or by any person working under the supervision of the dentist due to a deliberate or negligent act or failure to act by the dentist, regardless of whether actual injury to the patient is established.

(f) Incapacity to practice safely.

(2) "Unprofessional conduct" as used in this chapter includes but is not limited to the following:

(a) Obtaining any fee by fraud or misrepresentation.

(b) Willfully betraying confidences involved in the patient-dentist relationship.

(c) Employing, aiding, abetting or permitting any unlicensed personnel to practice dentistry or dental hygiene.

(d) Making use of any advertising statements of a character tending to deceive or mislead the public or that are untruthful.

(e) Impairment as defined in ORS 676.303.

(f) Obtaining or attempting to obtain a controlled substance in any manner proscribed by the rules of the board.

(g) Prescribing or dispensing drugs outside the scope of the practice of dentistry or in a manner that impairs the health and safety of an individual.

(h) Disciplinary action by a state licensing or regulatory agency of this or another state regarding a license to practice dentistry, dental hygiene or any other health care profession when, in the judgment of the board, the act or conduct resulting in the disciplinary action bears a demonstrable relationship to the ability of the licensee or applicant to practice dentistry or dental hygiene in accordance with the provisions of this chapter. A certified copy of the record of the disciplinary action is conclusive evidence of the disciplinary action.

(3) The proceedings under this section may be taken by the board from the matters

within its knowledge or may be taken upon the information of another, but if the informant is a member of the board, the other members of the board shall constitute the board for the purpose of finding judgment of the accused.

(4) In determining what constitutes unacceptable patient care, the board may take into account all relevant factors and practices, including but not limited to the practices generally and currently followed and accepted by persons licensed to practice dentistry in this state, the current teachings at accredited dental schools, relevant technical reports published in recognized dental journals and the desirability of reasonable experimentation in the furtherance of the dental arts.

(5) In disciplining a person as authorized by subsection (1) of this section, the board may use any or all of the following methods:

(a) Suspend judgment.

(b) Place a licensee on probation.

(c) Suspend a license to practice dentistry in this state.

(d) Revoke a license to practice dentistry in this state.

(e) Place limitations on a license to practice dentistry in this state.

(f) Refuse to renew a license to practice dentistry in this state.

(g) Accept the resignation of a licensee to practice dentistry in this state.

(h) Assess a civil penalty.

(i) Reprimand a licensee.

(j) Impose any other disciplinary action the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty.

(6) If the board places any person upon probation as set forth in subsection (5)(b) of this section, the board may determine and may at any time modify the conditions of the probation and may include among them any reasonable condition for the purpose of protection of the public and for the purpose of the rehabilitation of the probationer or both. Upon expiration of the term of probation, further proceedings shall be abated by the board if the person holding the license furnishes the board with evidence that the person is competent to practice dentistry and has complied with the terms of probation. If the evidence fails to establish competence to the satisfaction of the board or if the evidence shows failure to comply with the terms of the probation, the board may revoke or suspend the license.

(7) If a license to practice dentistry in this state is suspended, the person holding the license may not practice during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated by the board if the board finds, based upon evidence furnished by the person, that the person is competent to practice dentistry and has not practiced dentistry in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the person is competent or if any evidence shows the person has practiced dentistry in this state during the term of suspension, the board may revoke the license after notice and hearing.

(8) Upon receipt of a complaint under this chapter or ORS 680.010 to 680.205, the board shall conduct an investigation as described under ORS 676.165.

(9) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175. Notwithstanding ORS 676.165 to 676.180, the board may disclose confidential information regarding a licensee or an applicant to persons who may evaluate or treat the licensee or applicant for drug abuse, alcohol abuse or any other health related conditions.

(10) The board may impose against any person who violates the provisions of this chapter or ORS 680.010 to 680.205 or rules of the board a civil penalty of up to $5,000 for each violation. Any civil penalty imposed under this section shall be imposed in the manner provided in ORS 183.745.

(11) Notwithstanding the expiration, suspension, revocation or surrender of the license, or the resignation or retirement of the licensee, the board may:

(a) Proceed with any investigation of, or any action or disciplinary proceedings against, the dentist or dental hygienist; or

(b) Revise or render void an order suspending or revoking the license.

(12)(a) The board may continue with any proceeding or investigation for a period not to exceed four years from the date of the expiration, suspension, revocation or surrender of the license, or the resignation or retirement of the licensee; or

(b) If the board receives a complaint or initiates an investigation within that four-year period, the board's jurisdiction continues until the matter is concluded by a final order of the board following any appeal.

(13) Withdrawing the application for license does not close any investigation, action or proceeding against an applicant. [Amended by 1955 c.560 §2; 1961 c.311 §1; 1963 c.284 §8; 1965 c.122

§5; 1971 c.157 §1; 1973 c.554 §1; 1977 c.192 §3a; 1977 c.745 §51; 1979 c.142 §1; 1979 c.744 §53a; 1981 c.185 §2; 1983 c.169 §11; 1985 c.323 §6; 1991 c.734 §73; 1995 c.199 §2; 1997 c.791 §25; 1999 c.253 §1; 1999 c.578 §1; 2003 c.83 §5; 2009 c.756 §39]

679.150 [Amended by 1961 c.311 §2; 1963 c.284 §9; 1965 c.122 §6; 1967 c.282 §2; 1983 c.169 §12; repealed by 1999 c.578 §6]

679.160 Appeal from board decision. (1) Any licensee who has been disciplined by the Oregon Board of Dentistry may obtain judicial review of the decision in the manner prescribed by ORS chapter 183.

(2) Notwithstanding ORS 676.210, enforcement of the board's disciplinary order pending appeal shall be determined pursuant to ORS 183.482 (3). [Amended by 1961 c.311 §3; 1967 c.282 §3; 1973 c.390 §6; 1977 c.192 §4; 1979 c.744 §54; 1983 c.169 §13; 1995 c.199 §3; 2003 c.83 §6]

679.165 Automatic suspension of license in case of mental disorder. The entry of a judgment by any court establishing the mental disorder of any person holding a license under this chapter operates as a suspension of such license. Such person may resume practice only upon a finding by the Oregon Board of Dentistry that the licensee has been declared restored to mental competence by an order of a court of competent jurisdiction. [1957 c.552 §3; 1999 c.59 §202; 2003 c.576 §542]

679.170 Prohibited practices. No person shall:

(1) Sell or barter, or offer to sell or barter, any diploma or document conferring or purporting to confer any dental degree, or any certificate or transcript made or purporting to be made, pursuant to the laws regulating the license and registration of dentists.

(2) Purchase or procure by barter, any such diploma, certificate or transcript, with intent that it be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice.

(3) With fraudulent intent, alter in a material regard any such diploma, certificate or transcript.

(4) Use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist.

(5) Willfully make a false written or recorded oral statement to the Oregon Board of Dentistry in a material regard.

(6) Within 10 days after demand made by the board, fail to respond to the board's written request for information or fail to furnish to the board the name and address of all persons practicing or assisting in the practice of dentistry in the office of such person at any time within 60 days prior to the notice, together with a sworn statement showing under and by what license or authority such person and employee are and have been practicing dentistry.

(7) Employ or use the services of any unlicensed person, to practice dentistry or dental hygiene, except as permitted by ORS 679.025, 679.176 and 680.010 to 680.205. [Amended by 1963 c.284 §10; 1977 c.192 §5; 1981 c.185 §3; 1983 c.169 §14; 1995 c.199 §4; 1999 c.578 §2]

679.175 [1953 c.574 §3; repealed by 1957 c.552 §9]

679.176 Written work orders required for certain services. (1) No dentist may use the services of any person, not licensed to practice dentistry in this state, to construct, alter, repair, reline, reproduce or duplicate any prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, unless the dentist first furnishes to such person a written work order, in substantially the following form:

_____

(Date) _____, 2____

TO: (Name of dental technician or laboratory with address)

RE: (Name or number of patient)

(Description of the work to be done, including diagrams if necessary, together with specifications of the type of materials to be used.)

(Name of ordering dentist)

(Address) _____

(Current license number) ____

_____

(2) A duplicate copy of each such work order issued by the dentist shall be retained by each dentist for not less than two years. The Oregon Board of Dentistry or its agents shall be permitted to inspect, upon demand, the duplicate copies of all such work orders retained by each dentist.

(3) No work order shall permit or require the taking of impressions of any part of the human oral cavity by any person not a dentist licensed by the board. [1963 c.284 §15]

679.180 Enforcement; jurisdiction. (1) The district attorney of each county shall attend to the prosecution of all criminal complaints made under this chapter and may represent the Oregon Board of Dentistry in any proceeding brought pursuant to ORS 679.027 upon a complaint, information or indictment filed against any person under this chapter, or upon request of the board. However, nothing in this chapter shall be construed to prevent the prosecution of any person for violation of this chapter upon the

information of the district attorney directly or, subject to the requirements of ORS 676.175, to prevent assistance being rendered to the district attorney by an employee of the board.

(2) Nothing contained in this chapter shall be construed to require the district attorney to prosecute any person who is licensed by the board and who is subject to disciplinary action directly by the board under any provision of this chapter or ORS 680.010 to 680.205. [Amended by 1963 c.284 §11; 1967 c.282 §4; 1977 c.192 §6; 1983 c.169 §15; 1997 c.791 §26]

OREGON BOARD OF DENTISTRY

679.230 Oregon Board of Dentistry; appointment; qualifications; confirmation; compensation and expenses. (1) The Oregon Board of Dentistry consists of 10 members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Six must be Oregon active licensed dentists, of which at least one must be a dentist practicing in a dental specialty recognized by the American Dental Association;

(b) Two must be Oregon active licensed dental hygienists; and

(c) Two must be members of the public who are not:

(A) Otherwise eligible for appointment to the board; or

(B) A spouse, domestic partner, child, parent or sibling of a dentist or dental hygienist.

(2)(a) Board members required to be Oregon active licensed dentists or dental hygienists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by:

(A) The Oregon Dental Association, if the vacancy is in a dentist position;

(B) The Oregon Dental Hygienists' Association, if the vacancy is in a dental hygienist position; or

(C) Any of the professional organizations representing a dental specialty, if the vacancy is in a dental specialty position.

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

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. Terms of office begin on the first Monday of April after the time of appointment. A member is eligible for reappointment. If there is a vacancy in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.

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

(A) Is not a resident of this state;

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

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

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

(4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495. [Amended by 1963 c.284 §12; 1969 c.314 §82; 1971 c.650 §30; 1973 c.792 §36; 1977 c.747 §1; 1983 c.169 §16; 1991 c.955 §1; 2003 c.83 §7; 2009 c.535 §14]

679.240 [Repealed by 1983 c.169 §34]

679.250 Powers and duties of board; rules. The powers and duties of the Oregon Board of Dentistry are as follows:

(1) To, during the month of April of each year, organize and elect from its membership a president who shall hold office for one year, or until the election and qualification of a successor.

(2) To authorize all necessary disbursements to carry out the provisions of this chapter, 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 board, and such other expenditures as are provided for in this chapter.

(3) To employ such inspectors, examiners, special agents, investigators, clerical assistants, assistants and accountants as are necessary for the investigation and prosecution of alleged violations and the enforcement of this chapter and for such other purposes as the board may require. Nothing in this chapter shall be construed to prevent assistance being rendered by an employee of the

board in any hearing called by it. However, all obligations for salaries and expenses incurred under this chapter shall be paid from the fees accruing to the board under this chapter and not otherwise.

(4)(a) To conduct examinations of applicants for license to practice dentistry and dental hygiene at least twice in each year.

(b) In conducting examinations for licensure, the board may enter into a compact with other states for conducting regional examinations with other board of dental examiners concerned, or by a testing service recognized by such boards.

(5) To meet for the transaction of other business at the call of the president. A majority of board members shall constitute a quorum. A majority vote of those present shall be a decision of the entire board. The board's proceedings shall be open to public inspection in all matters affecting public interest.

(6) To keep an accurate record of all proceedings of the board and of all its meetings, of all receipts and disbursements, of all prosecutions for violation of this chapter, of all examinations for license to practice dentistry, with the names and qualifications for examination of any person examined, together with the addresses of those licensed and the results of such examinations, a record of the names of all persons licensed to practice dentistry in Oregon together with the addresses of all such persons having paid the license fee prescribed in ORS 679.120 and the names of all persons whose license to practice has been revoked or suspended.

(7) To make and enforce rules necessary for the procedure of the board, for the conduct of examinations, for regulating the practice of dentistry, and for regulating the services of dental hygienists and dental auxiliary personnel not inconsistent with the provisions of this chapter. As part of such rules, the board may require the procurement of a permit or other certificate. Any permit issued may be subject to periodic renewal. In adopting rules, the board shall take into account all relevant factors germane to an orderly and fair administration of this chapter and of ORS 680.010 to 680.205, the practices and materials generally and currently used and accepted by persons licensed to practice dentistry in this state, dental techniques commonly in use, relevant technical reports published in recognized dental journals, the curriculum at accredited dental schools, the desirability of reasonable experimentation in the furtherance of the dental arts, and the desirability of providing the highest standard of dental care to the public consistent with the lowest economic cost.

(8) Upon its own motion or upon any complaint, to initiate and conduct investigations of and hearings on all matters relating to the practice of dentistry, the discipline of licensees, or pertaining to the enforcement of any provision of this chapter. In the conduct of investigations or upon the hearing of any matter of which the board may have jurisdiction, the board may take evidence, administer oaths, take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases, and compel their appearance before it in person the same as in civil cases, by subpoena issued over the signature of an employee of the board and in the name of the people of the State of Oregon, require answers to interrogatories, and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation or to the hearing. In all investigations and hearings, the board and any person affected thereby may have the benefit of counsel, and all hearings shall be held in compliance with ORS chapter 183. Notwithstanding ORS 676.165, 676.175 and 679.320, if a licensee who is the subject of an investigation or complaint is to appear before members of the board investigating the complaint, the board shall provide the licensee with a current summary of the complaint or the matter being investigated not less than five days prior to the date that the licensee is to appear. At the time the summary of the complaint or the matter being investigated is provided, the board shall provide to the licensee a current summary of documents or alleged facts that the board has acquired as a result of the investigation. The name of the complainant or other information that reasonably may be used to identify the complainant may be withheld from the licensee.

(9) To require evidence as determined by rule of continuing education or to require satisfactory evidence of operative competency before reissuing or renewing licenses for the practice of dentistry or dental hygiene.

(10) To adopt and enforce rules regulating administration of general anesthesia and conscious sedation by a dentist or under the supervision of a dentist in the office of the dentist. As part of such rules, the board may require the procurement of a permit which must be periodically renewed.

(11) To order an applicant or licensee to submit to a physical examination, mental examination or a competency examination when the board has evidence indicating the incapacity of the applicant or licensee to practice safely. [Amended by 1953 c.8 §2; 1957 c.552 §8; 1963 c.284 §13; 1965 c.122 §7; 1973 c.390 §7; 1973 c.829 §64; 1977 c.192 §7; 1983 c.169 §17; 1985 c.323 §7; 1989 c.338 §10; 1999 c.578 §3; 1999 c.751 §6; 2009 c.756 §41]

679.253 Authority of board to require fingerprints. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Board of Dentistry may require the fingerprints of a person who:

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

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

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

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

(5) Is under investigation by the board. [2005 c.730 §54]

Note: 679.253 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.255 Board to adopt standards for sedation during dental procedures; rules. The Oregon Medical Board and the Oregon State Board of Nursing, in consultation with the Oregon Board of Dentistry, shall adopt rules establishing standards governing their respective licensees for general anesthesia and conscious sedation administered in conjunction with the professional services of a dentist or dental hygienist. [1985 c.323 §13]

679.260 Oregon Board of Dentistry Account; disbursement of receipts. (1) The Oregon Board of Dentistry Account is established in the State Treasury separate and distinct from the General Fund.

(2) All moneys received by the Oregon Board of Dentistry under this chapter shall be paid to the State Treasury and credited to the Oregon Board of Dentistry Account. Any interest or other income derived from moneys paid into the account shall be credited monthly to the account.

(3) Moneys in the Oregon Board of Dentistry Account are appropriated continuously and shall be used only for the administration and enforcement of ORS 680.010 to 680.205 and this chapter.

(4) Ten percent of the annual license fee to be paid by each licensee of the Oregon Board of Dentistry shall be used by the board to ensure the continued professional competence of licensees. Such activities shall include the development of performance standards and professional peer review. [Amended by 1957 c.552 §5; 1967 c.19 §3; 1967 c.282 §5; 1969 c.314 §103; 1973 c.427 §21; 1977 c.192 §8; 1977 c.747 §2; 2003 c.83 §8; 2011 c.597 §279]

Note: The amendments to 679.260 by section 10, chapter 240, Oregon Laws 2013, become operative January 1, 2017. See section 20, chapter 240, Oregon Laws 2013. The text that is operative on and after January 1, 2017, is set forth for the user's convenience.

679.260. (1) The Oregon Board of Dentistry Account is established in the State Treasury separate and distinct from the General Fund.

(2) All moneys received by the Oregon Board of Dentistry under this chapter shall be paid to the State Treasury and credited to the Oregon Board of Dentistry Account. Any interest or other income derived from moneys paid into the account shall be credited monthly to the account.

(3) Moneys in the Oregon Board of Dentistry Account are appropriated continuously and shall be used only for the administration and enforcement of ORS 676.850 and 680.010 to 680.205 and this chapter.

(4) Ten percent of the annual license fee to be paid by each licensee of the Oregon Board of Dentistry shall be used by the board to ensure the continued professional competence of licensees. Such activities shall include the development of performance standards and professional peer review.

679.270 [Repealed by 1973 c.829 §71]

679.280 Dental committees or consultants for improving standards of practice; liability; confidentiality of proceedings. (1) The Oregon Board of Dentistry may appoint a consultant or a committee or committees, each consisting of one or more licensed dentists in this state, to study and report to the board the condition of and dental treatment rendered to any person or persons by any licensed dentist or dentists in this state or by any person purporting to practice dentistry in this state. Any person, hospital, sanatorium, professional grievance committee, nursing or rest home or other organization may, subject to the laws governing privileged or confidential communications, provide information, interviews, reports, statements, memoranda or other data relating to the condition and treatment of any person to the consultant or committee or to the board, to be used in the course of any study for the purpose of improving the standards of dental practice or to enable the board to assess the desirability of disciplinary action relating thereto; and no liability of any kind or character for damages or other relief shall arise or be enforced against the person or organization by reason of having provided the information or material, or arise or be enforced against any consultant or member of the committee by reason of having released or published the findings and conclusions of the consultants or committees to advance dental science and dental education, or by reason of having released or published generally a summary of those studies. When used by the board to assess the desirability of disciplinary action, the testimony given to and the proceedings, reports, state-

ments, opinions, findings and conclusions of the consultants and committees and the board shall be confidential as provided under ORS 676.175, but this shall not preclude the use of the subpoena power with respect to the actual records of dentists, patients, hospitals, sanitaria, nursing or rest homes.

(2) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any consultant or member of a duly appointed committee for any act or proceeding undertaken or performed within the scope of the functions of that consultant or committee, if the consultant or committee member acts without malice, has made a reasonable effort to obtain the facts of the matter on which the consultant or committee member acts, and acts in a reasonable belief that the action taken is warranted by the facts known to the consultant or committee member after that reasonable effort to obtain the facts. [1965 c.122 §2; 1977 c.192 §9; 1997 c.791 §27]

679.290 Failure to comply with subpoena issued by board. (1) If a person fails to comply with any subpoena issued under ORS 679.250 (8), a judge of the circuit court of any county, on application of the executive director of the Oregon Board of Dentistry, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

(2) In any proceeding under subsection (1) of this section and where the subpoena is addressed to a licensee of the board it shall not be a defense that:

(a) No witness or mileage fee was paid; or

(b) The material that is subject to the subpoena is protected under a patient and dentist privilege. [1983 c.169 §31; 2009 c.756 §42]

679.300 Privileged data; admissibility of data as evidence in judicial proceedings. (1) All data shall be privileged and shall not be admissible in evidence in any judicial proceeding, but this section shall not affect the admissibility in evidence of a party's records dealing with a party's care and treatment.

(2) A person serving on or communicating information to a committee described in subsection (4) of this section shall not be examined as to any communication to that committee or the findings thereof.

(3) A person serving on or communicating to a committee described in subsection (4) of this section shall not be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(4) As used in subsection (1) of this section, "data" means written reports, notes or records of peer review committees or other committees and similar committees of professional societies in connection with training, supervision or discipline of dentists. The term also includes written reports, notes or records of utilization review and professional standards review organization. [1983 c.169 §33]

Note: 679.300 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.310 Duty to report violations; exceptions; liability. (1)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any dentist or dental hygienist, or any person licensed by the Oregon Board of Dentistry, shall report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a dentist or dental hygienist, or any person licensed by the board, shall report any prohibited conduct as defined in ORS 676.150 in the manner provided in ORS 676.150.

(c) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, the Oregon Dental Association or any other organization representing dentists or dental hygienists shall report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board.

(d) Any person may report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board, association or other organization representing dentists or dental hygienists.

(2) This section is not intended to require any person working on or with the Oregon Dental Association's Dentist Well Being Committee or Peer Review Committee or the Quality Assurance or Peer Review Committee of the Oregon Dental Hygienists' Association to report to the board any confidential information received within the scope of duties with that committee.

(3) No person who has made a complaint as to the conduct of a licensee of the board or who has given information or testimony relative to a proposed or pending proceeding for misconduct against the licensee of the board, shall be answerable for any such act in any proceeding except for perjury. [1985 c.323 §11; 1999 c.578 §4; 2009 c.536 §7]

679.320 Confidentiality of information provided to board; limitation of liability. (1) Any information provided to the Oregon Board of Dentistry as the basis of a complaint or in the investigation thereof shall not be subject to public disclosure during the period of investigation.

(2) Any person who reports or provides information to the board and who does so in good faith shall not be subject to an action for civil damages as a result thereof. [1985 c.323 §12]

MISCELLANEOUS

679.500 Administration of local anesthesia for certain purposes; rules. (1) A dentist licensed to practice dentistry in this state may administer local anesthesia to a person for the purposes of receiving permanent lip color from a person licensed to perform tattooing under ORS 690.350 to 690.410 or having permanent hair removal in the lip area from a person licensed to perform electrolysis under ORS 690.350 to 690.410.

(2) Prior to administering local anesthesia for the purposes authorized under subsection (1) of this section, the dentist must:

(a) Receive a written order from a person licensed to perform tattooing or electrolysis under ORS 690.350 to 690.410;

(b) Obtain a current health history from and perform an oral examination of the person who will receive the anesthesia; and

(c) Establish and maintain a patient record in accordance with rules adopted by the Oregon Board of Dentistry.

(3) The Oregon Board of Dentistry shall adopt rules authorizing a dentist licensed to practice dentistry in Oregon to administer local anesthesia for the purposes of tattooing human lips or having permanent hair removal in the lip area by a person licensed to perform tattooing or electrolysis under ORS 690.350 to 690.410. [1999 c.578 §10; 2003 c.187 §1; 2011 c.346 §32]

679.510 Liability insurance for retired dentist; requirements; rules. (1) For the purposes of this section, "retired dentist" means a person who is retired from active practice except for the practice of dentistry without remuneration as a volunteer.

(2) Subject to availability of funding, the Oregon Department of Administrative Services shall establish a program to purchase and maintain liability insurance for retired dentists. Insurance provided under the program shall be acquired through contracts with liability insurers that are authorized to offer liability malpractice insurance in this state. Insurance shall be provided under the program only if:

(a) Dental services by the retired dentist will be provided through nonprofit corporations offering community services;

(b) Dental services provided by the retired dentist will be offered to low-income patients based on ability to pay; and

(c) The retired dentist will receive no compensation for the dental services provided, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses.

(3) This section does not impose any liability on the state, or on the officers, employees and agents of the state, for any civil or criminal action against a retired dentist insured under the program established under subsections (1) to (5) of this section.

(4) The department shall monitor the claims experience of retired dentists insured through the program established under subsections (1) to (5) of this section. The department may impose any risk management requirements that the department deems appropriate as a condition of providing liability insurance under the program.

(5) The department shall provide insurance under subsection (2) of this section only to the extent that funds are appropriated to the department for the purposes of funding the program established under subsections (1) to (5) of this section.

(6) The Oregon Department of Administrative Services may by rule establish any conditions considered necessary by the department before providing liability insurance for a retired dentist under the program established by subsections (1) to (5) of this section. [1999 c.1016 §§1,2; 2001 c.104 §261]

Note: 679.510 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.520 Treatment of dental waste materials containing mercury. (1) A dentist who places in or removes from the human oral cavity dental materials containing mercury shall:

(a) Implement and maintain best management practices of dental wastes as developed by the Oregon Dental Association to prevent amalgam waste and mercury from entering the air, sewage systems, waterways and garbage;

(b) Have an amalgam separator installed on a wastewater drain in a dental facility where the dentist practices if dental materials containing amalgam pass through the wastewater drain. The amalgam separator must be verified by the manufacturer to re-

move at least 95 percent of the amalgam that passes through the drain on which it is installed;

(c) Maintain an amalgam separator installed as required by this subsection in accordance with the manufacturer's recommendations; and

(d) Place all dental waste materials containing mercury in a vapor-proof container that is clearly labeled as containing mercury and dispose of the materials in accordance with best management practices of dental wastes recommended by the Oregon Dental Association. Disposal may not be by incineration that would result in the release of mercury into the air.

(2) Each dental office shall keep proof of installation of an amalgam separator and maintain an amalgam separator maintenance log that the office shall make available for inspection by the Oregon Board of Dentistry. The board may inspect maintenance logs from a period of up to three years prior to the date of inspection. [2007 c.517 §2]

679.525 Amalgam separators required in certain dental facilities. Each dental facility constructed on or after January 1, 2008, shall have amalgam separators that meet the requirements of ORS 679.520 (1)(b). [2007 c.517 §3]

Note: 679.525 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.530 Information about oral prosthetic devices. Dental technicians shall, upon request by a dentist or patient, provide the dentist or patient with information about the location where oral prosthetic devices that are inserted into the human oral cavity or that come in contact with its adjacent structures and tissues were manufactured. [2009 c.147 §2]

679.535 Requirement to test heat sterilization device; rules. A dentist shall test, at least once per week, any autoclave or other heat sterilization device that is used by the dentist in the practice of dentistry, in order to ensure that the device is functioning properly. The Oregon Board of Dentistry shall adopt rules to implement this section. [2014 c.16 §2]

679.540 Oral disease prevention services; reimbursement; rules. (1) As used in this section:

(a) "Dental provider" means a licensed dentist, dental hygienist or other dental practitioner or a dental care team or clinic that provides the following core services:

(A) Comprehensive dental care;

(B) Basic preventive dental services;

(C) Referral to dental specialists; and

(D) Family centered dental care.

(b) "Health worker" means "traditional health worker" as defined by the Oregon Health Authority by rule.

(2) The Oregon Health Authority, in consultation with coordinated care organizations and dental care organizations in this state, shall adopt rules and procedures for the training and certification of health workers to provide oral disease prevention services and for the reimbursement of oral disease prevention services provided by certified health workers.

(3) The rules adopted under subsection (2) of this section must prescribe the training required for certification, including instruction on:

(a) The performance of dental risk assessments; and

(b) The provision of oral disease prevention services.

(4) The authority shall adopt rules requiring that a certified health worker:

(a) Refer patients to dental providers; and

(b) Recommend to patients, or to the parent or legal guardian of a patient, that the patient visit a dental provider at least once annually. [2015 c.542 §1]

Note: 679.540 becomes operative July 1, 2016. See section 2, chapter 542, Oregon Laws 2015.

Note: 679.540 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.990 [Repealed by 1957 c.552 §6 (679.991 enacted in lieu of 679.990)]

PENALTIES

679.991 Penalties. (1) Violation of any provision of ORS 679.020 or 679.025 (1) is a Class C felony.

(2) Violation of ORS 679.170 or 679.176 is a Class B misdemeanor.

(3) In the event of a second or subsequent conviction under subsection (1) of this section, the court must impose a minimum sentence of 10 days of imprisonment.

(4) In any prosecution for violation of subsection (1) or (2) of this section, it is sufficient to sustain a conviction to show a single act of conduct in violation of any of the provisions of this chapter and it is not necessary to show a general course of such conduct. [1957 c.552 §7 (enacted in lieu of 679.990); 1963 c.284 §16; 1971 c.743 §407; 1973 c.390 §8; 1977 c.192 §10; 1985 c.323 §15; 2011 c.388 §1; 2011 c.597 §280]

Chapter 680

2015 EDITION

Dental Hygienists

DENTAL HYGIENISTS

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DENTAL HYGIENISTS

(Generally)

680.010 Definitions for ORS 680.010 to 680.205. As used in ORS 680.010 to 680.205, unless the context requires otherwise, words shall have the meanings assigned by ORS 679.010. [Amended by 1963 c.266 §1; 1983 c.169 §18]

680.020 Practice of dental hygiene without license prohibited; applicability of dental hygiene license requirement. (1) It is unlawful for any person not otherwise authorized by law to practice dental hygiene or purport to be a dental hygienist without a valid license to practice dental hygiene issued by the Oregon Board of Dentistry.

(2) The requirements of this section do not apply to:

(a) Dental hygienists licensed in another state making a clinical presentation sponsored by a bona fide dental or dental hygiene society or association or an accredited dental or dental hygiene education program approved by the board.

(b) Bona fide students of dental hygiene who engage in clinical studies during the period of their enrollment and as a part of the course of study in an Oregon dental hygiene education program. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association, or its successor agency, if any, and approved by the board. The clinical study may be conducted on the premises of the program or in a clinical setting located off the premises. The facility, the instructional staff, and the course of study at the off-premises location must meet minimum requirements prescribed by the rules of the board, and the clinical study at the off-premises location must be performed under the direct supervision of a member of the faculty.

(c) Bona fide students of dental hygiene who engage in community-based or clinical studies as an elective or required rotation in a clinical setting located in Oregon during the period of their enrollment and as a part of the course of study in a dental hygiene education program located outside of Oregon. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency. The community-based or clinical studies must:

(A) Meet minimum requirements prescribed by the rules of the board; and

(B) Be performed under the direct supervision of a member of the faculty of the Oregon Health and Science University School of Dentistry or another Oregon institution with an accredited dental hygiene education program approved by the board.

(d) Students of dental hygiene or graduates of dental hygiene programs who engage in clinical studies as part of a course of study or continuing education course offered by an institution with a dental or dental hygiene program. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.

(e) Candidates who are preparing for licensure examination to practice dental hygiene and whose application has been accepted by the board or its agent, if such clinical preparation is conducted in a clinic located on premises approved for that purpose by the board and if the procedures are limited to examination only.

(f) Dental hygienists practicing in the discharge of official duties as employees of the United States Government and any of its agencies.

(g) Instructors of dental hygiene, whether full- or part-time, while exclusively engaged in teaching activities and while employed in accredited dental hygiene educational programs.

(h) Dental hygienists employed by public health agencies who are not engaged in direct delivery of clinical dental hygiene services to patients.

(i) Counselors and health assistants who have been trained in the application of fluoride varnishes to the teeth of children and who apply fluoride varnishes only to the teeth of children enrolled in or receiving services from the Women, Infants and Children Program, the Oregon prekindergarten program or a federal Head Start grant program.

(j) Persons acting in accordance with rules adopted by the State Board of Education under ORS 336.213 to provide dental screenings to students.

(k) Dental hygienists licensed in another state and in good standing, while practicing dental hygiene without compensation for no more than five consecutive days in any 12-month period, provided the dental hygienist submits an application to the Oregon Board of Dentistry at least 10 days before practicing dental hygiene under this paragraph and the application is approved by the board. [Amended by 1963 c.266 §2; 1983 c.169 §19; 2003 c.310 §2; 2005 c.504 §2; 2007 c.379 §5; 2009 c.582 §1; 2012 c.80 §2; 2015 c.558 §5]

680.025 [1971 c.48 §3; 1975 c.323 §1; repealed by 1983 c.169 §34]

680.026 Application of fluoride varnishes to teeth of children by certain counselors and health assistants. Counselors and health assistants who have been trained in the application of fluoride varnishes to the teeth of children may apply fluoride varnishes to the teeth of children enrolled in or receiving services or benefits from the Women, Infants and Children Program, the Oregon prekindergarten program or a federal Head Start grant program. [2007 c.379 §6]

Note: 680.026 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 680 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

680.030 [Amended by 1963 c.266 §3; repealed by 1983 c.169 §34]

(Licensing)

680.040 Qualifications of applicants for dental hygiene licensure examination. (1) An applicant for a dental hygiene license shall be entitled to take the examination to practice dental hygiene in Oregon if the applicant:

(a) Is 18 years of age or older; and

(b) Is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, which must have been approved by the Oregon Board of Dentistry.

(2) Foreign trained graduates of dental hygiene programs may apply for the dental hygiene licensure examination, providing the applicant meets the board's requirements, by rule, as will reasonably assure that an applicant's training and education are sufficient for licensure. [Amended by 1963 c.266 §4; 1973 c.122 §1; 1975 c.323 §2; 1979 c.526 §1; 1983 c.169 §20]

680.050 Application for examination; fees; grounds for refusal to issue or renew license. (1) Any person desiring to practice dental hygiene in this state shall file an application with the Oregon Board of Dentistry.

(2) At the time of making application, the applicant shall:

(a) Pay to the board the required application and examination fee.

(b) Furnish the board with evidence satisfactory to the board of details of any convictions recorded in any police records. Such details are subject to the findings required by ORS 670.280.

(c) Present to the board a diploma or evidence satisfactory to the board of having graduated from an accredited dental hygiene program approved by the board.

(3) If an applicant has been in practice in another state or states the applicant shall furnish an affidavit from the board of dental examiners or similar body of such state or states that the applicant has been engaged in the legal practice of dental hygiene in such state or states for a period of time prescribed by the rules of the Oregon Board of Dentistry.

(4) The board may refuse to issue a license to or renew a license of an applicant who has been convicted of a violation of law if the board makes the findings required by ORS 670.280. A certified copy of the record of conviction is conclusive evidence of conviction.

(5) The board may refuse to issue a license to or renew a license of an applicant who has been disciplined by a state licensing or regulatory agency of this or another state regarding any health care profession when, in the judgment of the board, the acts or conduct resulting in the disciplinary action bears a demonstrable relationship to the ability of the licensee or applicant to practice dental hygiene in accordance with the provisions of ORS 680.010 to 680.205. A certified copy of the record of the disciplinary action is conclusive evidence of the disciplinary action.

(6) The board may refuse to issue a license to or renew a license of an applicant who has falsified a license application, or any person for any cause described under ORS 679.140 or 679.170.

(7) Fees paid are not refundable. [Amended by 1963 c.266 §5; 1967 c.90 §1; 1973 c.122 §2; 1983 c.169 §21; 1985 c.323 §16; 1995 c.199 §5; 2003 c.83 §9]

680.060 Examination; scope and conduct; results of national standardized examination, regional testing agencies or clinical board examinations administered in other states in lieu of examination. (1) The Oregon Board of Dentistry may administer written, laboratory or clinical examinations to test professional knowledge and skills.

(2) The examination shall be sufficiently thorough to test the fitness of the applicant to practice dental hygiene. It shall include, written in the English language, questions on any subjects pertaining to dental hygiene. The written examination may be supplemented by oral examination. Demonstrations of the applicant's skill in clinical dental hygiene also may be required.

(3) The board may accept the results of national standardized examinations in satisfaction of the written examination as authorized by this section, and shall accept the results of regional testing agencies or of clinical board examinations administered by

other states in satisfaction of the clinical examination authorized under this section, provided:

(a) The test or examination was taken within five years of the date of application; and

(b) The applicant received a passing score on the test or examination as established by the board by rule.

(4) The board shall accept the results of regional testing agencies or of clinical board examinations administered by other states in satisfaction of the examinations authorized under this section for applicants who have engaged in the active practice of dental hygiene in Oregon, other states, the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for a period of at least 3,500 hours in the five years immediately preceding application and who meet all other requirements for licensure. [Amended by 1963 c.266 §6; 1983 c.169 §22; 2001 c.193 §2; 2003 c.83 §10; 2005 c.229 §2; 2009 c.582 §2]

680.070 Additional requirements for certain applicants; rules. The Oregon Board of Dentistry may adopt rules requiring additional education and examination of applicants who have failed the licensing examination three times. [Amended by 1963 c.266 §7; 1967 c.90 §2; 1971 c.34 §3; 1977 c.444 §4; 1979 c.526 §2; 1981 c.232 §3; 1983 c.169 §23; 2003 c.83 §11]

680.072 Issuing license. The Oregon Board of Dentistry shall, upon the applicant's satisfactory completion of the educational requirements and written, laboratory and clinical examinations authorized under ORS 680.060 and upon receipt of the requisite fees, issue or renew the appropriate dental hygiene license. [1983 c.169 §26]

680.075 License fees; waiver; reinstatement of inactive status license; notice of change of address. (1) The Oregon Board of Dentistry may impose application fees for the following:

(a) Examinations;

(b) Biennial dental hygiene license, active;

(c) Biennial dental hygiene license, inactive;

(d) Permits and certificates; and

(e) Delinquency.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section and ORS chapter 679 shall not exceed the costs of administering the regulatory program of the board as authorized by the Legislative Assembly within the board budget, as the budget may be modified by the Emergency Board.

(3)(a) The board may waive the payment of the license fee in the case of any licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene because of retirement.

(b) Application to reinstate a license retired under paragraph (a) of this subsection or to convert an inactive status license to an active status license shall be made in accordance with the rules of the board and with the submission of the license fee prescribed for such license; provided, however, that if more than one year has expired since the license was retired or inactivated, satisfactory evidence of clinical competence must be submitted to the board.

(4) Every dental hygienist shall advise the board within 30 days of any change of address.

(5) Each dental hygienist must renew the hygienist's license every two years through submitting a renewal application and paying the license fee.

(6) Dental hygienists licensed in even-numbered years must renew by September 30 of each even-numbered year. Dental hygienists licensed in odd-numbered years must renew by September 30 of each odd-numbered year.

(7) A reasonable charge may be made in the event that the license fee or renewal application is more than 10 days delinquent.

(8) Fees paid are not refundable. [1983 c.169 §25; 1985 c.323 §17; 1989 c.338 §9; 1991 c.703 §26]

680.080 [Amended by 1963 c.266 §8; 1973 c.122 §3; 1975 c.323 §3; 1979 c.526 §3; 1983 c.169 §27; 1991 c.67 §183; repealed by 1999 c.578 §6]

680.082 Licensure of dental hygiene instructor; rules. (1) Notwithstanding any other provision of ORS 680.010 to 680.205, the Oregon Board of Dentistry shall issue a dental hygiene instructor's license to any person who:

(a) Is or will be a full-time instructor of dental hygiene engaged in the practice of dental hygiene, including but not limited to participation in a faculty practice plan within the scope of the applicant's employment at Oregon Health and Science University;

(b) Is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any; and

(c) Is licensed to practice dental hygiene in another state or a Canadian province.

(2) The board shall by rule establish standards, procedures and fees for the issu-

ance, suspension, revocation and renewal of a dental hygiene instructor's license.

(3) The board may refuse to issue or renew a dental hygiene instructor's license to an applicant or licensee:

(a) Who has been convicted of an offense or disciplined by a dental licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant or licensee to practice dental hygiene in accordance with the provisions of ORS 680.010 to 680.205;

(b) Who has falsified an application for licensure; or

(c) For cause as described under ORS 679.140 or 679.170.

(4) A person issued a dental hygiene instructor's license is restricted to the practice of dental hygiene for or on behalf of Oregon Health and Science University.

(5) An applicant who receives a dental hygiene instructor's license is subject to the professional ethics, standards and discipline of ORS 680.010 to 680.205. [2001 c.193 §4; 2013 c.413 §2]

Note: 680.082 was added to and made a part of 680.010 to 680.205 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

680.090 [Repealed by 1983 c.169 §34]

680.100 Discipline of dental hygienist; grounds; method; procedure. (1) The Oregon Board of Dentistry may discipline any dental hygienist for any of the causes for which a dentist may be disciplined under ORS 679.140 and may impose any or all of the methods of discipline, modify such methods and reinstate dental hygiene licenses as provided in ORS 679.140 for dentists.

(2) The provisions of ORS 679.160 and 679.250 apply to proceedings by the board for the revocation or suspension of or refusal to renew a license issued pursuant to ORS 680.010 to 680.205. [Amended by 1963 c.266 §9; 1975 c.323 §4; 1977 c.745 §52; 1983 c.169 §28; 1983 c. 338 §963; 1999 c.578 §5]

680.110 Disposition of receipts. All moneys paid by applicants to the Oregon Board of Dentistry as examination and licensing fees under ORS 680.010 to 680.205 shall be used for the same purposes and accounted for by the board in the same manner as moneys obtained as fees from applicants for license to practice dentistry in Oregon.

680.150 Employment of dental hygienist; supervision; rules. (1) Any dentist may employ a dental hygienist who may engage in the practice of dental hygiene in the office of such dentist under the general supervision of a dentist.

(2) Any public institution, health care facility or health maintenance organization, as those terms are defined in ORS 442.015, may employ a dental hygienist who may engage in the practice of dental hygiene under the general supervision of a dentist.

(3) A dental hygienist under the general supervision of a dentist may engage in the practice of dental hygiene in any place where limited access patients are located.

(4) The Oregon Board of Dentistry may adopt rules specifying other locations where dental hygienists may work and shall specify in its rules the degree of supervision a dentist must exercise over the procedures the hygienist performs.

(5) Notwithstanding ORS 679.010 (3), supervision by a dentist is not required when a dental hygienist determines the need for and appropriateness of sealants or fluoride, and applies sealants or fluoride at the locations and for persons described in ORS 680.205 (1). [Amended by 1963 c.266 §10; 1973 c.122 §4; 1979 c.526 §4; 1985 c.323 §9; 1991 c.476 §1; 2007 c.379 §4; 2011 c.716 §6]

680.160 [Amended by 1973 c.122 §5; 1975 c.323 §5; 1979 c.526 §5; repealed by 1991 c.476 §2]

(Miscellaneous)

680.165 Monitoring performance; information available to monitor; confidentiality; liability. (1) The Oregon Board of Dentistry may appoint a consultant or a committee or committees, each consisting of one or more licensed dental hygienists in this state, to study and report to the board the condition of and dental hygiene treatment rendered to any person or persons by any licensed dental hygienist in this state, or by any person purporting to practice dental hygiene in this state. Any person, hospital, sanitarium, professional grievance committee, nursing or rest home or other organization may, subject to the laws governing privileged or confidential communications, provide information, interviews, reports, statements, memoranda or other data relating to the condition and treatment of any person, to any such consultant, committee or the board, to be used in the course of any study for the purpose of improving the standards of dental hygiene practice, or to enable the board to assess the desirability of disciplinary action relating thereto. No liability of any kind or character for damages or other relief shall arise or be enforced against any such person or organization by reason of having provided such information or material, or arise or be enforced against any consultant or member of such committee by reason of having released or published the findings and conclusions of such consultants or committees to advance dental hygiene science and dental hygiene education, or by reason of having released or published gen-

erally a summary of such studies. Testimony given to and the proceedings, reports, statements, opinions, findings and conclusions of such consultants and committees and the board shall be confidential but this shall not preclude the use of the subpoena power with respect to the actual records of dentists, dental hygienists, patients, hospitals, sanitaria, nursing or rest homes.

(2) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any consultant or member of a duly appointed committee for any act or proceeding undertaken or performed within the scope of the functions of any such consultant or committee, if such consultant or committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which the member acts, and acts in a reasonable belief that the action taken is warranted by the facts known after such reasonable effort to obtain the facts. [1985 c.323 §19]

680.170 [Repealed by 2001 c.11 §1]

680.172 Oral health screening by dental hygienists and dental assistants. Oral health screenings may be performed by dental hygienists and dental assistants under written training and screening protocols adopted by the Oregon Board of Dentistry. Screening results must be provided to individuals screened or to the parents or guardians of minors needing a dental referral for diagnosis. Screening results are not a diagnosis for purposes of ORS chapter 679 or ORS 680.010 to 680.205. [2003 c.310 §5]

(Expanded Practice Dental Hygienists)

680.200 Issuing expanded practice permit; requirements. (1) Upon application accompanied by the fee established by the Oregon Board of Dentistry, the board shall grant a permit to practice as an expanded practice dental hygienist to an applicant who:

(a) Holds a valid, unrestricted Oregon dental hygiene license;

(b) Presents proof of current professional liability insurance coverage;

(c) Presents documentation satisfactory to the board of successful completion of an emergency life support course for health professionals, including cardiopulmonary resuscitation, from an agency or educational institution approved by the board; and

(d) Presents documentation satisfactory to the board that the applicant has:

(A)(i) Completed 2,500 hours of supervised dental hygiene practice; and

(ii) After licensure as a dental hygienist, completed 40 hours of courses, chosen by the applicant, in clinical dental hygiene or public health sponsored by continuing education providers approved by the board; or

(B) Completed a course of study approved by the board that includes at least 500 hours of dental hygiene practice, completed before or after graduation from a dental hygiene program, on patients described in ORS 680.205 while under the direct supervision of a member of the faculty of a dental program or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.

(2) A permit issued pursuant to subsection (1) of this section expires two years following the date of issuance unless renewed on or before that date by:

(a) Payment of the renewal fee as set by the board;

(b) Submission to the board of satisfactory evidence of completion of at least 36 hours of continuing education;

(c) Presentation to the board of proof of professional liability insurance coverage; and

(d) Completion of a survey developed by the board that measures the success of the expanded practice dental hygienist program against baseline data.

(3) The board may refuse to issue or renew an expanded practice dental hygienist permit or may suspend or revoke the permit of an expanded practice dental hygienist who has been convicted of an offense or been disciplined by a dental licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant to practice expanded practice dental hygiene in accordance with the provisions of this chapter or ORS chapter 679, or who has falsified an application for permit, or any person for any cause described under ORS 679.140 or 679.170. [1997 c.251 §2; 2003 c.310 §3; 2007 c.379 §2; 2009 c.582 §3; 2011 c.716 §7]

680.205 Services rendered under permit. (1) An expanded practice dental hygienist may render all services within the scope of practice of dental hygiene, as defined in ORS 679.010, without the supervision of a dentist and as authorized by the expanded practice dental hygienist permit to:

(a) Patients or residents of the following facilities or programs who, due to age, infirmity or disability, are unable to receive regular dental hygiene treatment:

(A) Nursing homes as defined in ORS 678.710;

(B) Adult foster homes as defined in ORS 443.705;

(C) Residential care facilities as defined in ORS 443.400;

(D) Adult congregate living facilities as defined in ORS 441.525;

(E) Mental health residential programs administered by the Oregon Health Authority;

(F) Facilities for persons with mental illness, as those terms are defined in ORS 426.005;

(G) Facilities for persons with developmental disabilities, as those terms are defined in ORS 427.005;

(H) Local correctional facilities and juvenile detention facilities as those terms are defined in ORS 169.005, regional correctional facilities as defined in ORS 169.620, youth correction facilities as defined in ORS 420.005, youth care centers as defined in ORS 420.855, and Department of Corrections institutions as defined in ORS 421.005; or

(I) Public and nonprofit community health clinics.

(b) Adults who are homebound.

(c) Students or enrollees of nursery schools and day care programs and their siblings under 18 years of age, Job Corps and similar employment training facilities, primary and secondary schools, including private schools and public charter schools, and persons entitled to benefits under the Women, Infants and Children Program.

(d) Patients in hospitals, medical clinics, medical offices or offices operated or staffed by nurse practitioners, physician assistants or midwives.

(e) Patients whose income is less than the federal poverty level.

(f) Other populations that the Oregon Board of Dentistry determines are underserved or lack access to dental hygiene services.

(2) Unless different criteria for referral of a patient or resident to a dentist are included in an agreement described in subsection (3) of this section, at least once each calendar year, an expanded practice dental hygienist shall refer each patient or resident to a dentist who is available to treat the patient or resident.

(3) An expanded practice dental hygienist may render the services described in paragraphs (a) to (d) of this subsection to the patients described in subsection (1) of this section if the expanded practice dental hygienist has entered into an agreement in a format approved by the board with a dentist licensed under ORS chapter 679. The agreement must set forth the agreed-upon scope of the dental hygienist's practice with regard to:

(a) Administering local anesthesia;

(b) Administering temporary restorations without excavation;

(c) Prescribing prophylactic antibiotics and nonsteroidal anti-inflammatory drugs specified in the agreement; and

(d) Referral parameters.

(4) This section does not authorize an expanded practice dental hygienist to administer nitrous oxide except under the indirect supervision of a dentist licensed under ORS chapter 679.

(5) An expanded practice dental hygienist may assess the need for and appropriateness of sealants, apply sealants and write prescriptions for all applications of fluoride in which fluoride is applied or supplied to patients.

(6) An expanded practice dental hygienist must also procure all other permits or certificates required by the board under ORS 679.250. [1997 c.251 §3; 2001 c.592 §1; 2005 c.52 §1; 2007 c.70 §306; 2007 c.379 §3; 2009 c.582 §4; 2009 c.595 §1062; 2011 c.658 §41; 2011 c.716 §8; 2013 c.360 §63; 2015 c.349 §2]

680.210 Compilation of data on expanded practice dental hygienists; reports by health insurers; report to legislature; rules. (1) The Oregon Board of Dentistry shall compile data, including baseline data, in every odd-numbered year on the use of expanded practice dental hygienists, as defined in ORS 679.010, in this state.

(2)(a) The Department of Consumer and Business Services shall adopt rules requiring health insurers to report to the department on the reimbursement of services provided by expanded practice dental hygienists.

(b) The department shall provide the information collected under paragraph (a) of this subsection to the board.

(3) The board shall report to an interim legislative committee related to dental health on the reimbursement of services provided by expanded practice dental hygienists on or before October 1 of each even-numbered year. [2011 c.716 §12]

Note: 680.210 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 680 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PENALTIES

680.990 Criminal penalties. (1) Violation of any of the provisions of ORS 680.010 to 680.205 is a Class C misdemeanor.

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GENERAL PROVISIONS

12.110 Actions for certain injuries to person not arising on contract; action for overtime or premium pay; action for professional malpractice; effect of fraud or deceit; action for injuries to person arising from nuclear incident. (1) An action for assault, battery, false imprisonment, or for any injury to the person or rights of another, not arising on contract, and not especially enumerated in this chapter, shall be commenced within two years; provided, that in an action at law based upon fraud or deceit, the limitation shall be deemed to commence only from the discovery of the fraud or deceit.

(2) An action upon a statute for a forfeiture or penalty to the state or county shall be commenced within two years.

(3) An action for overtime or premium pay or for penalties or liquidated damages for failure to pay overtime or premium pay shall be commenced within two years.

(4) An action to recover damages for injuries to the person arising from any medical, surgical or dental treatment, omission or operation shall be commenced within two years from the date when the injury is first discovered or in the exercise of reasonable care should have been discovered. However, notwithstanding the provisions of ORS 12.160, every such action shall be commenced within five years from the date of the treatment, omission or operation upon which the action is based or, if there has been no action commenced within five years because of fraud, deceit or misleading representation, then within two years from the date such fraud, deceit or misleading representation is discovered or in the exercise of reasonable care should have been discovered.

(5) An action, arising from a nuclear incident, as defined in 42 U.S.C. 2014(q), that involves the release of radioactive material, excluding releases from acts of war, that causes bodily injury, sickness or death, shall be commenced:

(a) Within two years from the time an injured person discovers or reasonably could have discovered the injury and the causal connection between the injury and the nuclear incident; or

(b) Within two years from any substantial change in the degree of injury to the person arising out of a nuclear incident. [Amended by 1957 c.374 §1; 1967 c.406 §1; 1969 c.642 §1; 1971 c.473 §1; 1975 c.796 §10a; 1981 c.149 §1; 1987 c.705 §4]

12.115 Action for negligent injury to person or property. (1) In no event shall any action for negligent injury to person or property of another be commenced more than 10 years from the date of the act or omission complained of.

(2) Nothing in this section shall be construed to extend any period of limitation otherwise established by law, including but not limited to the limitations established by ORS 12.110. [1967 c.406 §2]

SUSPENSION OF OCCUPATIONAL AND DRIVER LICENSES

25.750 Suspension of licenses, certificates, permits and registrations; when authorized; rules. (1) All licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession or to use a particular occupational or professional title, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driver licenses or permits issued by the Department of Transportation and recreational hunting and fishing licenses, as defined by rule of the Department of Justice, are subject to suspension by the respective issuing entities upon certification to the issuing entity by the administrator that a child support case record is being maintained by the Department of Justice, that the case is being enforced by the administrator under the provisions of ORS 25.080 and that one or both of the following conditions apply:

(a) That the party holding the license, certificate, permit or registration is in arrears under any child support judgment or order, in an amount equal to the greater of three months of support or $2,500, and:

(A) Has not entered into an agreement with the administrator with respect to the child support obligation; or

(B) Is not in compliance with an agreement entered into with the administrator; or

(b) That the party holding the license, certificate, permit or registration has failed, after receiving appropriate notice, to comply with a subpoena or other procedural order relating to a paternity or child support proceeding and:

(A) Has not entered into an agreement with the administrator with respect to compliance; or

(B) Is not in compliance with such an agreement.

(2) The Department of Justice by rule shall specify the conditions and terms of agreements, compliance with which precludes the suspension of the license, certificate, permit or registration. [1993 c.365 §2; 1995 c.620 §1; 1995 c.750 §7; 1997 c.704 §37; 1999 c.80 §11; 2001 c.323 §1; 2001 c.455 §14; 2003 c.73 §43; 2009 c.209 §1]

Note: Section 2, chapter 209, Oregon Laws 2009, provides:

Sec. 2. The amendments to ORS 25.750 by section 1 of this 2009 Act apply to all child support judgments and orders, whether entered before, on or after the effective date of this 2009 Act [January 1, 2010]. [2009 c.209 §2]

25.752 Memberships in professional organizations that are required by state law. As used in ORS 25.750 to 25.783, "licenses, certificates, permits or registrations" includes, but is not limited to, memberships in professional organizations that are required by state law in order to engage in a profession. [1995 c.620 §12]

25.753 [1993 c.365 §3; repealed by 1995 c.620 §13]

25.756 Identifying persons holding licenses, certificates, permits and registrations. The Department of Justice shall enter into agreements regarding the identification of persons who are subject to the provisions of ORS 25.750 to 25.783 and who hold licenses, certificates, permits or registrations with:

(1) The Oregon Liquor Control Commission;

(2) All entities that issue licenses, certificates, permits or registrations that a person is required by state law to possess to engage in an occupation, profession or recreational hunting or fishing or to use a particular occupational or professional title; and

(3) The Department of Transportation. [1993 c.365 §4; 1995 c.620 §2; 1995 c.750 §8; 1997 c.704 §38; 1999 c.80 §12]

25.759 Notice to persons subject to suspension; contents. Upon identification of a person subject to suspension under ORS 25.750 to 25.783, the administrator may issue a notice, sent by regular mail to both the address of record as shown in the records of the issuing entity and the address of record as shown on the administrator's child support file. Such notice shall contain the following information:

(1) That certain licenses, certificates, permits and registrations, which shall be specified in the notice, are subject to suspension as provided for by ORS 25.750 to 25.783.

(2) The name, final four digits of the Social Security number, if available, date of birth, if known, and child support case number or numbers of the person subject to the action.

(3) The amount of arrears and the amount of the monthly child support obligation, if any, or, if suspension is based on ORS 25.750 (1)(b), a description of the subpoena or other procedural order with which the person subject to the action has failed

to comply.

(4) The procedures available for contesting the suspension of a license, certificate, permit or registration.

(5) That the only bases for contesting the suspension are:

(a) That the arrears are not greater than three months of support or $2,500;

(b) That there is a mistake in the identity of the obligor;

(c) That the person subject to the suspension has complied with the subpoena or other procedural order identified in subsection (3) of this section; or

(d) That the person subject to the suspension is in compliance with a previous agreement as provided for by ORS 25.750 to 25.783.

(6) That the obligor may enter into an agreement, prescribed by rule by the Department of Justice, compliance with which shall preclude the suspension under ORS 25.750 to 25.783.

(7) That the obligor has 30 days from the date of the notice to contact the administrator in order to:

(a) Contest the action in writing on a form prescribed by the administrator;

(b) Comply with the subpoena or procedural order identified in subsection (3) of this section; or

(c) Enter into an agreement authorized by ORS 25.750 and 25.762. The notice shall state that any agreement must be in writing and must be entered into within 30 days of making contact with the administrator.

(8) That failure to contact the administrator within 30 days of the date of the notice shall result in notification to the issuing entity to suspend the license, certificate, permit or registration. [1993 c.365 §5; 1995 c.620 §3; 1997 c.704 §39; 1999 c.80 §13; 2001 c.323 §2; 2001 c.455 §15; 2003 c.73 §44; 2011 c.318 §14]

25.762 Agreement between obligor and administrator; effect of failure to contest suspension or to enter into agreement. (1) If the administrator is contacted within 30 days of the date of the notice specified in ORS 25.759, the administrator and the obligor may enter into an agreement as provided for by rule of the Department of Justice. If no contest is filed or if no agreement is entered into within the time prescribed by ORS 25.750 to 25.783, or if the obligor fails to comply with the terms of an agreement previously entered into, the administrator shall advise the issuing entity to suspend the license, certificate, permit or registration forthwith.

(2) After receipt of notice to suspend from the administrator, no further administrative review or contested case proceeding within or by the issuing entity is required. [1993 c.365 §6; 1995 c.620 §4; 1999 c.80 §14; 2001 c.323 §3; 2003 c.73 §45]

25.765 Procedure if obligor contacts administrator within time limits; hearing. (1) If the obligor makes the contact within 30 days of the date of the notice as provided for in ORS 25.759, the administrator shall provide the obligor with the opportunity to contest the suspension on the bases set forth in ORS 25.759 (5). The administrator shall determine whether suspension should occur. If the administrator determines that suspension should occur, the administrator shall make a written determination of such finding.

(2) The obligor may object to the determination described in subsection (1) of this section within 30 days after the date of the determination. Any hearing on the objection shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings. Any suspension is stayed pending the decision of the administrative law judge. Any order of the administrative law judge that supports a suspension shall result in the notification to the issuing entity by the administrator to suspend the license, certificate, permit or registration forthwith.

(3) After receipt of notice to suspend from the administrator, no further administrative review or contested case proceeding within or by the issuing entity is required. [1993 c.365 §7; 1995 c.620 §5; 1999 c.80 §15; 1999 c.849 §§43,44; 2001 c.323 §§4,5; 2003 c.75 §26; 2005 c.560 §7]

25.768 Judicial review of order. The order of the administrative law judge is final and is subject to judicial review as provided in ORS 183.482. Any suspension under ORS 25.750 to 25.783 is not stayed pending judicial review. [1993 c.365 §8; 2003 c.75 §76]

25.771 Obligor holding more than one license, certificate, permit or registration. In the event that an obligor holds more than one license, certificate, permit or registration described in ORS 25.750, any determination regarding suspension of one license, certificate, permit or registration is sufficient to suspend any other license, certificate, permit or registration described in ORS 25.750. [1993 c.365 §9; 1995 c.620 §6]

25.774 Reinstatement. When, at any time after suspension under ORS 25.750 to 25.783, the conditions resulting in the suspension no longer exist, the administrator shall so notify the issuing entity and shall confirm that the license, certificate, permit or registration may be reinstated contingent upon the requirements of the issuing entity. Until the issuing entity receives notice under this section, the issuing entity may not reinstate, reissue, renew or otherwise make the license, certificate, permit or registration available to the holder of the suspended license, certificate, permit or registration. [1993 c.365 §10; 1995 c.620 §7; 1999 c.80 §16; 2001 c.323 §6]

25.777 Reimbursing issuing entities for costs incurred. The Department of Justice shall enter into agreements to reimburse issuing entities for their costs of compliance with ORS 25.750 to 25.783 to the extent that those costs are eligible for Federal Financial Participation under Title IV-D of the Social Security Act. [1993 c.365 §11; 1995 c.620 §8; 2001 c.323 §7]

25.780 Other licenses, certificates, permits and registrations subject to suspension. In addition to any other grounds for suspension provided by law:

(1) The Oregon Liquor Control Commission and any entity that issues licenses, certificates, permits or registrations that a person is required by state law to possess to engage in an occupation, profession or recreational hunting or fishing or to use a particular occupational or professional title shall suspend without further hearing the licenses, certificates, permits or registrations of a person upon certification by the administrator that the person is subject to an order suspending the license, certificate, permit or registration. The certification must include the information specified in ORS 25.750 (1).

(2) The Department of Transportation shall suspend without further hearing the driver license or driver permit of a person upon certification by the administrator that the person is subject to an order suspending the license or permit. The certification must include the information specified in ORS 25.750 (1). [1993 c.365 §13; 1995 c.620 §9; 1995 c.750 §5; 1999 c.80 §17; 2001 c.323 §8]

25.783 Confidentiality of information. Any entity described in ORS 25.756 that receives an inquiry as to the status of a person who has had a license, certificate, permit or registration suspended under ORS 25.750 to 25.783 shall respond only that the license, certificate, permit or registration was suspended pursuant to ORS 25.750 to 25.783. The entity shall not release or make other use of information that it receives pursuant to ORS 25.750 to 25.783. [1993 c.365 §14; 1995 c.620 §10]

25.785 Issuing entities to require Social Security number. (1) Any state agency, board or commission that is authorized to issue an occupational, professional, recreational or driver license, certificate, permit or registration subject to suspension under ORS 25.750 to 25.783 shall require that an individual's Social Security number be recorded on an application for, or form for renewal of, a license, certificate, permit or registration and to the maximum extent feasible shall include the Social Security number in automated databases containing information about the individual.

(2) A state agency, board or commission described in subsection (1) of this section may accept a written statement from an individual who has not been issued a Social Security number by the United States Social Security Administration to fulfill the requirement in subsection (1) of this section.

(3) An individual may not submit to a state agency, board or commission a written statement described in subsection (2) of this section knowing the statement to be false. [1997 c.746 §117; 1999 c.80 §93; 2003 c.610 §1; 2005 c.22 §17]

Note: 25.785 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

TORT ACTIONS AGAINST PUBLIC BODIES

30.278 Reporting notice of claim of professional negligence to licensing board. When notice is received under ORS 30.275 of a claim of professional negligence against a physician, optometrist, dentist, dental hygienist or naturopath who is acting within the scope of employment by a public body or within the scope of duties as defined by ORS 30.267, the person receiving the notice shall report to the appropriate licensing board, in the same manner as required by ORS 742.400, the information required by ORS 742.400 to be reported by insurers or self-insured associations. [1987 c.774 §64]

Note: 30.278 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 30 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

MISCELLANEOUS ACTIONS

30.792 Liability of health care provider or health clinic for volunteer services to charitable corporations. (1) As used in this section:

(a) "Charitable corporation" has the meaning given that term in ORS 128.620.

(b) "Health care provider" means any person licensed in this state as a practitioner of one or more healing arts as described in ORS 31.740.

(c) "Health clinic" means a public health clinic or a health clinic operated by a charitable corporation that provides primarily primary physical health, dental or mental health services to low-income patients without charge or using a sliding fee scale based on the income of the patient.

(2) Except as provided in subsection (3) of this section, no person may maintain an action for damages against:

(a) A health care provider who voluntarily provides to a charitable corporation any assistance, services or advice directly related to the charitable purposes of the corporation if the assistance, services or advice are within the scope of the license of the health care provider; or

(b) A health clinic for the assistance, services or advice provided by a health care provider described in paragraph (a) of this subsection.

(3) The immunity provided in this section shall not apply to:

(a) Any person who receives compensation other than reimbursement for expenses incurred by the person providing such assistance, services or advice.

(b) The liability of any person for damages resulting from the person's gross negligence or from the person's reckless, wanton or intentional misconduct.

(c) Any activity for which a person is otherwise strictly liable without regard to fault. [1995 c.616 §2; 2005 c.362 §2]

30.800 Liability for emergency medical assistance. (1) As used in this section, "emergency medical assistance" means:

(a) Medical or dental care not provided in a place where emergency medical or dental care is regularly available, including but not limited to a hospital, industrial first-aid station or a physician's or dentist's office, given voluntarily and without the expectation of compensation to an injured person who is in need of immediate medical or dental care and under emergency circumstances that suggest that the giving of assistance is the only alternative to death or serious physical after effects; or

(b) Medical care provided voluntarily in good faith and without expectation of compensation by a physician licensed by the Oregon Medical Board in the physician's professional capacity as a team physician at a public or private school or college athletic event or as a volunteer physician at other athletic events.

(2) No person may maintain an action for damages for injury, death or loss that results from acts or omissions of a person while rendering emergency medical assistance unless it is alleged and proved by the complaining party that the person was grossly negligent in rendering the emergency medical assistance.

(3) The giving of emergency medical assistance by a person does not, of itself, establish the relationship of physician and patient, dentist and patient or nurse and patient between the person giving the assistance and the person receiving the assistance insofar as the relationship carries with it any duty to provide or arrange for further medical care for the injured person after the giving of emergency medical assistance. [1967 c.266 §§1,2; 1973 c.635 §1; 1979 c.576 §1; 1979 c.731 §1; 1983 c.771 §1; 1983 c.779 §1; 1985 c.428 §1; 1989 c.782 §35; 1997 c.242 §1; 1997 c.751 §11]

(Punitive Damages)

31.740 When award of punitive damages against health practitioner prohibited. Punitive damages may not be awarded against a health practitioner if:

(1) The health practitioner is licensed, registered or certified as:

(a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

(b) An occupational therapist under ORS 675.230 to 675.300;

(c) A regulated social worker under ORS 675.510 to 675.600;

(d) A physician under ORS 677.100 to 677.228;

(e) An emergency medical services provider under ORS chapter 682;

(f) A podiatric physician and surgeon under ORS 677.820 to 677.840;

(g) A nurse under ORS 678.040 to 678.101;

(h) A nurse practitioner under ORS 678.375 to 678.390;

(i) A dentist under ORS 679.060 to 679.180;

(j) A dental hygienist under ORS 680.040 to 680.100;

(k) A denturist under ORS 680.515 to 680.535;

(L) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;

(m) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;

(n) A chiropractor under ORS 684.040 to 684.105;

(o) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;

(p) A massage therapist under ORS 687.011 to 687.250;

(q) A physical therapist under ORS 688.040 to 688.145;

(r) A medical imaging licensee under ORS 688.445 to 688.525;

(s) A pharmacist under ORS 689.151 and 689.225 to 689.285;

(t) A physician assistant as provided by ORS 677.505 to 677.525; or

(u) A professional counselor or marriage and family therapist under ORS 675.715 to 675.835; and

(2) The health practitioner was engaged in conduct regulated by the license, registration or certificate issued by the appropriate governing body and was acting within the scope of practice for which the license, registration or certificate was issued and without malice. [Formerly 18.550; 2005 c.366 §4; 2009 c.442 §27; 2009 c.833 §26; 2011 c.396 §1; 2011 c.703 §20]

Note: Section 2, chapter 396, Oregon Laws 2011, provides:

Sec. 2. The amendments to ORS 31.740 by section 1 of this 2011 Act apply only to causes of action that arise on or after the effective date of this 2011 Act [January 1, 2012]. [2011 c.396 §2]

PRIVILEGES

40.235 Rule 504-1. Physician-patient privilege. (1) As used in this section, unless the context requires otherwise:

(a) "Confidential communication" means a communication not intended to be disclosed to third persons except:

(A) Persons present to further the interest of the patient in the consultation, examination or interview;

(B) Persons reasonably necessary for the transmission of the communication; or

(C) Persons who are participating in the diagnosis and treatment under the direction of the physician, including members of the patient's family.

(b) "Patient" means a person who consults or is examined or interviewed by a physician.

(c) "Physician" means a person authorized and licensed or certified to practice medicine or dentistry in any state or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or treatment of a physical condition. "Physician" includes licensed or certified naturopathic and chiropractic physicians and dentists.

(2) A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications in a civil action, suit or proceeding, made for the purposes of diagnosis or treatment of the patient's physical condition, among the patient, the patient's physician or persons who are participating in the diagnosis or treatment under the direction of the physician, including members of the patient's family.

(3) The privilege created by this section may be claimed by:

(a) The patient;

(b) A guardian or conservator of the patient;

(c) The personal representative of a deceased patient; or

(d) The person who was the physician, but only on behalf of the patient. Such person's authority so to do is presumed in the absence of evidence to the contrary.

(4) The following is a nonexclusive list of limits on the privilege granted by this section:

(a) If the judge orders an examination of the physical condition of the patient, communications made in the course thereof are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise.

(b) Except as provided in ORCP 44, there is no privilege under this section for communications made in the course of a physical examination performed under ORCP 44.

(c) There is no privilege under this section with regard to any confidential communication or record of such confidential communication that would otherwise be privileged under this section when the use of the communication or record is specifically allowed under ORS 426.070, 426.074, 426.075, 426.095, 426.120 or 426.307. This paragraph only applies to the use of the communication or record to the extent and for the purposes set forth in the described statute sections. [1981 c.892 §33a; 1987 c.903 §2; 2005 c.353 §1]

107.154 Authority of parent when other parent granted sole custody of child. Unless otherwise ordered by the court, an order of sole custody to one parent shall not deprive the other parent of the following authority:

(1) To inspect and receive school records and to consult with school staff concerning the child's welfare and education, to the same extent as the custodial parent may inspect and receive such records and consult with such staff;

(2) To inspect and receive governmental agency and law enforcement records concerning the child to the same extent as the custodial parent may inspect and receive such records;

(3) To consult with any person who may provide care or treatment for the child and to inspect and receive the child's medical, dental and psychological records, to the same extent as the custodial parent may consult with such person and inspect and receive such records;

(4) To authorize emergency medical, dental, psychological, psychiatric or other health care for the child if the custodial parent is, for practical purposes, unavailable; or

(5) To apply to be the child's conservator, guardian ad litem or both. [1987 c.795 §3]

RIGHTS OF MINORS

109.640 Right to medical or dental treatment without parental consent; provision of birth control information and services to any person. (1) Any physician or nurse practitioner may provide birth control information and services to any person without regard to the age of the person.

(2) A minor 15 years of age or older may give consent, without the consent of a parent or guardian of the minor, to:

(a) Hospital care, medical or surgical diagnosis or treatment by a physician licensed by the Oregon Medical Board, and dental or surgical diagnosis or treatment by a dentist licensed by the Oregon Board of Dentistry, except as provided by ORS 109.660.

(b) Diagnosis and treatment by a nurse practitioner who is licensed by the Oregon State Board of Nursing under ORS 678.375 and who is acting within the scope of practice for a nurse practitioner.

(c) Except when the minor is obtaining contact lenses for the first time, diagnosis and treatment by an optometrist who is licensed by the Oregon Board of Optometry under ORS 683.010 to 683.340 and who is acting within the scope of practice for an optometrist. [1971 c.381 §1; 2005 c.471 §7; 2010 c.91 §1]

109.650 Disclosure without minor's consent and without liability. A hospital or any physician, nurse practitioner, dentist or optometrist described in ORS 109.640 may advise a parent or legal guardian of a minor of the care, diagnosis or treatment of the minor or the need for any treatment of the minor, without the consent of the minor, and is not liable for advising the parent or legal guardian without the consent of the minor. [1971 c.381 §2; 2005 c.471 §8; 2010 c.91 §2]

109.660 Construction. The provisions of ORS 109.640, 109.650 and this section do not amend or supersede the provisions of ORS 109.610 or 435.435. [1971 c.381 §3; 1973 c.827 §16]

109.672 Certain persons immune from liability for providing care to minor. (1) No person licensed, certified or registered to practice a health care profession or health care facility shall be liable for damages in any civil action arising out of the failure of the person or facility to obtain the consent of a parent to the giving of medical care or treatment to a minor child of the parent if consent to the care has been given by the other parent of the child.

(2) The immunity provided by subsection (1) of this section shall apply regardless of whether:

(a) The parents are married, unmarried or separated at the time of consent or treatment.

(b) The consenting parent is, or is not, a custodial parent of the minor.

(c) The giving of consent by only one parent is, or is not, in conformance with the terms of any agreement between the parents, any custody order or any judgment of dissolution or separation.

(3) The immunity created by subsection (1) of this section shall not apply if the parental rights of the parent who gives consent have been terminated pursuant to ORS 419B.500 to 419B.524.

(4) For the purposes of this section, "health care facility" means a facility as defined in ORS 442.015 or any other entity providing medical service. [Formerly 109.133; 1993 c.33 §296; 2003 c.576 §158]

IDENTIFICATION OF DEAD AND MISSING PERSONS

146.181 Missing persons; police report; supplementary report. (1) When a person is reported as missing to any city, county or state police agency, the agency, within 12 hours thereafter, shall enter into state and federal records maintained for that purpose, a report of the missing person in a format and according to procedures established by the authorities responsible respectively for the state and federal records.

(2) The law enforcement agency to which the report is made:

(a) May request from the person making the report information or material likely to be useful in identifying the missing person or the human remains of the missing person, including, but not limited to:

(A) The name of the missing person and any alternative names the person uses;

(B) The date of birth of the missing person;

(C) A physical description of the missing person, including the height, weight, gender, race, eye color, current hair color and natural hair color of the missing person, any identifying marks on the missing person, any prosthetics used by, or surgical implants in, the missing person and any physical anomalies of the missing person;

(D) The blood type of the missing person;

(E) The driver license number of the missing person;

(F) The Social Security number of the missing person;

(G) A recent photograph of the missing person;

(H) A description of the clothing the missing person is believed to have been wearing at the time the person disappeared;

(I) A description of items that the missing person is believed to have had with the person at the time the person disappeared;

(J) Telephone numbers and electronic mail addresses of the missing person;

(K) The name and address of any school the missing person attends;

(L) The name and address of any employer of the missing person;

(M) The name and address of the primary care physician and dentist of the missing person;

(N) A description of any vehicle that the missing person might have been driving or riding in when the person disappeared;

(O) The reasons why the person making the missing person report believes the person is missing;

(P) Any circumstances that indicate that the missing person may be at risk of injury or death;

(Q) Any circumstances that may indicate that the disappearance is not voluntary;

(R) Information about a known or possible abductor or a person who was last seen with the missing person; and

(S) The date of the last contact with the missing person.

(b) May request in writing from any dentist, denturist, physician, optometrist or other medical practitioner possessing it such medical, dental or other physically descriptive information as is likely to be useful in identifying the missing person or the human remains of the missing person.

(3) The law enforcement agency, upon obtaining information pursuant to subsection (2) of this section, shall make a supplementary entry of that information into the state and federal records described in subsection (1) of this section. The supplementary report shall be in a format and according to procedures established by the authorities responsible respectively for the state and federal records. [Formerly 146.525]

146.184 Medical practitioners to provide information about missing persons. (1) A dentist, denturist, physician, optometrist or other medical practitioner, upon receipt of a written request from a law enforcement agency for identifying information pursuant to ORS 146.181, shall furnish to the agency such information known to the practitioner upon the request forms provided by the agency.

(2) Information obtained under this section is restricted to use for the identification of missing persons or the identification of unidentified human remains and may not be made available to the public.

(3) Compliance with a written request for information under this section by a dentist, denturist, physician, optometrist or other medical practitioner does not constitute a breach of confidentiality. [Formerly 146.535]

(Contested Cases)

183.430 Hearing on refusal to renew license; exceptions. (1) In the case of any license which must be periodically renewed, where the licensee has made timely application for renewal in accordance with the rules of the agency, such license shall not be deemed to expire, despite any stated expiration date thereon, until the agency concerned has issued a formal order of grant or denial of such renewal. In case an agency proposes to refuse to renew such license, upon demand of the licensee, the agency must grant hearing as provided by this chapter before issuance of order of refusal to renew. This subsection does not apply to any emergency or temporary permit or license.

(2) In any case where the agency finds a serious danger to the public health or safety and sets forth specific reasons for such findings, the agency may suspend or refuse to renew a license without hearing, but if the licensee demands a hearing within 90 days after the date of notice to the licensee of such suspension or refusal to renew, then a hearing must be granted to the licensee as soon as practicable after such demand, and the agency shall issue an order pursuant to such hearing as required by this chapter confirming, altering or revoking its earlier order. Such a hearing need not be held where the order of suspension or refusal to renew is accompanied by or is pursuant to, a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the licensee. [1957 c.717 §8 (3), (4); 1965 c.212 §1; 1971 c.734 §11]

183.435 Period allowed to request hearing for license refusal on grounds other than test or inspection results. When an agency refuses to issue a license required to pursue any commercial activity, trade, occupation or profession if the refusal is based on grounds other than the results of a test or inspection that agency shall grant the person requesting the license 60 days from notification of the refusal to request a hearing. [Formerly 670.285]

PROTECTED HEALTH INFORMATION

192.553 Policy for protected health information. (1) It is the policy of the State of Oregon that an individual has:

(a) The right to have protected health information of the individual safeguarded from unlawful use or disclosure; and

(b) The right to access and review protected health information of the individual.

(2) In addition to the rights and obligations expressed in ORS 192.553 to 192.581, the federal Health Insurance Portability and Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164, establish additional rights and obligations regarding the use and disclosure of protected health information and the rights of individuals regarding the protected health information of the individual. [Formerly 192.518]

Note: 192.553 to 192.581 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 192 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

192.555 [1977 c.517 §§2,8(1); 1985 c.565 §24; 1987 c.373 §25; 1987 c.438 §4; 1993 c.131 §3; 1993 c.274 §1; 1993 c.695 §1; 1997 c.142 §1; 1999 c.80 §68; 1999 c.506 §5; 2009 c.541 §8; renumbered 192.586 in 2011]

192.556 Definitions for ORS 192.553 to 192.581. As used in ORS 192.553 to 192.581:

(1) "Authorization" means a document written in plain language that contains at least the following:

(a) A description of the information to be used or disclosed that identifies the information in a specific and meaningful way;

(b) The name or other specific identification of the person or persons authorized to make the requested use or disclosure;

(c) The name or other specific identification of the person or persons to whom the covered entity may make the requested use or disclosure;

(d) A description of each purpose of the requested use or disclosure, including but not limited to a statement that the use or disclosure is at the request of the individual;

(e) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;

(f) The signature of the individual or personal representative of the individual and the date;

(g) A description of the authority of the personal representative, if applicable; and

(h) Statements adequate to place the individual on notice of the following:

(A) The individual's right to revoke the authorization in writing;

(B) The exceptions to the right to revoke the authorization;

(C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization; and

(D) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer protected.

(2) "Covered entity" means:

(a) A state health plan;

(b) A health insurer;

(c) A health care provider that transmits any health information in electronic form to carry out financial or administrative activities in connection with a transaction covered by ORS 192.553 to 192.581; or

(d) A health care clearinghouse.

(3) "Health care" means care, services or supplies related to the health of an individual.

(4) "Health care operations" includes but is not limited to:

(a) Quality assessment, accreditation, auditing and improvement activities;

(b) Case management and care coordination;

(c) Reviewing the competence, qualifications or performance of health care providers or health insurers;

(d) Underwriting activities;

(e) Arranging for legal services;

(f) Business planning;

(g) Customer services;

(h) Resolving internal grievances;

(i) Creating de-identified information; and

(j) Fundraising.

(5) "Health care provider" includes but is not limited to:

(a) A psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675 or an employee of the psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist;

(b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed under

ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician assistant or acupuncturist;

(c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;

(d) A dentist licensed under ORS chapter 679 or an employee of the dentist;

(e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;

(f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;

(g) An emergency medical services provider licensed under ORS chapter 682;

(h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;

(i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;

(j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;

(k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;

(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;

(m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;

(n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical imaging licensee;

(o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory care practitioner;

(p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the polysomnographic technologist;

(q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

(r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;

(s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;

(t) A health care facility as defined in ORS 442.015;

(u) A home health agency as defined in ORS 443.005;

(v) A hospice program as defined in ORS 443.850;

(w) A clinical laboratory as defined in ORS 438.010;

(x) A pharmacy as defined in ORS 689.005;

(y) A diabetes self-management program as defined in ORS 743A.184; and

(z) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.

(6) “Health information” means any oral or written information in any form or medium that:

(a) Is created or received by a covered entity, a public health authority, an employer, a life insurer, a school, a university or a health care provider that is not a covered entity; and

(b) Relates to:

(A) The past, present or future physical or mental health or condition of an individual;

(B) The provision of health care to an individual; or

(C) The past, present or future payment for the provision of health care to an individual.

(7) “Health insurer” means:

(a) An insurer as defined in ORS 731.106 who offers:

(A) A health benefit plan as defined in ORS 743.730;

(B) A short term health insurance policy, the duration of which does not exceed six months including renewals;

(C) A student health insurance policy;

(D) A Medicare supplemental policy; or

(E) A dental only policy.

(b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board under ORS 735.600 to 735.650.

(8) “Individually identifiable health information” means any oral or written health information in any form or medium that is:

(a) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and

(b) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:

(A) The past, present or future physical or mental health or condition of an individual;

(B) The provision of health care to an individual; or

(C) The past, present or future payment for the provision of health care to an individual.

(9) "Payment" includes but is not limited to:

(a) Efforts to obtain premiums or reimbursement;

(b) Determining eligibility or coverage;

(c) Billing activities;

(d) Claims management;

(e) Reviewing health care to determine medical necessity;

(f) Utilization review; and

(g) Disclosures to consumer reporting agencies.

(10) "Personal representative" includes but is not limited to:

(a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with authority to make medical and health care decisions;

(b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a representative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment decisions;

(c) A person appointed as a personal representative under ORS chapter 113; and

(d) A person described in ORS 192.573.

(11)(a) "Protected health information" means individually identifiable health information that is maintained or transmitted in any form of electronic or other medium by a covered entity.

(b) "Protected health information" does not mean individually identifiable health information in:

(A) Education records covered by the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g);

(B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

(C) Employment records held by a covered entity in its role as employer.

(12) "State health plan" means:

(a) Medical assistance as defined in ORS 414.025;

(b) The Health Care for All Oregon Children program;

(c) The Family Health Insurance Assistance Program established in ORS 414.841 to 414.864; or

(d) Any medical assistance or premium assistance program operated by the Oregon Health Authority.

(13) "Treatment" includes but is not limited to:

(a) The provision, coordination or management of health care; and

(b) Consultations and referrals between health care providers. [Formerly 192.519]

Note: See note under 192.553.

192.557 [1987 c.438 §2; 1999 c.80 §69; 2003 c.73 §59; renumbered 192.588 in 2011]

192.558 Health care provider and state health plan authority. A health care provider or state health plan:

(1) May use or disclose protected health information of an individual in a manner that is consistent with an authorization provided by the individual or a personal representative of the individual.

(2) May use or disclose protected health information of an individual without obtaining an authorization from the individual or a personal representative of the individual:

(a) For the provider's or plan's own treatment, payment or health care operations; or

(b) As otherwise permitted or required by state or federal law or by order of the court.

(3) May disclose protected health information of an individual without obtaining an authorization from the individual or a personal representative of the individual:

(a) To another covered entity for health care operations activities of the entity that receives the information if:

(A) Each entity has or had a relationship with the individual who is the subject of the protected health information; and

(B) The protected health information pertains to the relationship and the disclosure is for the purpose of:

(i) Health care operations as listed in ORS 192.556 (4)(a) or (b); or

(ii) Health care fraud and abuse detection or compliance;

(b) To another covered entity or any other health care provider for treatment activities of a health care provider; or

(c) To another covered entity or any other health care provider for the payment activities of the entity that receives that information. [Formerly 192.520]

Note: See note under 192.553.

192.559 [1991 c.825 §2; 1993 c.274 §2; 2001 c.962 §82; renumbered 192.591 in 2011]

192.560 [1977 c.517 §3; renumbered 192.593 in 2011]

192.563 Health care provider and state health plan charges. A health care provider or state health plan that receives an authorization to disclose protected health information may charge:

(1)(a) No more than $30 for copying 10 or fewer pages of written material, no more than 50 cents per page for pages 11 through 50 and no more than 25 cents for each additional page; and

(b) A bonus charge of $5 if the request for records is processed and the records are mailed by first class mail to the requester within seven business days after the date of the request;

(2) Postage costs to mail copies of protected health information or an explanation or summary of protected health information, if requested by an individual or a personal representative of the individual; and

(3) Actual costs of preparing an explanation or summary of protected health information, if requested by an individual or a personal representative of the individual. [Formerly 192.521]

Note: See note under 192.553.

192.565 [1977 c.517 §4; 1999 c.80 §30; renumbered 192.596 in 2011]

192.566 Authorization form. A health care provider may use an authorization that contains the following provisions in accordance with ORS 192.558:

_____
_____

AUTHORIZATION TO USE AND DISCLOSE PROTECTED HEALTH INFORMATION

I authorize: _____(Name of person/entity disclosing information) to use and disclose a copy of the specific health information described below regarding: _____(Name of individual) consisting of: (Describe information to be used/disclosed)

_____
_____
_____
_____
_____
_____

to: _____(Name and address of recipient or recipients) for the purpose of: (Describe each purpose of disclosure or indicate that the disclosure is at the request of the individual)

_____
_____
_____
_____
_____
_____

If the information to be disclosed contains any of the types of records or information listed below, additional laws relating to the use and disclosure of the information may apply. I understand and agree that this information will be disclosed if I place my initials in the applicable space next to the type of information.

_____ HIV/AIDS information
_____ Mental health information
_____ Genetic testing information
_____ Drug/alcohol diagnosis, treatment, or refer information.

I understand that the information used or disclosed pursuant to this authorization may be subject to redisclosure and no longer be protected under federal law. However, I also understand that federal or state law may restrict redisclosure of HIV/AIDS information, mental health information, genetic testing information and drug/alcohol diagnosis, treatment or referral information.

PROVIDER INFORMATION

You do not need to sign this authorization. Refusal to sign the authorization will not adversely affect your ability to receive health care services or reimbursement for services. The only circumstance when refusal to sign means you will not receive health care services is if the health care services are solely for the purpose of providing health information to someone else and the authorization is necessary to make that disclosure.

You may revoke this authorization in writing at any time. If you revoke your authorization, the information described above may no longer be used or disclosed for the purposes described in this written authorization. The only exception is when a covered entity has taken action in reliance on the authorization or the authorization was obtained as a condition of obtaining insurance coverage.

To revoke this authorization, please send a written statement to _____ (contact person) at

_____ (address of person/entity disclosing information) and state that you are revoking this authorization.

SIGNATURE

I have read this authorization and I understand it. Unless revoked, this authorization expires _____ (insert either applicable date or event).

By: _____
(individual or personal representative)

Date: _____

Description of personal representative's authority:
_____
_____
_____ [Formerly 192.522]

Note: See note under 192.553.

192.568 Confidentiality; use and disclosure. A health care provider or a state health plan does not breach a confidential relationship with an individual if the health care provider or state health plan uses or discloses protected health information in accordance with ORS 192.558. [Formerly 192.523]

Note: See note under 192.553.

192.571 No right of action. Nothing in ORS 192.556 or 192.558 may be construed to create a new private right of action against a health care provider or a state health plan. [Formerly 192.524]

Note: See note under 192.553.

DEPARTMENT OF REVENUE

(License Lists)

305.380 Definitions for ORS 305.385. As used in ORS 305.385:

(1) "Agency" means any department, board, commission, division or authority of the State of Oregon, or any political subdivision of this state which imposes a local tax administered by the Department of Revenue under ORS 305.620.

(2) "License" means any written authority required by law or ordinance as a prerequisite to the conduct of a business, trade or profession.

(3) "Provider" means any person who contracts to supply goods, services or real estate space to an agency.

(4) "Tax" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620. [1987 c.843 §6; 1997 c.99 §35; 1997 c.170 §16; 2005 c.94 §21]

305.385 Agencies to supply licensee and contractor lists; contents; effect of department determination on taxpayer status of licensee or contractor; rules. (1) Upon request of the Department of Revenue, an agency issuing or renewing a license to conduct a business, trade or profession shall annually, on or before March 1, supply the department with a list of specified licenses issued or renewed by the agency during the preceding calendar year.

(2) Upon request of the department, an agency shall annually, on or before March 1, supply the department with a list of specified persons contracting with the agency to provide goods, services or real estate space to the agency during the preceding calendar year.

(3) The lists required by subsections (1) and (2) of this section shall contain the name, address, Social Security or federal employer identification number of each licensee or provider or such other information as the department may by rule require.

(4)(a) If the department determines that any licensee or provider has neglected or refused to file any return or to pay any tax and that such person has not filed in good faith a petition before the department contesting the tax, and the department has been unable to obtain payment of the tax through other methods of collection, the Director of the Department of Revenue may, notwithstanding ORS 118.525, 314.835 or 314.840 or any similar provision of law, notify the agency and the person in writing.

(b) Upon receipt of such notice, the agency shall refuse to reissue, renew or extend any license, contract or agreement until the agency receives a certificate issued by the department that the person is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(c) Upon the written request of the director and after a hearing and notice to the licensee as required under any applicable provision of law, the agency shall suspend the person's license if the agency finds that the returns and taxes have not been filed or paid and that the licensee has not filed in good faith a petition before the department contesting the tax and the department has been unable to obtain payment of the tax through other methods of collection. For the purpose of the agency's findings, the written representation to that effect by the department to the agency shall constitute prima facie evidence of the person's failure to file returns or pay the tax. The department shall have the right to intervene in any license suspension proceeding.

(d) Any license suspended under this subsection shall not be reissued or renewed until the agency receives a certificate issued by the department that the licensee is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(5) The department may enter into an installment payment agreement with a licensee or provider with respect to any unpaid tax, penalty and interest. The agreement shall provide for interest on the outstanding amount at the rate prescribed by ORS 305.220. The department may issue a provisional certificate of good standing pursuant to subsection (4)(b) and (d) of this section which shall remain in effect so long as the licensee or provider fully complies with the terms of the installment agreement. Failure by the licensee or provider to fully comply with the terms of the installment agreement shall render the agreement and the provisional certificate of good standing null and void, unless the department determines that the failure was due to reasonable cause. If the department determines that the failure was not due to reasonable cause, the total amount of the tax, penalty and interest shall be immediately due and payable, and the department shall notify any affected agency that the licensee or provider is not in good standing. The

agency shall then take appropriate action under subsection (4)(b) and (d) of this section.

(6) No contract or other agreement for the purpose of providing goods, services or real estate space to any agency shall be entered into, renewed or extended with any person, unless the person certifies in writing, under penalty of perjury, that the person is, to the best of the person's knowledge, not in violation of any tax laws described in ORS 305.380 (4).

(7) The certification under subsection (6) of this section shall be required for each contract and renewal or extension of a contract or may be provided on an annual basis. A certification shall not be required for a contract if the consideration for the goods, services or real estate space provided under the contract is no more than $1,000.

(8)(a) The requirements of the certification under subsection (6) of this section shall be subject to the rules adopted by the department in accordance with this section.

(b) The department may by rule exempt certain contracts from the requirements of subsection (6) of this section. [1987 c.843 §7; 1989 c.656 §1; 1997 c.99 §36]

(Temporary provisions relating to pilot project requiring tax compliance as condition of occupational and professional licensing)

Note: Sections 2 to 4, chapter 576, Oregon Laws 2009, provide:

Sec. 2. (1) The Department of Revenue may, in conjunction with state agencies, boards or commissions that issue occupational licenses or licenses for the privilege of engaging in an occupation or profession within this state, develop and implement a pilot project that requires, as a condition of issuance or renewal of a license, licensees to demonstrate compliance with the following, as applicable:

(a) The personal income tax laws of this state, including the withholding laws in ORS 316.162 to 316.221.

(b) The corporate excise or income tax laws of this state.

(c) The provisions of ORS 323.005 to 323.482 or 323.500 to 323.645.

(2) Any state agency, board or commission that participates in the pilot project authorized under subsection (1) of this section may suspend, revoke or refuse to issue or renew a license if the department determines that the licensee has failed to demonstrate or maintain tax compliance as provided in this section.

(3) Notwithstanding ORS 314.835 and 314.840, the department may disclose to a state agency, board or commission that requires tax compliance as a condition of issuance or renewal of a license under subsection (1) of this section whether an individual or corporation is in compliance.

(4) In determining compliance for purposes of this section, the department may consider whether the individual or corporation:

(a) Has not filed required returns or reports with respect to taxes imposed by ORS chapter 316 or 317, whichever is applicable, for any of the three tax years immediately preceding a year for which a tax return or report was required to be filed;

(b) Has not filed required reports with respect to taxes imposed under ORS 323.005 to 323.482 or 323.500 to 323.645 for any of the three calendar years immediately preceding a year in which a report was required to be filed;

(c) After all appeal rights, if any, have expired, has failed to:

(A) Pay any tax within 30 days after the date of the assessment and is still delinquent on any payments due;

(B) Enter into an approved payment plan within 60 days after the date of the assessment of the tax; or

(C) Follow the terms of an approved payment plan and is still delinquent on any payments due; or

(d) Has been convicted of a criminal offense related to the personal income tax laws of this state, the corporate excise and income tax laws of this state or the provisions of ORS 323.005 to 323.482 or 323.500 to 323.645, whichever are applicable.

(5) The department may enter into agreements with any state agency, board or commission that participates in the pilot project under subsection (1) of this section in order to assist in the administration of the tax compliance requirement.

(6) Participation in the pilot project authorized under subsection (1) of this section is limited to three state agencies, boards or commissions. [2009 c.576 §2]

Sec. 3. The Department of Revenue shall report to the Seventy-sixth Legislative Assembly no later than January 31, 2011, on the operation and effectiveness of the pilot project authorized in section 2 of this 2009 Act. [2009 c.576 §3]

Sec. 4. Section 2 of this 2009 Act is repealed on January 2, 2016. [2009 c.576 §4]

PROGRAMS

353.480 Pediatric dental residency program. Subject to the availability of funding, the Oregon Health and Science University shall establish the pediatric dental residency program only to the extent that funds are appropriated to the Oregon Department of Administrative Services for the Oregon Health and Science University public corporation to establish the program under section 1, chapter 1083, Oregon Laws 1999. [1999 c.1083 §2]

Note: 353.480 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 353 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

MISCELLANEOUS VETERANS' BENEFITS

408.450 Duty to pay fees during military duty. No person in the military or naval service of the United States, or any auxiliary corps thereof, while exercising any privilege in this state by virtue of having paid an annual license or privilege fee to any state board or commission for the right to practice a profession or engage in a trade, shall lose such privilege because of failure to pay any such fee for any subsequent year during the period the person is in such service, unless dishonorably discharged therefrom. Upon being discharged from such service under honorable conditions and upon written application within 60 days of such discharge, every such person shall be restored to former status with respect to any such privilege without the necessity of paying the then current license fee.

PAIN MANAGEMENT COMMISSION

Note: 413.570 to 413.599 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 413 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

413.572 Additional duties of commission. (1) The Pain Management Commission shall:

(a) Develop a pain management education program curriculum and update it biennially.

(b) Provide health professional regulatory boards and other health boards, committees or task forces with the curriculum.

(c) Work with health professional regulatory boards and other health boards, committees or task forces to develop approved pain management education programs as required.

(d) Review the pain management curricula of educational institutions in this state that provide post-secondary education or training for persons required by ORS 413.590 to complete a pain management education program. The commission shall make recommendations about legislation needed to ensure that adequate information about pain management is included in the curricula reviewed and shall report its findings to the Legislative Assembly in the manner required by ORS 192.245 by January 1 of each odd-numbered year.

(2) As used in this section, "educational institution" has the meaning given that term in ORS 348.105. [Formerly 409.510]

Note: See note under 413.570.

413.590 Pain management education required of certain licensed health care professionals; duties of Oregon Medical Board; rules. (1) A physician assistant licensed under ORS chapter 677, a nurse licensed under ORS chapter 678, a psychologist licensed under ORS 675.010 to 675.150, a chiropractic physician licensed under ORS chapter 684, a naturopath licensed under ORS chapter 685, an acupuncturist licensed under ORS 677.759, a pharmacist licensed under ORS chapter 689, a dentist licensed under ORS chapter 679, an occupational therapist licensed under ORS 675.210 to 675.340 and a physical therapist licensed under ORS 688.010 to 688.201 must complete one pain management education program described under ORS 413.572.

(2) The Oregon Medical Board, in consultation with the Pain Management Commission, shall identify by rule physicians licensed under ORS chapter 677 who, on an ongoing basis, treat patients in chronic or terminal pain and who must complete one pain management education program established under ORS 413.572. The board may identify by rule circumstances under which the requirement under this section may be waived. [Formerly 409.560]

Note: See note under 413.570.

413.592 Completion of pain management education program. A person required to complete one pain management education program established under ORS 413.572 shall complete the program:

(1) Within 24 months of January 2, 2006;

(2) Within 24 months of the first renewal of the person's license after January 2, 2006; or

(3) For a physician assistant for whom an application under ORS 677.510 has been approved before January 2, 2006, within 24 months after January 2, 2006. [Formerly 409.565]

Note: See note under 413.570.

413.599 Rules. In accordance with applicable provisions of ORS chapter 183, the Pain Management Commission may adopt rules necessary to implement ORS 413.570 to 413.599. [Formerly 409.570]

Note: See note under 413.570.

CHILD-CARING AGENCIES; PLACEMENT IN FOSTER HOMES BY CHILD-CARING AGENCIES

418.307 Medical or dental treatment of children without consent; conditions; immunity of treating personnel. (1) A physician licensed by the Oregon Medical Board, or a dentist licensed by the Oregon Board of Dentistry, or a hospital licensed by the Department of Human Services is authorized to treat a child who is ward of the court or is a dependent or delinquent child in accord with the physician's best medical judgment and without consent if:

(a) Because of the general state of the child's health or any particular condition, the physician, dentist, or responsible official of the hospital determines that in the medical judgment of the physician, dentist or responsible official prompt action is reasonably necessary to avoid unnecessary suffering or discomfort or to effect a more expedient or effective cure; and

(b) It is impossible or highly impractical to obtain consent for treating the child from the child-caring agency, the child's parent or the child's legal guardian.

(2) No charge of assault or battery shall be made against a physician, dentist, or hospital official or employee who provides medical treatment pursuant to subsection (1) of this section.

(3) A minor child described in subsection (1) of this section who is 15 years of age or older may consent to medical treatment pursuant to ORS 109.640. [1975 c.580 §2]

REPORTING OF CHILD ABUSE

419B.005 Definitions. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution or to patronize a prostitute, as defined in ORS chapter 167.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who is under 18 years of age.

(3) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.383.

(e) A county juvenile department.

(4) "Public or private official" means:

(a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric physician and surgeon, including any intern or resident.

(b) Dentist.

(c) School employee.

(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(e) Employee of the Department of Human Services, Oregon Health Authority, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Licensed professional counselor.

(o) Licensed marriage and family therapist.

(p) Firefighter or emergency medical services provider.

(q) A court appointed special advocate, as defined in ORS 419A.004.

(r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

(s) Member of the Legislative Assembly.

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.

(x) Pharmacist.

(y) An operator of a preschool recorded program under ORS 657A.255.

(z) An operator of a school-age recorded program under ORS 657A.257.

(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056. [1993 c.546 §12; 1993 c.622 §1a; 1995 c.278 §50; 1995 c.766 §1; 1997 c.127 §1; 1997 c.561 §3; 1997 c.703 §3; 1997 c.873 §30; 1999 c.743 §22; 1999 c.954 §4; 2001 c.104 §148; 2003 c.191 §1; 2005 c.562 §26; 2005 c.708 §4; 2009 c.199 §1; 2009 c.442 §36; 2009 c.518 §1; 2009 c.570 §6; 2009 c.595 §364; 2009 c.633 §10; 2009 c.708 §3; 2010 c.60 §§4,5; 2011 c.151 §12; 2011 c.506 §38; 2011 c.703 §34]

419B.007 Policy. The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports. [1993 c.546 §13]

419B.010 Duty of officials to report child abuse; exceptions; penalty. (1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense. [1993 c.546 §14; 1999 c.1051 §180; 2001 c.104 §149; 2001 c.904 §15; 2005 c.450 §7]

419B.015 Report form and content; notice. (1)(a) A person making a report of child abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the local office of the department within the county where the report was made.

(2) When a report of child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of this section according to rules adopted by the department under ORS 419B.017.

(3)(a) When a report alleging that a child or ward in substitute care may have been subjected to abuse is received by the department, the department shall notify the attorney for the child or ward, the child's or ward's court appointed special advocate, the parents of the child or ward and any attorney representing a parent of the child or ward that a report has been received.

(b) The name and address of and other identifying information about the person who made the report may not be disclosed under this subsection. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection.

(c) The department shall make the notification required by this subsection within three business days of receiving the report of abuse.

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent's attorney that a report of abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child's or ward's safety. [1993 c.546 §15; 1993 c.734 §1a; 2005 c.250 §1; 2007 c.237 §1]

PROCEDURE WHERE WORKERS EXPOSED TO INFECTIOUS DISEASE

433.407 Definitions for ORS 433.407 to 433.423. As used in ORS 433.407 to 433.423 unless the context requires otherwise:

(1) "Authority" means the Oregon Health Authority.

(2) "Health care facility" means a facility as defined in ORS 442.015 and a mental health facility, alcohol treatment facility or drug treatment facility licensed or operated under ORS chapter 426 or 430.

(3) "Worker" means a person who is licensed or certified to provide health care under ORS chapter 677, 678, 679, 680, 684 or 685 or ORS 682.216, an employee of a health care facility, of a licensed health care provider or of a clinical laboratory as defined in ORS 438.010, a firefighter, a law enforcement officer as defined in ORS 414.805, a corrections officer or a parole and probation officer. [1989 c.949 §2; 1993 c.196 §8; 2005 c.264 §24; 2009 c.595 §671; 2011 c.720 §195]

Note: 433.407 to 433.423 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 433 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

433.410 [Amended by 1973 c.779 §5; repealed by 1981 c.198 §2]

433.411 Legislative finding. The Legislative Assembly finds that by reason of and in the course of their employment, health care workers and emergency response employees, are subject to exposure to infectious diseases, that this exposure is not fully preventable due to the nature of their duties and that health care workers should be informed of exposure to infectious diseases as soon as is practicable to initiate appropriate medical care and to prevent exposing other persons to infectious diseases. [1989 c.949 §1]

Note: See note under 433.407.

433.415 [Amended by 1973 c.779 §6; 1979 c.590 §1; 1979 c.828 §6; repealed by 1981 c.198 §2]

433.416 When employer to provide preventive immunization. (1) An employer of a health care worker at risk of contracting an infectious disease in the course of employment shall provide to the worker preventive immunization for infectious disease if such preventive immunization is available and is medically appropriate.

(2) Such preventive immunization shall be provided by the employer at no cost to the worker.

(3) A worker shall not be required as a condition of work to be immunized under this section, unless such immunization is otherwise required by federal or state law, rule or regulation. [1989 c.949 §3]

Note: See note under 433.407.

433.419 Notice to employer and worker of exposure. When a local health department or the Oregon Health Authority learns of a case or suspected case of an infectious disease which may have exposed a worker to risk of infection, the local health department or the authority shall make every reasonable effort to notify the worker and employer of the exposure as soon as medically appropriate given the urgency of the disease or suspected disease. Notification shall include recommendations to the worker and employer that are medically appropriate. [1989 c.949 §4; 2009 c.595 §672]

Note: See note under 433.407.

433.420 [Amended by 1973 c.779 §7; 1979 c.828 §7; repealed by 1981 c.198 §2]

433.423 Content of rules. (1) The Oregon Health Authority shall adopt rules implementing ORS 433.407 to 433.423. Such rules shall include, but need not be limited to:

(a) The development of curriculum dealing with the exposure of workers to infectious diseases;

(b) Development and conduct of training programs for local health department personnel to prepare them to train workers about the subject of infectious diseases;

(c) Information on the manner in which infectious diseases are transmitted; and

(d) Guidelines that can assist workers and their employers in distinguishing between conditions in which such workers are or are not at risk with respect to infectious diseases.

(2) The rules adopted by the authority shall require that implementation of ORS 433.407 to 433.423 be accomplished in such a manner as to protect the confidentiality of persons with infectious diseases and workers exposed to such persons. [1989 c.949 §5; 2009 c.595 §673]

Note: See note under 433.407.

441.098 Physician referral of patient to treatment facility. (1) As used in this section:

(a) "Facility" means a hospital, ambulatory surgical center or freestanding birthing center.

(b) "Financial interest" means a five percent or greater direct or indirect ownership interest.

(c) "Health practitioner" means a physician, podiatric physician and surgeon, dentist, direct entry midwife or licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse midwife nurse practitioner.

(d) "Physician" has the meaning given that term in ORS 677.010.

(2) If a health practitioner refers a patient for treatment at a facility in which the health practitioner or an immediate family member has a financial interest, the health practitioner shall inform the patient orally and in writing of that interest at the time of the referral.

(3) In obtaining informed consent for treatment that will take place at a facility, a health practitioner shall disclose the manner in which care will be provided in the event that complications occur that require health services beyond what the facility has the capability to provide. [2009 c.792 §3]

EDUCATIONAL REQUIREMENTS

670.010 Waiver of educational requirement for admission to examination for license or certificate to practice profession, trade or calling. Any state board or commission that examines applicants for license or certification to practice a profession or engage in a trade or calling may, in its discretion, waive the educational requirement for admission to such examination, provided that the applicant furnishes evidence satisfactory to such state board or commission that the applicant is currently enrolled in a school, college or university approved by such state board or commission and will satisfy the educational requirement for admission to such examination on satisfactory completion of courses for which the applicant is currently enrolled and that this educational requirement will be met not later than four calendar months from the first day of the month following the month in which the examination is given. [1953 c.103 §1; 1975 c.429 §5; 1977 c.47 §1]

670.020 Filing evidence of complete educational requirement after taking examination. (1) Evidence of completion of the educational requirement waived as provided in ORS 670.010 shall be filed with such state board or commission not later than four calendar months from the first day of the month following the month in which the examination is taken. State boards and commissions shall withhold official certification of the successful completion of the examination until such evidence is furnished. The affidavit of the registrar or administrative head of the school, college or university shall be deemed satisfactory evidence.

(2) If any candidate admitted to an examination as provided in ORS 670.010 shall fail or neglect within said period to complete the educational requirement for such examination, then the completion of the examination by such candidate shall be null and void, and of no effect. The state board or commission which examined the candidate, however, shall retain any examination fee paid by the candidate. [1953 c.103 §2; 1975 c.429 §6; 1981 c.89 §19]

670.210 [1967 c.344 §1; 1971 c.648 §31; repealed by 1981 c.76 §1]

670.220 [1967 c.344 §§2,3; 1971 c.648 §32; repealed by 1981 c.76 §1]

670.230 [1967 c.344 §4; repealed by 1981 c.76 §1]

670.240 [1967 c.344 §5; repealed by 1981 c.76 §1]

LICENSING ADMINISTRATION (Generally)

670.275 Policy statement. In enacting chapter 753, Oregon Laws 1971, it is the intention of the Legislative Assembly to provide for the more effective coordination of the administrative functions of boards charged with responsibility for protecting the public through the licensing and regulating of certain professions practiced in this state. Further, it is the intention of the Legislative Assembly to retain responsibility for decisions on qualifications, standards of practice, licensing, discipline and other discretionary functions relating to professional activities in the professional licensing boards, members of which are qualified by education, training and experience to make the necessary judgments. [Formerly 184.575]

Note: Legislative Counsel has substituted "chapter 753, Oregon Laws 1971," for the words "this Act" in section 1, chapter 753, Oregon Laws 1971, compiled as 670.275 [Formerly 184.575]. Specific ORS references have not been substituted pursuant to 173.160. These sections may be determined by referring to the 1971 Comparative Section Table located in Volume 20 of ORS.

670.280 Denial, suspension or revocation of license based on criminal conviction; denial of license or imposition of discipline for conduct substantially related to fitness and ability of applicant or licensee. (1) As used in this section:

(a) "License" includes a registration, certification or permit.

(b) "Licensee" includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license.

(3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing board, commission or agency

may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards. [1973 c.359 §1; 1991 c.662 §6a; 2003 c.749 §13; 2009 c.386 §5]

670.283 Power of state agency to suspend license includes power to reinstate. If a state agency, board or commission has the power to issue any license, certification or registration necessary to practice any profession or engage in any trade or calling, any statute granting the state agency, board or commission the power to suspend the license, certification or registration includes the power to reinstate:

(1) At a time certain; or

(2) When the person subject to suspension fulfills conditions for reinstatement set by the agency, board or commission. [1979 c.201 §1]

670.285 [1975 c.759 §10; renumbered 183.435]

670.290 Prohibited uses of juvenile records in employment, licensing or admission. It shall be unlawful for any state agency or licensing board, including the Oregon State Bar, to:

(1) Require that an applicant for employment, licensing or admission answer any questions regarding the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262;

(2) Bar or discharge from employment or refuse to hire or employ such individual because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262; or

(3) Deny, revoke or suspend a license because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262. [1977 c.801 §2; 1983 c.820 §16; 1993 c.33 §360]

USE OF TITLES IMPORTING HEALTH CARE PROFESSION

676.110 Use of title "doctor." (1) An individual practicing a health care profession may not use the title "doctor" in connection with the profession, unless the individual:

(a) Has earned a doctoral degree in the individual's field of practice; and

(b)(A) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual's doctoral degree was earned; or

(B) Is working under a board-approved residency contract and is practicing under the license of a supervisor who is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual's doctoral degree was earned.

(2) If an individual uses the title "doctor" in connection with a health care profession at any time, the individual must designate the health care profession in which the individual's doctoral degree was earned on all written or printed matter, advertising, billboards, signs or professional notices used in connection with the health care profession, regardless of whether the individual's name or the title "doctor" appears on the written or printed matter, advertising, billboard, sign or professional notice. The designation must be in letters or print at least one-fourth the size of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice.

(3) Subsection (1) of this section does not prohibit:

(a) A chiropractic physician licensed under ORS chapter 684 from using the title "chiropractic physician";

(b) A naturopathic physician licensed under ORS chapter 685 from using the title "naturopathic physician";

(c) A person licensed to practice optometry under ORS chapter 683 from using the title "doctor of optometry" or "optometric physician"; or

(d) A podiatric physician licensed under ORS 677.805 to 677.840 from using the title "podiatric physician." [Amended by 1967 c.470 §66; 1983 c.169 §29; 1983 c.486 §1a; 1983 c.769 §1; 1991 c.314 §4; 1995 c.765 §1; 2007 c.418 §1; 2009 c.142 §1; 2011 c.108 §1]

676.120 Use of deceased licensee's name. Notwithstanding ORS 676.110, upon the death of any person duly licensed by a health professional regulatory board as defined in ORS 676.160, the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent's name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner. [Amended by 1953 c.137 §2; 1983 c.769 §2; 1991 c.314 §5; 2009 c.142 §2]

676.130 Enforcement of ORS 676.110 and 676.120. Each health professional regulatory board as defined in ORS 676.160 shall notify the appropriate district attorney of any violation of ORS 676.110 and 676.120 which may be brought to the attention of such board. The district attorney of the county in which any violation of those sections takes place shall prosecute the violation upon being informed of the violation by any person or by one of such boards. [Amended by 1983 c.769 §3; 2009 c.142 §3]

REPORTING OBLIGATIONS

676.150 Duty to report prohibited or unprofessional conduct, arrests and convictions; investigation; confidentiality; immunity from liability. (1) As used in this section:

(a) "Board" means the:

(A) State Board of Examiners for Speech-Language Pathology and Audiology;

(B) State Board of Chiropractic Examiners;

(C) State Board of Licensed Social Workers;

(D) Oregon Board of Licensed Professional Counselors and Therapists;

(E) Oregon Board of Dentistry;

(F) Board of Licensed Dietitians;

(G) State Board of Massage Therapists;

(H) Oregon Board of Naturopathic Medicine;

(I) Oregon State Board of Nursing;

(J) Nursing Home Administrators Board;

(K) Oregon Board of Optometry;

(L) State Board of Pharmacy;

(M) Oregon Medical Board;

(N) Occupational Therapy Licensing Board;

(O) Physical Therapist Licensing Board;

(P) State Board of Psychologist Examiners;

(Q) Board of Medical Imaging;

(R) State Board of Direct Entry Midwifery;

(S) State Board of Denture Technology;

(T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;

(V) Oregon State Veterinary Medical Examining Board; or

(W) State Mortuary and Cemetery Board.

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

(c) "Prohibited conduct" means conduct by a licensee that:

(A) Constitutes a criminal act against a patient or client; or

(B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board's rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section. [2009 c.536 §1; 2011 c.630 §21; 2011 c.703 §44; 2011 c.715 §19; 2011 c.720 §213]

PROCESSING OF COMPLAINTS AGAINST HEALTH PROFESSIONALS

676.160 Definitions for ORS 676.165 to 676.180. As used in ORS 676.165 to 676.180, "health professional regulatory board" means the:

(1) State Board of Examiners for Speech-Language Pathology and Audiology;

(2) State Board of Chiropractic Examiners;

(3) State Board of Licensed Social Workers;

(4) Oregon Board of Licensed Professional Counselors and Therapists;

(5) Oregon Board of Dentistry;

(6) Board of Licensed Dietitians;

(7) State Board of Massage Therapists;

(8) State Mortuary and Cemetery Board;

(9) Oregon Board of Naturopathic Medicine;

(10) Oregon State Board of Nursing;

(11) Nursing Home Administrators Board;

(12) Oregon Board of Optometry;

(13) State Board of Pharmacy;

(14) Oregon Medical Board;

(15) Occupational Therapy Licensing Board;

(16) Physical Therapist Licensing Board;

(17) State Board of Psychologist Examiners;

(18) Board of Medical Imaging;

(19) Oregon State Veterinary Medical Examining Board; and

(20) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers. [1997 c.791 §1; 1999 c.537 §4; 2001 c.274 §4; 2009 c.43 §9; 2009 c.442 §44; 2009 c.595 §1051; 2009 c.768 §33; 2009 c.833 §25; 2011 c.630 §22; 2011 c.703 §45]

676.165 Complaint investigation. (1) When a health professional regulatory board or the Oregon Health Licensing Agency receives a complaint by any person against a licensee, applicant or other person alleged to be practicing in violation of law, the board or agency shall assign one or more persons to act as investigator of the complaint.

(2) The investigator shall collect evidence and interview witnesses and shall make a report to the board or agency. The investigator shall have all investigatory powers possessed by the board or agency.

(3) The report to the board or agency shall describe the evidence gathered, the results of witness interviews and any other information considered in preparing the report of the investigator. The investigator shall consider, and include in the report, any disciplinary history with the board or agency of the licensee, applicant or other person alleged to be practicing in violation of law.

(4) The investigator shall make the report to the board or agency not later than 120 days after the board or agency receives the complaint. However, the board or agency may extend the time for making the report by up to 30 days for just cause. The board or agency may grant more than one extension of time.

(5) Investigatory information obtained by an investigator and the report issued by the investigator shall be exempt from public disclosure.

(6) When a health professional regulatory board reviews the investigatory information and report, the public members of the board must be actively involved. [1997 c.791 §5; 2009 c.756 §5]

676.170 Immunity of information providers. A person who reports or supplies information in good faith to a health professional regulatory board or to a committee reporting to a health professional regulatory board shall be immune from an action for civil damages as a result thereof. [1997 c.791 §4]

676.175 Complaints and investigations confidential; exceptions; fees. (1) A health professional regulatory board shall keep confidential and not disclose to the public any information obtained by the board as part of an investigation of a licensee or applicant, including complaints concerning licensee or applicant conduct and information permitting the identification of complainants, licensees or applicants. However, the board may disclose information obtained in the course of an investigation of a licensee or applicant to the extent necessary to conduct a full and proper investigation.

(2) Notwithstanding subsection (1) of this section, if a health professional regulatory board votes not to issue a notice of intent to impose a disciplinary sanction:

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

(b) The board may disclose to a complainant a written summary of information obtained as part of an investigation of an applicant or licensee resulting from the complaint to the extent the board determines necessary to explain the reasons for the board's

decision. An applicant or licensee may review and obtain a copy of any written summary of information disclosed to a complainant by the board after the board has deleted any information that could reasonably be used to identify the complainant.

(3) If a health professional regulatory board votes to issue a notice of intent to impose a disciplinary sanction, upon written request by the licensee or applicant, the board shall disclose to the licensee or applicant all information obtained by the board in the investigation of the allegations in the notice except:

(a) Information that is privileged or confidential under a law other than this section.

(b) Information that would permit the identification of any person who provided information that led to the filing of the notice and who will not provide testimony at a hearing arising out of the investigation.

(c) Information that would permit the identification of any person as a person who made a complaint to the board about a licensee or applicant.

(d) Reports of expert witnesses.

(4) Information disclosed to a licensee or applicant under subsection (3) of this section may be further disclosed by the licensee or applicant only to the extent necessary to prepare for a hearing on the notice of intent to impose a disciplinary sanction.

(5)(a) A health professional regulatory board shall disclose:

(A) A notice of intent to impose a disciplinary sanction against a licensee or applicant that has been issued by vote of the board;

(B) A final order that results from the board's notice of intent to impose a disciplinary sanction;

(C) An emergency suspension order;

(D) A consent order or stipulated agreement that involves licensee or applicant conduct; and

(E) Information to further an investigation into board conduct under ORS 192.685.

(b) A health professional regulatory board may make the information required to be disclosed under paragraph (a)(A) to (D) of this subsection available in electronic form, accessible by use of a personal computer or similar technology that provides direct electronic access to the information.

(6) If a notice of intent to impose a disciplinary sanction has been issued by vote of a health professional regulatory board, a final order that results from the board's notice of intent to impose a disciplinary sanction, an emergency suspension order or a consent order or stipulated agreement that involves licensee or applicant conduct shall summarize the factual basis for the board's disposition of the matter.

(7) A health professional regulatory board record or order, or any part thereof, obtained as part of or resulting from an investigation, contested case proceeding, consent order or stipulated agreement, is not admissible as evidence and may not preclude an issue or claim in any civil proceeding except in a proceeding between the board and the licensee or applicant as otherwise allowed by law.

(8)(a) Notwithstanding subsection (1) of this section, it is not disclosure to the public for a board to permit other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions shall not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, "public official" means a member or member-elect, or any member of the staff or an employee, of a public entity as defined by ORS 676.177.

(9) A health professional regulatory board may establish fees reasonably calculated to reimburse the actual cost of disclosing information to licensees or applicants as required by subsection (3) of this section. [1997 c.791 §2; 1999 c.751 §3; 2005 c.801 §1]

676.177 Disclosure of confidential information to another public entity; criteria. (1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, "public entity" means:

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

(c) The Department of Justice;

(d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or

(e) A law enforcement agency of this state, another state or the federal government. [1999 c.751 §2]

676.180 Notice prior to disclosure. If a health professional regulatory board intends to disclose a record pursuant to ORS 676.175 (2), the board shall provide the licensee or applicant seven days' prior written notice by first class mail. The notice shall describe the record that the board intends to disclose in sufficient detail to permit the licensee or applicant to know the contents of the record. In any subsequent action for injunctive or declaratory relief, the burden shall be on the person seeking disclosure to demonstrate by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. [1997 c.791 §3]

IMPAIRED HEALTH PROFESSIONAL PROGRAM

676.185 Definitions for ORS 676.185 to 676.200. 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, 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. [2009 c.697 §1]

676.190 Establishment of program; reports of noncompliance; diversion agreements; audit; rules. (1) The Oregon Health Authority shall establish or contract to establish an impaired health professional program. The program must:

(a) Enroll licensees of participating health profession licensing boards who have been diagnosed with alcohol or substance abuse or a mental health disorder;

(b) Require that a licensee sign a written consent prior to enrollment in the program allowing disclosure and exchange of information between the program, the licensee's board, the monitoring entity established under ORS 676.195, the licensee's employer, evaluators and treatment entities in compliance with ORS 179.505 and 42 C.F.R. part 2;

(c) Enter into diversion agreements with enrolled licensees;

(d) Assess and evaluate compliance with diversion agreements by enrolled licensees;

(e) Assess the ability of an enrolled licensee's employer to supervise the licensee and require an enrolled licensee's employer to establish minimum training requirements for supervisors of enrolled licensees;

(f) Report substantial noncompliance with a diversion agreement to the monitoring entity established under ORS 676.195 within one business day after the program learns of the substantial noncompliance, including but not limited to information that a licensee:

(A) Engaged in criminal behavior;

(B) Engaged in conduct that caused injury, death or harm to the public, including engaging in sexual impropriety with a patient;

(C) Was impaired in a health care setting in the course of the licensee's employment;

(D) Received a positive toxicology test result as determined by federal regulations pertaining to drug testing;

(E) Violated a restriction on the licensee's practice imposed by the program or the licensee's board;

(F) Was admitted to the hospital for mental illness or adjudged to be mentally incompetent;

(G) Entered into a diversion agreement, but failed to participate in the program; or

(H) Was referred to the program but failed to enroll in the program; and

(g) At least weekly, submit a list of licensees who are enrolled in the program and a list of licensees who successfully complete the program to the monitoring entity established under ORS 676.195.

(2) When the program reports noncompliance to the monitoring entity, the report must include:

(a) A description of the noncompliance;

(b) A copy of a report from the independent third party who diagnosed the licensee under ORS 676.200 (2)(a) or subsection (5)(a) of this section stating the licensee's diagnosis;

(c) A copy of the licensee's diversion agreement; and

(d) The licensee's employment status.

(3) The program may not diagnose or treat licensees enrolled in the program.

(4) The diversion agreement required by subsection (1) of this section must:

(a) Require the licensee to consent to disclosure and exchange of information between the program, the licensee's board, the monitoring entity established under ORS 676.195, the licensee's employer, evaluators and treatment providers, in compliance with ORS 179.505 and 42 C.F.R. part 2;

(b) Require that the licensee comply continuously with the agreement for at least two years to successfully complete the program;

(c) Based on an individualized assessment, require that the licensee abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless the drug is approved by the program and prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee;

(d) Require the licensee to report use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours;

(e) Require the licensee to agree to participate in a treatment plan approved by a third party;

(f) Contain limits on the licensee's practice of the licensee's health profession;

(g) Provide for employer monitoring of the licensee;

(h) Provide that the program may require an evaluation of the licensee's fitness to practice before removing the limits on the licensee's practice of the licensee's health profession;

(i) Require the licensee to submit to random drug or alcohol testing in accordance with federal regulations;

(j) Require the licensee to report at least weekly to the program regarding the licensee's compliance with the agreement;

(k) Require the licensee to report any arrest for or conviction of a misdemeanor or felony crime to the program within three business days after the licensee is arrested or convicted;

(L) Require the licensee to report applications for licensure in other states, changes in employment and changes in practice setting; and

(m) Provide that the licensee is responsible for the cost of evaluations, toxicology testing and treatment.

(5)(a) A licensee of a board participating in the program may self-refer to the program.

(b) The program shall require the licensee to attest that the licensee is not, to the best of the licensee's knowledge, under investigation by the licensee's board. The program shall enroll the licensee on the date on which the licensee attests that the licensee, to the best of the licensee's knowledge, is not under investigation by the licensee's board.

(c) When a licensee self-refers to the program, the program shall:

(A) Require that an independent third party approved by the licensee's board to evaluate alcohol or substance abuse or mental health disorders evaluate the licensee for alcohol or substance abuse or mental health disorders; and

(B) Investigate to determine whether the licensee's practice while impaired has presented or presents a danger to the public.

(6) The authority shall adopt rules establishing a fee to be paid by the boards participating in the impaired health professional program for administration of the program.

(7) The authority shall arrange for an independent third party to audit the program to ensure compliance with program guidelines. The authority shall report the results of the audit to the Legislative Assembly, the Governor and the health profession licensing boards. The report may not contain individually identifiable information about licensees.

(8) The authority may adopt rules to carry out this section. [2009 c.697 §1b; 2009 c.828 §73]

676.195 Monitoring entity; reports to health professional licensing boards; audit; fees. (1) The Oregon Health Authority shall contract with an independent third party to establish a monitoring entity for impaired professionals. The monitoring entity shall:

(a) Compare the weekly lists submitted by the impaired health professional program under ORS 676.190 to determine if any enrollees are no longer participating in the impaired health professional program; and

(b) Report to a health profession licensing board when:

(A) The monitoring entity receives a report from the impaired health professional program established under ORS 676.190 that a licensee is substantially noncompliant with the licensee's diversion agreement;

(B) Comparison of the weekly lists submitted by the impaired health professional program under ORS 676.190 shows that a licensee is no longer participating in the impaired health professional program; and

(C) The monitoring entity receives a report from the impaired health professional program under ORS 676.190 that a licensee referred by the board has completed the impaired health professional program.

(2) The monitoring entity may not have any contact with a licensee and has no discretion in deciding whether to make a report required under this section.

(3) The weekly lists submitted by the impaired health professional program under ORS 676.190 are exempt from disclosure under public records law.

(4) If a licensee self-refers to the impaired health professional program, the monitoring entity may not report the licensee's enrollment or successful completion of the impaired health professional program to the licensee's board.

(5) The authority shall arrange for an independent third party to audit the monitoring entity to ensure compliance with program guidelines. The authority shall report the results of the audit to the Legislative

Assembly, the Governor and the health profession licensing boards. The report may not contain individually identifiable information about licensees.

(6) The authority may adopt rules assessing fees to health profession licensing boards participating in the program for the costs of administering the monitoring entity. [2009 c.697 §1c; 2009 c.828 §74]

676.200 Board participation in program; rules. (1)(a) A health profession licensing board that is authorized by law to take disciplinary action against licensees may adopt rules opting to participate in the impaired health professional program established under ORS 676.190.

(b) A board may only refer impaired professionals to the impaired health professional program established under ORS 676.190 and may not establish the board's own impaired health professional program.

(c) A board may adopt rules establishing additional requirements for licensees referred to the impaired health professional program established under ORS 676.190.

(2) If a board participates in the impaired health professional program, the board shall establish by rule a procedure for referring licensees to the program. The procedure must provide that, before the board refers a licensee to the program, the board shall ensure that:

(a) An independent third party approved by the board to evaluate alcohol or substance abuse or mental health disorders has diagnosed the licensee with alcohol or substance abuse or a mental health disorder and provided the diagnosis and treatment options to the licensee and the board;

(b) The board has investigated to determine whether the licensee's professional practice while impaired has presented or presents a danger to the public; and

(c) The licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the board within three business days after the licensee is arrested or convicted.

(3) A board that participates in the impaired health professional program shall investigate reports received from the monitoring entity established under ORS 676.195. If the board finds that a licensee is substantially noncompliant with a diversion agreement entered into under ORS 676.190, the board may suspend, restrict, modify or revoke the licensee's license or end the licensee's participation in the impaired health professional program.

(4) A board may not discipline a licensee solely because the licensee:

(a) Self-refers to or participates in the impaired health professional program;

(b) Has been diagnosed with alcohol or substance abuse or a mental health disorder; or

(c) Used controlled substances before entry into the impaired health professional program, if the licensee did not practice while impaired. [2009 c.697 §1a]

Note: Section 23, chapter 697, Oregon Laws 2009, provides:

Sec. 23. (1) Before the operative date specified in section 22, chapter 697, Oregon Laws 2009 [July 1, 2010], the Oregon Health Authority and the health profession licensing boards that opt to participate in the impaired health professional program established under section 1b, chapter 697, Oregon Laws 2009 [676.190], shall collaborate to transfer existing impaired professional programs and funding, and licensees who are subject to existing impaired professional programs, to the impaired health professional program established under section 1b, chapter 697, Oregon Laws 2009.

(2) When a licensee is transferred to the impaired health professional program established under section 1b, chapter 697, Oregon Laws 2009, pursuant to subsection (1) of this section, the program shall honor the terms of the licensee's existing diversion agreement if the terms of the agreement are consistent with the requirements of section 1b, chapter 697, Oregon Laws 2009. If the terms of the licensee's existing diversion agreement are not consistent with the requirements of section 1b, chapter 697, Oregon Laws 2009, the diversion agreement entered into by the program and the licensee must comply with section 1b, chapter 697, Oregon Laws 2009.

(3) When a licensee who self-referred to an impaired professional program before the effective date of chapter 697, Oregon Laws 2009 [July 14, 2009], is transferred to the impaired health professional program established under section 1b, chapter 697, Oregon Laws 2009, pursuant to subsection (1) of this section:

(a) The program may not disclose the licensee's enrollment in the program to the licensee's board unless the licensee:

(A) Ceases to participate in the program before completing the program; or

(B) Engages in substantial noncompliance as described in section 1b (1)(f)(A) to (H), chapter 697, Oregon Laws 2009.

(b) The program may not disclose the licensee's successful completion of the program to the licensee's board. [2009 c.697 §23; 2009 c.828 §77]

EFFECT OF EXPIRATION, LAPSE, SURRENDER, SUSPENSION OR REVOCATION OF LICENSE

676.205 Continuing jurisdiction of boards; effect of expiration, lapse, surrender, suspension or revocation of license. (1) As used in this section:

(a) "Health professional regulatory board" means the agencies listed in ORS 676.160 and the Oregon Health Licensing Agency created in ORS 676.605.

(b) "License" means a license, registration, certification or other authorization to engage in a profession.

(2) A health professional regulatory board continues to have jurisdiction for licensing, regulatory and disciplinary purposes related to acts and omissions that occur while a person is licensed or required to be licensed, regardless of any changes in the licensing status of the person.

(3) A person who obtains, but is not required to obtain, a license to engage in a profession regulated by a health professional regulatory board, and whose license expires, lapses or is voluntarily surrendered while the person is under investigation by the board, or whose license is suspended or revoked, may not engage in that profession unless the person again obtains a license from the relevant health professional regulatory board to engage in the profession.

(4) Nothing in this section limits the jurisdictional, investigatory or other authority otherwise provided by law to a health professional regulatory board. [2009 c.756 §2]

676.210 Practice of health care profession after suspension or revocation of license prohibited. No person whose license has been revoked or suspended by any board authorized by the statutes of the State of Oregon to issue licenses to practice a health care profession shall continue the practice of this profession after the order or decision of the board suspending or revoking the license of the person has been made. The license shall remain suspended or revoked until a final determination of an appeal from the decision or order of the board has been made by the court. [1953 c.592 §1; 1983 c.769 §4]

676.220 Enjoining health care professional from practicing after suspension or revocation of license. (1) If at any time the board suspending or revoking the license of any licentiate of a health care profession determines that such licentiate is continuing to practice the health care profession notwithstanding, the board shall in its own name bring an action to enjoin such licentiate.

(2) If the court shall find that the licentiate has been or is continuing the practice of the health care profession for which the license has been revoked or suspended it shall issue an injunction restraining the licentiate. The commission of a single act constituting the practice of the respective health care profession shall be prima facie evidence warranting the issuance of such injunction. [1953 c.592 §2; 1979 c.284 §191; 1983 c.769 §5]

676.230 Injunction as cumulative remedy. The remedy herein provided is cumulative and shall be without prejudice to any other civil or criminal remedy. [1953 c.592 §3]

MISCELLANEOUS

676.303 Purposes of health professional regulatory boards; authority of boards to require fingerprints. (1) As used in this section:

(a) "Health professional regulatory board" means the agencies listed in ORS 676.160 and the Oregon Health Licensing Agency created in ORS 676.605.

(b) "Impairment" means an inability to practice with reasonable competence and safety due to the habitual or excessive use of drugs or alcohol, other chemical dependency or a mental health condition.

(c) "License" means a license, registration, certification or other authorization to engage in a profession.

(d) "Licensee" means a person licensed, registered, certified or otherwise authorized by a health professional regulatory board to engage in a profession.

(2) All health professional regulatory boards shall operate with the primary purposes of promoting the quality of health services provided, protecting the public health, safety and welfare by ensuring that licensees practice with professional skill and safety and addressing impairment among licensees.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, a health professional regulatory board may require the fingerprints of a licensee seeking renewal of a license, an applicant for a license, a board employee or volunteer or an applicant for employment with the board. [2009 c.756 §1]

MISCELLANEOUS

676.306 Executive directors; reports; rules. (1) As used in this section, "health professional regulatory board" means a health professional regulatory board described in ORS 676.160 other than the Oregon Health Authority with regard to the licensure of emergency medical services providers.

(2) Subject to applicable provisions of the State Personnel Relations Law and the approval of the Governor, notwithstanding ORS 182.468, each health professional regulatory board shall appoint an executive director and prescribe the duties and fix the compensation of the executive director. The executive director shall serve at the pleasure of the Governor under the direct supervision of the appointing board. The board may request that the Governor remove the executive director.

(3) In addition to any other duties imposed by law or otherwise required of state agencies, the executive director shall keep all records of the board and discharge all duties prescribed by the board.

(4) The executive director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the board. The executive director shall submit the reports to the board and the Governor. The Oregon Department of Administrative Services, in consultation with the board, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the department. The rules shall require each board to undergo a peer review of board activities by a team of executive directors of other health professional regulatory boards and at least one public member. The department may assess the board for the cost of the peer review. [2009 c.756 §4; 2011 c.703 §46; 2011 c.720 §214]

MISCELLANEOUS

676.340 Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient's informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

(a) A physician licensed under ORS 677.100 to 677.228;

(b) A nurse licensed under ORS 678.040 to 678.101;

(c) A nurse practitioner licensed under ORS 678.375 to 678.390;

(d) A clinical nurse specialist certified under ORS 678.370 and 678.372;

(e) A physician assistant licensed under ORS 677.505 to 677.525;

(f) A dental hygienist licensed under ORS 680.010 to 680.205; and

(g) A dentist licensed under ORS 679.060 to 679.180. [1999 c.771 §1; 1999 c.771 §3; 2005 c.462 §2]

676.345 Registration program for health care professionals claiming liability limitation; program requirements. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

(a) By a physician or physician assistant, with the Oregon Medical Board;

(b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of Nursing; and

(c) By a dentist or dental hygienist, with the Oregon Board of Dentistry.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

(a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;

(b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and

(c) A statement that the health practitioner will only provide health care services without compensation that are within the scope of the health practitioner's license.

(3) Registration under this section must be made annually. The health professional regulatory boards

listed in subsection (1) of this section shall charge no fee for registration under this section. [1999 c.771 §2; 1999 c.771 §4; 2005 c.462 §3]

MISCELLANEOUS

676.400 Racial and ethnic composition of regulated health professions; findings; duties of health professional regulatory boards. (1) It is the intention of the Legislative Assembly to achieve the goal of universal access to adequate levels of high quality health care at an affordable cost for all Oregonians, regardless of ethnic or cultural background.

(2) The Legislative Assembly finds that:

(a) Access to health care is of value when it leads to treatment that substantially improves health outcomes;

(b) Health care is most effective when it accounts for the contribution of culture to health status and health outcomes;

(c) Ethnic and racial minorities experience more than their statistically fair share of undesirable health outcomes;

(d) The lack of licensed health care professionals from ethnic and racial minorities or who are bilingual contributes to the inadequacy of health outcomes in communities of color in this state; and

(e) The development of a partnership between health professional regulatory boards and communities of color to increase the representation of people of color and bilingual people in health care professions has significant potential to improve the health outcomes of people of color and bilingual citizens of this state.

(3) Health professional regulatory boards shall establish programs to increase the representation of people of color and bilingual people on the boards and in the professions that they regulate. Such programs must include activities to promote the education, recruitment and professional practice of members of these targeted populations in Oregon.

(4) Each health professional regulatory board shall maintain records of the racial and ethnic makeup of applicants and professionals regulated by the board. Such information shall be requested from applicants and the professionals regulated who shall be informed in writing that the provision of such information is voluntary and not required.

(5) Each health professional regulatory board shall report biennially to the Legislative Assembly in the manner required by ORS 192.245. The report shall contain:

(a) Data detailing the efforts of the board to comply with the requirements of subsection (3) of this section; and

(b) Data collected under subsection (4) of this section documenting the ethnic and racial makeup of the applicants and of the professionals regulated by the board.

(6) For purposes of this section, “health professional regulatory board” has the meaning given that term in ORS 676.160. [2001 c.973 §1]

MISCELLANEOUS

676.405 Release of personal information. (1) As used in this section, "health professional regulatory board" means the agencies listed in ORS 676.160 and the Oregon Health Licensing Agency created in ORS 676.605.

(2) Notwithstanding ORS 192.410 to 192.505, a health professional regulatory board may, at its discretion, release or withhold the personal electronic mail address, home address and personal telephone number for a person licensed, registered or certified by the board. If the personal electronic mail address, home address or personal telephone number is requested for a public health or state health planning purpose, the board shall release the information. [2009 c.756 §3]

676.410 Information required for issuance or renewal of certain licenses; confidentiality; fees. (1) As used in this section, "healthcare workforce regulatory board" means the:

(a) Occupational Therapy Licensing Board;

(b) Oregon Medical Board;

(c) Oregon State Board of Nursing;

(d) Oregon Board of Dentistry;

(e) Physical Therapist Licensing Board;

(f) State Board of Pharmacy; and

(g) Board of Licensed Dietitians.

(2)(a) An applicant for a license from a healthcare workforce regulatory board or renewal of a license by a healthcare workforce regulatory board shall provide the information prescribed by the Office for Oregon Health Policy and Research pursuant to subsection (3) of this section.

(b) Except as provided in subsection (4) of this section, a healthcare workforce regulatory board may not approve a subsequent application for a license or renewal of a license until the applicant provides the information.

(3) The Administrator for the Office for Oregon Health Policy and Research shall collaborate with the healthcare workforce regulatory boards to adopt rules for the manner, form and content for reporting, and the information that must be provided to a healthcare workforce regulatory board under subsection (2) of this section, which may include:

(a) Demographics, including race and ethnicity.

(b) Education information.

(c) License information.

(d) Employment information.

(e) Primary and secondary practice information.

(f) Anticipated changes in the practice.

(g) Languages spoken.

(4)(a) A healthcare workforce regulatory board shall report healthcare workforce information collected under subsection (2) of this section to the Office for Oregon Health Policy and Research.

(b) A healthcare workforce regulatory board shall keep confidential and not release personally identifiable data collected under this section for a person licensed, registered or certified by a board. This paragraph does not apply to the release of information to a law enforcement agency for investigative purposes or to the release to the Office for Oregon Health Policy and Research for state health planning purposes.

(5) The requirements of subsection (2) of this section apply to an applicant for issuance or renewal of a license who is or who is applying to become:

(a) An occupational therapist or certified occupational therapy assistant as defined in ORS 675.210;

(b) A physician as defined in ORS 677.010;

(c) A physician assistant as defined in ORS 677.495;

(d) A nurse or nursing assistant licensed or certified under ORS 678.010 to 678.410;

(e) A dentist or dental hygienist as defined in ORS 679.010;

(f) A physical therapist or physical therapist assistant as defined in ORS 688.010;

(g) A pharmacist or pharmacy technician as defined in ORS 689.005; or

(h) A licensed dietitian, as defined in ORS 691.405.

(6) A healthcare workforce regulatory board may adopt rules as necessary to perform the board's duties under this section.

(7) In addition to licensing fees that may be imposed by a healthcare workforce regulatory board, the Oregon Health Policy Board shall establish fees to be paid by applicants for issuance or renewal of licenses reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section. [2009 c.595 §1175; 2011 c.630 §23]

MISCELLANEOUS

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

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

(a) Oregon Medical Board;

(b) Oregon Board of Naturopathic Medicine;

(c) Oregon Board of Dentistry;

(d) Oregon State Board of Nursing;

(e) Physical Therapist Licensing Board;

(f) State Board of Chiropractic Examiners;

(g) State Board of Pharmacy; and

(h) State Board of Psychologist Examiners. [2003 c.325 §1; 2009 c.43 §10]

PENALTIES

676.990 Criminal penalties. Violation of any of the provisions of ORS 676.110 to 676.130 is a Class C misdemeanor. [Amended by 2011 c.597 §278]

DENTAL PILOT PROJECTS

Note: Sections 1, 2 and 15 to 17, chapter 716, Oregon Laws 2011, provide:

Sec. 1. (1) The Oregon Health Authority may approve pilot projects to encourage the development of innovative practices in oral health care delivery systems with a focus on providing care to populations that evidence-based studies have shown have the highest disease rates and the least access to dental care. The authority may approve a pilot project that is designed to:

(a) Operate for three to five years or a sufficient amount of time to evaluate the validity of the pilot project;

(b) Evaluate quality of care, access, cost, workforce and efficacy; and

(c) Achieve at least one of the following:

(A) Teach new skills to existing categories of dental personnel;

(B) Develop new categories of dental personnel;

(C) Accelerate the training of existing categories of dental personnel; or

(D) Teach new oral health care roles to previously untrained persons.

(2) The authority shall adopt rules:

(a) Establishing an application process for pilot projects;

(b) Establishing minimum standards, guidelines and instructions for pilot projects; and

(c) Requiring an approved pilot project to report to the authority on the progress and outcomes of the pilot project, including:

(A) The process used to evaluate the progress and outcomes of the pilot project;

(B) The baseline data and information to be collected;

(C) The nature of program data that will be collected and the methods for collecting and analyzing the data;

(D) The provisions for protecting the safety of patients seen or treated in the project; and

(E) A statement of previous experience in providing related health care services.

(3) The authority shall seek the advice of appropriate professional societies and licensing boards before adopting rules under subsection (2) of this section.

(4)(a) Notwithstanding ORS 679.020 and 680.020, a person may practice dentistry or dental hygiene without a license as part of a pilot project approved under this section under the general supervision of a dentist licensed under ORS chapter 679 and in accordance with rules adopted by the authority.

(b) A person practicing dentistry or dental hygiene without a license under this section is subject to the same standard of care and is entitled to the same immunities as a person performing the services with a license.

(5) The authority may accept gifts, grants or contributions from any public or private source for the purpose of carrying out this section. Funds received under this subsection shall be deposited in the Dental Pilot Projects Fund established under section 17 of this 2011 Act. [2011 c.716 §1]

Sec. 2. Section 1 of this 2011 Act is repealed on January 2, 2018. [2011 c.716 §2]

Sec. 15. (1) The Oregon Health Authority may approve pilot projects for training and certifying community dental health coordinators to educate the community on dental health.

(2) The authority shall consult with appropriate professional organizations, educational institutions and the Oregon Board of Dentistry before approving pilot projects under this section.

(3) An approved project must require community dental health coordinators to complete 18 months of training, including an internship.

(4) The authority shall adopt rules:

(a) Establishing an application process for pilot projects;

(b) Establishing minimum standards, guidelines and instructions for pilot projects; and

(c) Requiring an approved pilot project to report to the authority on the progress and outcomes of the pilot project, including:

(A) The process used to evaluate the progress and outcomes of the pilot project;

(B) The baseline data and information to be collected;

(C) The nature of program data that will be collected and the methods for collecting and analyzing the data;

(D) The provisions for protecting the safety of patients seen or treated in the project; and

(E) A statement of previous experience in providing related health care services.

(5) The authority may accept gifts, grants or contributions from any public or private source for the purpose of carrying out this section. Funds received under this subsection shall be deposited in the Dental Pilot Projects Fund established under section 17 of this 2011 Act. [2011 c.716 §15]

Sec. 16. Section 15 of this 2011 Act is repealed on

January 2, 2018. [2011 c.716 §16]

Sec. 17. The Dental Pilot Projects Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Dental Pilot Projects Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority for the purposes of carrying out the provisions of sections 1 and 15 of this 2011 Act. [2011 c.716 §17]

DENTURISTS

(Generally)

680.500 Definitions for ORS 680.500 to 680.565. As used in ORS 680.500 to 680.565:

(1) "Denture" means any removable full or partial upper or lower prosthetic dental appliance to be worn in the human mouth to replace any missing natural teeth.

(2) "Denturist" means a person licensed under ORS 680.500 to 680.565 to engage in the practice of denture technology and who is authorized within the person's scope of practice to provide to the public full or partial upper or lower dentures or other removable nonorthodontic dental appliances intended to be worn in the human mouth.

(3) "Practice of denture technology" means:

(a) Constructing, repairing, relining, reproducing, duplicating, supplying, fitting or altering a denture or other removable nonorthodontic dental appliance intended to be worn in the human mouth in respect of which a service is performed under paragraph (b) of this subsection; and

(b) The following services when performed for a purpose listed in paragraph (a) of this subsection:

(A) The taking of impressions;

(B) The taking of bite registrations;

(C) Try-ins of dentures or other removable nonorthodontic dental appliances intended to be worn in the human mouth; and

(D) Insertions of dentures or other removable nonorthodontic dental appliances intended to be worn in the human mouth. [1979 c.1 §1; 1991 c.921 §1; 1993 c.142 §2; 1999 c.885 §26; 2003 c.1 §1; 2005 c.648 §23; 2011 c.53 §1]

680.505 Practice of denture technology prohibited without license; use of title "denturist." Unless the person holds a valid license issued under ORS 680.500 to 680.565, a person shall 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. [1979 c.1 §2; 1993 c.142 §3]

680.510 Application of ORS 680.500 to 680.565. The prohibitions of ORS 680.500 to 680.565 do not apply to:

(1) Any activity described in ORS 680.500 (3)(a) by a person acting under the supervision of a denturist.

(2) The practice of dentistry or medicine by persons authorized to do so by this state, or any other practices allowed under ORS chapters 677 and 679.

(3) A student of denture technology in pursuit of clinical studies under an approved school program, or a person having met the formal educational requirements, who is operating, for no more than two years, under the direct supervision of a denturist or a licensed dentist in pursuit of practical clinical experience as required for licensure by ORS 680.515. [1979 c.1 §3; 1981 c.313 §1; 1989 c.694 §1; 1993 c.142 §4; 2005 c.648 §24; 2007 c.419 §1; 2011 c.53 §3]

(Licenses)

680.515 Application for license; qualifications of applicants; waiver of examination requirement; temporary license; rules. (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 any applicant who submits proof satisfactory to the agency that the applicant has completed all requirements for licensure, which include, but are not limited to:

(a) Providing 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. The educational program shall 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;

(b) Providing 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 of Education; and

(c) Passing 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 State Board of Denture Technology, to qualify for reexamination.

(2) Notwithstanding subsection (1)(a) of this section, the State Board of Denture Technology may accept educational training obtained in any other state or country if, upon review of satisfactory evidence, the agency determines that the educational program in the other state or country meets the educational standards prescribed under this section.

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

(4) The agency may adopt rules allowing for issuance of a temporary license to practice denture technology. [1979 c.1 §4; 1981 c.313 §2; 1989 c.694 §2; 1991 c.921 §2; 1993 c.142 §5; 1997 c.652 §39; 2003 c.547 §13; 2005 c.415 §3; 2005 c.648 §25; 2007 c.419 §2; 2011 c.53 §2; 2011 c.637 §285]

680.520 Examination of applicants. (1) Examinations of applicants for licensure under ORS 680.500 to 680.565 shall be held at least once a year at such times and places as the State Board of Denture Technology may determine. Timely and appropriate notice shall be given to each applicant.

(2) The examination shall be sufficiently thorough to determine the qualifications, fitness and ability of the applicant to practice denture technology. The examination may be in the form of written, oral or practical demonstration of skills, or a combination of any such types. The examination shall cover at least subjects listed in ORS 680.515 (1)(a) and any additional subjects required by the Oregon Health Licensing Agency by rule that are based on changes in industry technology, health care delivery systems, client safety or scientific infection control techniques. [1979 c.1 §5; 1981 c.313 §3; 1991 c.921 §3; 1993 c.142 §6; 2005 c.415 §4; 2005 c.648 §25a]

680.525 Fees; determination; disposition of receipts; rules. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees and charges for the following related to denture technologists:

(a) Application;

(b) Examinations;

(c) Original license;

(d) License renewal;

(e) License reactivation;

(f) Replacement or duplicate license;

(g) Delinquent renewal;

(h) Reciprocity; and

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

(2) All moneys received by the agency under subsection (1) of this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency as authorized by ORS 676.625. [1979 c.1 §6; 1981 c.313 §8; 1991 c.921 §4; 1993 c.142 §7; 1999 c.885 §27; 2003 c.547 §14; 2005 c.648 §26; 2009 c.701 §18]

680.527 Licensure without examination; fees. 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;

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

(3) Is a denturist 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 denturists 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 denturist in another jurisdiction for a minimum of two years immediately preceding the date of application for licensure under this section. [2005 c.415 §2; 2005 c.648 §25b; 2007 c.419 §3]

Note: 680.527 was added to and made a part of 680.500 to 680.565 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

680.530 Expiration of license; renewal; reactivation; reinstatement; rules. (1) Except as provided in subsection (2) of this section, licenses to practice denture technology issued by the Oregon Health Licensing Agency expire one year from the date of issuance and must be renewed on or before the expiration date by payment of the required renewal fee

and submission of satisfactory evidence of completion of continuing education courses as specified by rule.

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

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

(4) If the license of a denturist has been denied, suspended or revoked for commission of a prohibited act under ORS 676.612, the agency may refuse to issue or renew the license for up to one year from the date of denial, suspension or revocation. [1979 c.1 §7; 1989 c.694 §3; 1991 c.921 §5; 1993 c.142 §8; 2001 c.274 §1; 2003 c.547 §15; 2005 c.648 §27; 2009 c.701 §19]

680.535 Grounds for imposing discipline. In the manner prescribed in ORS chapter 183 for contested cases, the Oregon Health Licensing Agency may impose a form of discipline listed in ORS 676.612 against any person practicing denture technology for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 680.500 to 680.565, or the rules adopted thereunder. [1979 c.1 §8; 1991 c.921 §6; 1993 c.142 §9; 2003 c.547 §16; 2005 c.648 §28]

(Practice)

680.540 [1979 c.1 §18; 1981 c.313 §4; 1991 c.921 §7; 1993 c.142 §10; repealed by 2003 c.547 §118]

680.542 [1997 c.791 §29; repealed by 2001 c.274 §5]

680.545 Statement of dentist or physician before treatment by denturist. Denturists licensed prior to January 1, 2004, who have not received an oral pathology endorsement from the State Board of Denture Technology may not treat any person without having first received a statement, dated within 30 days of the date of treatment and signed by a dentist, physician or nurse practitioner, that the person's oral cavity is substantially free from disease and mechanically sufficient to receive a denture. [1979 c.1 §13; 1981 c.313 §5; 1989 c.694 §4; 1991 c.921 §8; 1993 c.142 §10a; 1997 c.652 §40; 2003 c.547 §17; 2005 c.471 §10]

680.547 Business or professional association of denturist and dentist. A dentist, as defined in ORS 679.010, and a denturist may cooperate and maintain any business or professional association that is mutually agreeable with each being responsible for their respective area of expertise. [2003 c.1 §3]

680.550 Board to establish policies and criteria for assessment. The State Board of Denture Technology shall establish policies and criteria for the assessment of the quality of the practice of denture technology based on practice standards subject to the approval of the Oregon Health Licensing Agency. [1979 c.1 §19; 1991 c.921 §9; 1993 c.142 §11; 2005 c.648 §29]

680.555 [1979 c.1 §9; 1989 c.694 §5; repealed by 1991 c.921 §22]

(State Board)

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

(a) Four must be active licensed denturists;

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

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

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

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

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. Vacancies shall

be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment.

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

(A) Is not a resident of this state;

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

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

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

(4) Members are entitled to compensation and expenses as provided in ORS 292.495. The agency may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495. [1991 c.921 §11; 1993 c.142 §12; 1999 c.885 §28; 2003 c.125 §1; 2005 c.415 §5; 2005 c.648 §30a; 2009 c.535 §15; 2009 c.701 §20a]

680.560 Board meetings. The State Board of Denture Technology shall hold a meeting at least once each year and shall annually elect a chairperson from its members. [1979 c.1 §10; 1981 c.313 §6; 1991 c.921 §13; 1993 c.142 §13; 1999 c.885 §29; 2003 c.547 §18]

680.565 Authority of Oregon Health Licensing Agency and director; rules; issuance of license. (1) The Oregon Health Licensing Agency has such authority as is reasonably necessary to administer ORS 680.500 to 680.565 and 680.990 (2), including the authority to adopt rules pursuant to ORS chapter 183.

(2) The Director of the Oregon Health Licensing Agency shall keep a record of all proceedings of the State Board of Denture Technology including a register of all persons licensed to practice denture technology.

(3) When the agency is satisfied that the applicant for licensure under ORS 680.500 to 680.565 has complied with all the requirements, it shall issue to such applicant an appropriate license under ORS 680.500 to 680.565. [1979 c.1 §11; 1981 c.313 §7; 1991 c.921 §14; 1993 c.142 §14; 1999 c.885 §30; 2005 c.648 §31]

680.567 [1993 c.142 §17; repealed by 2003 c.547 §118]

680.570 [1979 c.1 §12; 1999 c.885 §31; 2005 c.648 §32; repealed by 2009 c.701 §67]

PENALTIES

680.572 [1991 c.921 §18; repealed by 2003 c.547 §118]

680.990 Criminal penalties. (1) Violation of any of the provisions of ORS 680.010 to 680.205 is a Class C misdemeanor.

(2) Violation of any provision of ORS 680.505 and 743A.028 is a Class B misdemeanor. [Amended by 1977 c.192 §11; subsection (2) enacted as 1979 c.1 §17; 1983 c.169 §32; 2003 c.547 §19]

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MEDICAL MALPRACTICE INSURANCE

742.400 Duty to report claim of professional negligence to licensing board; contents of report; public disclosure and posting of reports. (1) As used in this section:

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

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

(c) "Disposition of a claim" means:

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

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

(C) A settlement of the claim.

(d) "Reporter" means:

(A) A primary insurer;

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

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

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

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

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

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

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

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

(e) The Oregon Board of Naturopathic Medicine if the covered practitioner is a naturopath; or

(f) The State Board of Chiropractic Examiners if the covered practitioner is a chiropractic physician.

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

(a) The name of the covered practitioner;

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

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

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

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

(5)(a) A board that receives a report of a claim under this section shall publicly post the report on the board's website if the claim results in a judicial finding or admission of liability or a money judgment, award or settlement that involves a payment to the claimant. The board may not publicly post information about claims that did not result in a judicial finding or admission of liability or a money judgment, award or settlement that involves a payment to the claimant but shall make the information available to the public upon request.

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

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

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

(7) A person that reports in good faith concerning any matter required to be reported under this section is immune from civil liability by reason of making the report. [Formerly 743.780 and then 743.770; 1991 c.401 §7; 1997 c.131 §3; 2007 c.803 §1; 2009 c.43 §36; 2009 c.131 §1; 2009 c.581 §1]

OREGON ADMINISTRATIVE RULES
BOARD OF DENTISTRY

CHAPTER 818

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818-042-0060 Certification – Radiologic Proficiency
818-042-0070 Expanded Function Dental Assistants (EFDA)
818-042-0080 Certification – Expanded Function Dental Assistant (EFDA)
818-042-0090 Additional Functions of EFDAs
818-042-0095 Restorative Functions of Dental Assistants
818-042-0100 Expanded Functions – Orthodontic Assistant (EFODA)
818-042-0110 Certification – Expanded Function Orthodontic Assistant
818-042-0115 Expanded Functions – Certified Anesthesia Dental Assistant
818-042-0116 Certification – Anesthesia Dental Assistant
818-042-0117 Initiation of IV Line
818-042-0120 Certification by Credential
818-042-0130 Application for Certification by Credential

Rev. 11/1/2016

DIVISION 1

PROCEDURES

818-001-0000
Notice of Proposed Rule Making

Prior to the adoption, amendment, or repeal of any permanent rule, the Oregon Board of Dentistry shall give notice of the proposed adoption, amendment, or repeal:

(1) By publishing a notice in the Secretary of State's Bulletin referred to in ORS 183.370 at least 21 days prior to the effective date.

(2) By mailing a copy of the notice to persons on the mailing list established pursuant to ORS 183.335 (8) at least 28 days before the effective date of the adoption, amendment, or repeal.

(3) By mailing a copy of the notice to the following persons and publications:

(a) Oregon Dental Hygienists' Association;

(b) Oregon Dental Assistants Association;

(c) Oregon Association of Dental Laboratories;

(d) Oregon Dental Association;

(e) The Oregonian;

(f) Oregon Health & Science University, School of Dentistry;

(g) The United Press International;

(h) The Associated Press;

(i) The Capitol Building Press Room.

Stat. Auth.: ORS 183, 192, 670 & 679
Stats. Implemented: ORS 183.370 & 183.335(7)
Hist.: DE 24, f. & ef. 12-2-75; DE 2-1978, f. & ef. 5-4-78; DE 3-1982, f. & ef. 5-26-82; DE 11-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 1-1997, f. & cert. ef. 1-2-97; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

818-001-0002
Definitions

As used in OAR Chapter 818:

(1) "Board" means the Oregon Board of Dentistry, the members of the Board, its employees, its agents, and its consultants.

(2) "Dental Practice Act" means ORS Chapter 679 and ORS 680.010 to 680.205 and the rules adopted pursuant thereto.

(3) "Dentist" means a person licensed pursuant to ORS Chapter 679 to practice dentistry.

(4) "Direct Supervision" means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

(5) "General Supervision" means supervision requiring that a dentist authorize the procedures, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

(6) "Hygienist" means a person licensed pursuant to ORS 680.010 to 680.205 to practice dental hygiene.

(7) "Indirect Supervision" means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed.

(8) "Informed Consent" means the consent obtained following a thorough and easily understood explanation to the patient, or patient's guardian, of the proposed procedures, any available alternative procedures and any risks associated with the procedures. Following the explanation, the licensee shall ask the patient, or the patient's guardian, if there are any questions. The licensee shall provide thorough and easily understood answers to all questions asked.

(9) "Licensee" means a dentist or hygienist.

(a) "Volunteer Licensee" is a dentist or dental hygienist licensed according to rule to provide dental health care without receiving or expecting to receive compensation.

(10) "Limited Access Patient" means a patient who is unable to receive regular dental hygiene treatment in a dental office.

(11) "Specialty." Specialty areas of dentistry are as defined by the American Dental Association, Council on Dental Education. The specialty definitions are added to more clearly define the scope of the practice as it pertains to the specialty areas of dentistry.

(a) "Dental Public Health" is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

(b) "Endodontics" is the branch of dentistry which is concerned with the morphology, physiology and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including

biology of the normal pulp, the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

(c) "Oral and Maxillofacial Pathology" is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of oral pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations.

(d) “Oral and Maxillofacial Radiology” is the specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders and conditions of the oral and maxillofacial region.

(e) "Oral and Maxillofacial Surgery" is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

(f) "Orthodontics and Dentofacial Orthopedics" is the area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures.

(g) "Pediatric Dentistry" is an age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

(h) "Periodontics" is the specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function and esthetics of these structures and tissues.

(i) "Prosthodontics" is the branch of dentistry pertaining to the restoration and maintenance of oral functions, comfort, appearance and health of the patient by the restoration of natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes.

(12) “Full-time” as used in ORS 679.025 and 680.020 is defined by the Board as any student who is enrolled in an institution accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency in a course of study for dentistry or dental hygiene.

(13) For purposes of ORS 679.020(4)(h) the term “dentist of record” means a dentist that either authorized treatment for, supervised treatment of or provided treatment for the patient in clinical settings of the institution described in ORS 679.020(3).

(14) “Dental Study Group” as used in ORS 679.050, OAR 818-021-0060 and OAR 818-021-0070 is defined as a group of licensees who come together for clinical and non-clinical educational study for the purpose of maintaining or increasing their competence. This is not meant to be a replacement for residency requirements.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.010 & 680.010
Hist.: DE 11-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0001; DE 3-1997, f. & cert. ef. 8-27-97; OBD 7-2001, f. & cert. ef. 1-8-01; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15

818-001-0005
Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Oregon Board of Dentistry adopts the Attorney General’s Model Rules of Procedure under the Administrative Procedures Act current edition; these rules of procedure shall be controlling except as otherwise required by statute or rule.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Board of Dentistry.]

Stat. Auth.: ORS 183, 192, 670 & 679
Stats. Implemented: ORS 183.341(1)
Hist: DE 20, f. 12-19-73, ef. 1-11-74; DE 26, f. & ef. 2-6-76; DE 1-1978, f. & ef. 4-27-78; DE 3-1981, f. & ef. 12-16-81; DE 3-1983, f. & ef. 10-19-83; DE 11-1984, f. & ef. 5-17-84; DE 4-1986, f. & ef. 5-23-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 1-1997, f. & cert. ef. 1-2-97; OBD 1-2000, f. & cert. ef. 1-26-00; OBD 3-2000, f. & cert. ef. 6-2-00; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05

818-001-0011
Time for Requesting a Contested Case Hearing

A request for a contested case hearing must be in writing and must be received by the Board within twenty-one days from the date the contested case notice was served.

Stat. Auth.: ORS 679.250 & 183.341
Stats. Implemented: ORS 679.250 & 183.341 OR Laws 1999, Ch. 849
Hist.: OBD 9-2001, f. & cert. ef. 1-8-01

818-001-0025
Confidentiality and Inadmissibility of Mediation Communications

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromised negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6)-(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential; or

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)-(d), (j)-(l) or (o)-(p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8)-(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties' agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or

incorporated into an "agreement to mediate." [Form not included. See ED. NOTE.]

(9) Exceptions to confidentiality and inadmissibility:

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding;

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law;

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person;

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report;

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law;

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree;

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation;

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure;

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement;

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements;

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by

statute;

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Board determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law;

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402 or state or federal law requires the terms to be confidential;

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

[ED. NOTE: The form referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Authority: ORS 36.224
Stats. Implemented: ORS 36.224, 36.228, 36.230 & 36.232
Hist.: OBD 4-2000, f. 6-22-00, cert. ef. 7-1-00

818-001-0030
Award of Hearings Costs

The Board may assess the following costs against a licensee disciplined by the Board:

(1) Fee for service of complaint.

(2) Fee for service of subpoenas.

(3) Reporter fee for depositions and hearing including transcriptions.

(4) Hearing officer's fee.

(5) Witness fees and mileage or other costs incurred in insuring the attendance of any witness.

(6) Cost of Board counsel.

Stat. Auth.: ORS 183, 192, 670 & 680
Stats. Implemented: ORS 679.140(5)(h)
Hist.: DE 11-1984, f. & ef. 5-17-84; DE 3-1986, f. & ef. 3-31-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02

818-001-0082
Access to Public Records

(1) Public records not exempt from disclosure may be inspected during office hours at the Board office upon reasonable notice.

(2) Copies of public records not exempt from disclosure may be purchased. The Board may withhold copies of public records until the requestor pays for the copies.

(3) The Board establishes the following fees:

(a) $25 per hour for the time required to locate and remove non-public records or for filling special requests;

(b) Up to ten (10) pages at no cost; more than 10 pages, $0.50 for each page plus postage necessary to mail the copies;

(c) $0.10 per name and address for computer-generated lists on paper or labels; $0.20 per name and address for computer-generated lists on paper or labels sorted by specific zip code;

(d) Data files on diskette or CD:

(A) All Licensed Dentists — $50;

(B) All Licensed Dental Hygienists — $50;

(C) All Licensees — $100.

(e) $60 per year for copies of minutes of all

Board and committee meetings;

(f) Written verification of licensure — $2.50 per name; and

(g) Certificate of Standing — $20.

Stat. Auth.: ORS 183, 192, 670 & 679
Stats. Implemented: ORS 192.420, 192.430 & 192.440
Hist.: DE 11-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0080; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 1-1991(Temp), f. 8-5-91, cert. ef. 8-15-91; DE 2-1991, f. & cert. ef. 12-31-91; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99

OAR 818-001-0083
Relief from Public Disclosure

Upon the receipt of a written request of an individual who has been disciplined by the Oregon Board of Dentistry, the Board shall remove from its website, and other publicly accessible print and electronic publications under the Board's control, all information related to disciplining the individual under ORS 679.140 and any findings and conclusions made by the Board during the disciplinary proceeding, if:

(1) The request is made 10 years or more after the date on which any disciplinary sanction ended;

(2) The individual was not disciplined for financially or physically harming a patient as determined by the Board;

(3) The individual informed the Board of the matter for which the individual was disciplined before the Board received information about the matter or otherwise had knowledge of the matter;

(4) The individual making the request, if the individual is or was a licensee, has not been subjected to other disciplinary action by the Board following the imposition of the disciplinary sanction; and

(5) The individual fully complied with all disciplinary sanctions imposed by the Board.

Stat. Auth.: HB 4095 (2016)
Stats. Implemented:
Hist.: OBD 9-2016, f. 10-25-2016, cert ef. 11-1-2016

818-001-0087
Fees

(1) The Board adopts the following fees:

(a) Biennial License Fees:

(A) Dental -- $390;

(B) Dental -- retired -- $0;

(C) Dental Faculty -- $335;

(D) Volunteer Dentist -- $0;

(E) Dental Hygiene -- $230;

(F) Dental Hygiene -- retired -- $0;

(G) Volunteer Dental Hygienist -- $0.

(b) Biennial Permits, Endorsements or Certificates:

(A) Nitrous Oxide Permit -- $40;

(B) Minimal Sedation Permit -- $75;

(C) Moderate Sedation Permit -- $75;

(D) Deep Sedation Permit -- $75;

(E) General Anesthesia Permit -- $140;

(F) Radiology -- $75;

(G) Expanded Function Dental Assistant -- $50;

(H) Expanded Function Orthodontic Assistant -- $50;

(I) Instructor Permits -- $40;

(J) Dental Hygiene Restorative Functions Endorsement -- $50;

(K) Restorative Functions Dental Assistant -- $50;

(L) Anesthesia Dental Assistant -- $50;

(M) Dental Hygiene, Expanded Practice Permit -- $75;

(N) Non-Resident Dental Permit -- $100.

(c) Applications for Licensure:

(A) Dental -- General and Specialty -- $345;

(B) Dental Faculty -- $305;

(C) Dental Hygiene -- $180;

(D) Licensure Without Further Examination -- Dental and Dental Hygiene -- $790.

(d) Examinations:

(A) Jurisprudence -- $0;

(B) Dental Specialty:

(i) If only one candidate applies for the exam, a fee of $2,000.00 will be required at the time of application; and

(ii) If two candidates apply for the exam, a fee of $1,000.00 will be required at the time of application; and

(iii) If three or more candidates apply for the exam, a fee of $750.00 will be required at the time of application.

(e) Duplicate Wall Certificates -- $50.

(2) Fees must be paid at the time of application and are not refundable.

(3) The Board shall not refund moneys under $5.01 received in excess of amounts due or to which the Board has no legal interest unless the person who made the payment or the person's legal

representative requests a refund in writing within one year of payment to the Board.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 293.445, 679.060, 679.115, 679.120, 679.250, 680.050, 680.075, 680.200 & 680.205
Hist.: DE 6-1985(Temp), f. & ef. 9-20-85; DE 3-1986, f. & ef. 3-31-86; DE 1-1987, f. & ef. 10-7-87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, corrected by DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0085; DE 2-1989(Temp), f. & cert. ef. 11-30-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 1-1991(Temp), f. 8-5-91, cert. ef. 8-15-91; DE 2-1991, f. & cert. ef. 12-31-91; DE 1-1992(Temp), f. & cert. ef. 6-24-92; DE 2-1993, f. & cert. ef. 7-13-93; OBD 1-1998, f. & cert. ef. 6-8-98; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction, 8-2-99; OBD 5-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 8-2001, f. & cert. ef. 1-8-01; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 3-2007, f. & cert. ef. 11-30-07;OBD 1-2009 (Temp), f. 6-11-09, cert. ef. 7-1-09 thru 11-1-09; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 3-2011(Temp), filed 6-30-11, cert. ef. 7-1-11 thru 12-27-11; OBD 4-2001, f. & cert. ef 11-15-11; OBD 1-2012, f. & cert. ef. 1-27-12; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13, OBD 6-2014, f. 7-2-14, cert. ef. 8-1-14 ;OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15

818-001-0090
Board Member Compensation

(1) Board members of the Oregon Board of Dentistry, who are authorized by law to receive compensation for time spent in performance of their official duties, shall receive compensation based on the amount fixed for the standard per diem allowance for the Continental United States which has been authorized by the United States Internal Revenue Service for each day or portion of each day during which the Board member is actually engaged in the performance of official duties. This compensation amount shall be in addition to the reimbursement of travel expenses per Oregon Statewide Travel Policy OAM 40.10.00PO.

(2) No Board member shall be required to accept compensation or reimbursement of travel expenses while performing their official duties as a Board member.

Stat. Auth.: ORS 679.230
Stats. Implemented: HB 2058, Oregon Law Chapter 535 (2009 Laws)
Hist.: OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

DIVISION 5

CRIMINAL RECORDS CHECK AND FITNESS DETERMINATION RULES

818-005-0000
Definitions

As used in OAR Chapter 818, Division 005, unless the context of the rule requires otherwise, the following definitions apply:

(1) Conviction: A final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere (no contest); or any determination of guilt entered by a court of law against an employee applicant/employee in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(2) Criminal Offender Information: Records and related data as to physical description and vital statistics; fingerprints received and compiled by the Oregon State Police, Bureau of Criminal Identification, for purposes of identifying criminal offenders and alleged offenders; and records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole, and release.

(3) Crime Relevant to a Fitness Determination: A crime listed or described in OAR 818-005-0020.

(4) Criminal Records Check: One or more of the following processes used to check the criminal history of an employee applicant/employee:

(a) A name-based check of criminal offender information conducted through use of the Law Enforcement Data System (LEDS) maintained by the Oregon State Police, in accordance with the rules adopted and procedures established by the Oregon State Police (LEDS Criminal Records Check);

(b) A check of Oregon criminal offender information through fingerprint identification, conducted by the Oregon State Police at the Board's request (Oregon Criminal Records Check); or

(c) A nationwide check of federal criminal offender information through fingerprint identification, conducted by the Oregon State Police through the Federal Bureau of Investigation at the Board's request (Nationwide Criminal Records Check).

(5) Denied: A fitness determination by the Board pursuant to a final fitness determination under OAR 818-005-0025 that the subject individual is not fit to be an employee, volunteer, contractor, or vendor in a position covered by OAR 818-005-0025.

(6) False Statement: In association with an activity governed by these rules, an employee applicant/ employee either:

(a) Provided the Board with materially false information about the employee applicant's/employee's criminal history, such as, but not limited to, materially false information about employee applicant/employee or conviction record; or

(b) Failed to provide to the Board information material to determining employee applicant's/employee's criminal history.

(7) Fitness Determination: A determination made by the Board pursuant to the process established in OAR 818-005-0025 that an employee applicant/ employee is or is not fit to be a Board employee, volunteer, contractor, or vendor.

(8) Employee applicant/employee: An individual identified in OAR 818-005-0025 as someone from whom the Board may require a criminal records check.

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0005
Employee Applicant/Employee

The Board may require an Employee Applicant/Employee to complete a criminal records check pursuant to these rules if the person:

(1)(a) Is employed by or applying for employment with the Board; or

(b) Provides services or seeks to provide services to the Board as a volunteer, contractor, or vendor; and

(2) Is, or will be, working or providing services in a position in which the person:

(a) Provides information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems; or

(b) Accesses information, that state or federal laws, rules or regulations prohibit disclosing or define as confidential.

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0011
Criminal Records Check Required

The Board may conduct, or request the Oregon State Police to conduct, a criminal records check when:

(1) An individual meets the definition of an employee applicant/employee; or

(2) Required by federal law or regulation, by state or administrative rule, or by contract or written agreement with the Board.

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0015
Criminal Records Check Process

(1) Disclosure of Information by employee applicant/employee.

(a) Preliminary to a criminal records check, an employee applicant/employee shall complete and sign the Oregon Board of Dentistry Criminal Records Request form and, if requested by the Board, a fingerprint card within three business days of having received the card. The Oregon Board of Dentistry Criminal Records Request form shall require the following information: name, birth date, Social Security Number, driver's license or identification card number, prior residency in other states, and any other identifying information deemed necessary by the Board. The Oregon Board of Dentistry Criminal Records Request form may also require details concerning any circumstance listed in OAR 818-005-0020(1).

Note: The Board may extend the deadline for good cause.

(b) The Board may require additional information from the employee applicant/employee as necessary to complete the criminal records check and fitness determination, such as, but not limited to, proof of identity; or additional criminal, judicial, or other background information.

(2) When the Board determines under OAR 818-005-0005 that a criminal records check is required, the Board may request or conduct a LEDS Criminal Records Check, an Oregon Criminal Records Check, a Nationwide Criminal Records Check, or any combination thereof.

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0021
Potentially Disqualifying Crimes

(1) Crimes Relevant to a Fitness Determination:

(a) All felonies;

(b) All misdemeanors;

(c) Any Federal crime, United States Military crime or international crime.

(2) Evaluation Based on Oregon and Other Laws. An authorized designee shall evaluate a crime on the basis of Oregon laws and, if applicable, Federal laws or the laws of any other jurisdiction in which a criminal records check indicates an employee applicant/employee may have committed a crime, as those laws are in effect at the time of the fitness determination.

(3) Expunged Juvenile Record. Under no circumstances shall an employee applicant/employee subject individual be denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0025
Final Fitness Determination

(1) If the Board elects to conduct a criminal records check, the Board shall make a fitness determination about an employee applicant/employee based on information

provided by the employee applicant/employee under OAR 818-005-0005, the criminal records check(s) conducted, and any materially false statements made by the employee applicant/employee.

(2) In making a fitness determination about an employee applicant/employee, the Board shall also consider the factors in subsections (a), (b), and (c) below in relation to information provided by the employee applicant/employee under OAR 818-005-0015, any LEDS report or criminal offender information obtained through a criminal records check, and other information known by the Board. To assist in considering these factors, the Board may obtain any other information deemed relevant, from the employee applicant/employee or any other credible source, including law enforcement and criminal justice agencies or courts within or outside of Oregon. To acquire other criminal offender information from the employee applicant/employee, the Board may request to meet with the employee applicant/employee and may request to receive written materials or authorization to obtain other relevant information, from employee applicant/employee. The employee applicant/employee shall meet with the Board when requested and provide additional information or authorization within a reasonable period of time, as arranged with the Board. The Board's final fitness determination regarding an employee applicant/employee will include considerations of:

(a) Potentially disqualifying crimes or conditions and any mitigating circumstances including, but not limited to:

(A) False Statement. Any materially false statements made by the employee applicant/employee to the Board;

(B) Sex Offender. The employee applicant/employee is registered, or is required to register, as a sex offender in Oregon or any other jurisdiction;

(C) Warrants. An outstanding warrant against the employee applicant/employee for any crime in any jurisdiction;

(D) Deferred Sentence, Diversion Program, Parole or Probation. The employee applicant/employee has a deferred sentence, conditional discharge, is participating in a diversion program, or has not completed a required diversion program or any condition of post-prison supervision, parole or probation, for any potentially disqualifying crime;

(E) Parole or Probation Violation. A post-prison supervision, parole or probation violation for any potentially disqualifying crime; or

(F) Unresolved Arrests, Charges or Indictments. An unresolved arrest, charge, or a pending indictment, for a potentially disqualifying crime.

(b) Evaluating any potentially disqualifying crime or condition identified in this subsection (a), the department shall consider:

(A) The nature of the crime;

(B) The facts that support the conviction or pending indictment or that indicate the making of a false statement;

(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the employee applicant's/employee's present or proposed position, services, or employment.

(c) Intervening circumstances, when applicable, relevant to the responsibilities of the employment or services, including, but not limited to:

(A) The passage of time since the commission or alleged commission of a crime identified under subsection (a);

(B) The age of the employee applicant/employee at the time of the commission or alleged commission of a crime identified under subsection (a);

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another crime;

(E) Whether a conviction identified under subsection (a) has been set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(3) If an employee applicant/employee refuses to consent to a criminal records check, including fingerprint identification, the Board shall deny the employment of the employee applicant/employee or deny any applicable position or authority to provide services. A person may not appeal any determination made based on a refusal to consent.

(4) If an employee applicant/employee is denied as not fit, the subject individual may not

be employed by the Board, or provide services as a volunteer, contractor, or vendor.

(5) A final fitness determination is a final order of the Board unless the affected employee applicant/employee appeals by requesting either a contested case hearing as provided by OAR 818-005-0035.

(6) The Board shall inform the employee applicant/employee who has been determined not to be fit on the basis of a criminal records check, via courier, or registered or certified mail to the most current address provided by the employee applicant/employee, of such disqualification.

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0030
Incomplete Fitness Determination

(1) The Board will close a fitness determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of an "employee applicant/employee" under OAR 818-005-0005;

(b) The employee applicant/employee does not provide materials or information under OAR 818-015-0015(1)(a) within the time frames established under that rule;

(c) The Board cannot locate or contact the employee applicant/employee;

(d) The Board applicant/employee fails or refuses to cooperate with the Board's attempts to acquire other relevant information under OAR 818-005-0015(1)(b);

(e) The Board determines that the employee applicant/employee is not eligible or not qualified for the position for a reason unrelated to the fitness determination process; or

(f) The position is no longer open.

(2) An employee applicant/employee does not have a right to a contested case hearing under OAR 818-005-0035(2).

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0035
Contesting a Fitness Determination

(1) This rule sets forth a contested case hearing process by which a subject individual may appeal a fitness determination made under OAR 818-005-0025 that he or she is fit or not fit to be a Board employee, volunteer, contractor, or vendor.

(2) The Attorney General's Model Rules of Procedure, OAR 137-003-0001 through 137-003-0092, apply unless the Board refers the matter to the Office of Administrative Hearings to assign an Administrative Law Judge. If the Board refers the matter to the Office of Administrative Hearings, 137-003-0501 through 137-003-0700 shall apply.

(3) Process.

(a) To request a contested case hearing, the employee applicant/employee or the employee applicant/employee individual's legal representative must submit a written request to the Executive Director of the Board. To be timely, the request must be received by the Executive Director of the Board within 21 business days of the postmark of the fitness determination notification letter.

(b) A contested case hearing shall be conducted by an Administrative Law Judge appointed by the Office of Administrative Hearings once a timely request has been received by the Board as outlined in section (3)(a).

(4) The Administrative Law Judge will establish the time and place of the hearing. Notice of the hearing shall be served on the Board or designee and participants at least ten working days in advance of the hearing date.

(5) No Public Attendance. Contested case hearings on fitness determinations are closed to non-participants.

(6) A fitness determination made under OAR 818-005-0025 becomes final when:

(a) A timely request for hearing is not filed; or

(b) A party withdraws a hearing request, notifies the Board or the Administrative Law Judge that the party will not appear, or fails to appear for the hearing.

(7) The Administrative Law Judge will issue a proposed order following a hearing. Exceptions, if any, must be received by the

Board within 10 working days after the service of the proposed order.

(8) An employee applicant/employee currently employed by the Board who is denied as unfit pursuant to a final fitness determination may appeal the fitness determination either under the contested case process made available by this rule or through a process available under applicable personnel rules, policies and collective bargaining agreements. An employee applicant's/employee's decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining agreements is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(9) The only remedy that may be awarded is a determination that the employee applicant/employee is fit or not fit. Under no circumstances shall the Board be required to place an employee applicant/employee in any position, nor shall the Board be required to accept services or enter into a contractual agreement with a employee applicant/employee.

(10) An employee applicant/employee may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon State Police or the Federal Bureau of Investigation. To challenge the accuracy or completeness of information identified in this section (10), a employee applicant/employee may use any process made available by the agency that provided the information.

(11) Appealing a fitness determination, challenging criminal offender information with the agency that provided the information, or requesting a new criminal records check and re-evaluation of the original fitness determination will not delay or postpone the Board's hiring process or employment decisions.

(12) Alternative Process. An employee currently employed by the Board may choose to appeal a fitness determination either under the process made available by this rule or through a process made available by applicable personnel rules, policies and collective bargaining provision. A subject individual's decision to appeal a fitness determination through applicable personnel rules, polices and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(13) The only remedy that may be awarded is a determination that the employee is fit or not fit. Under no circumstances shall the Board be required to place an employee in any position, or shall the Board be required to accept services or enter into a contractual agreement with an employee.

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0040
Agency Representation

(1) Subject to the approval of the Attorney General, an officer or employee of the Board, designated by the Executive Director, is authorized to appear on behalf of the Board in contested case hearings conducted pursuant to these rules.

(2) Board officers, employees, or other authorized personnel may not present legal argument as defined under OAR 137-003-0008 on behalf of the Board in contested case hearings conducted pursuant to these rules.

(3) When the Board determines it is necessary to consult with the Attorney General's office, the Administrative Law Judge will provide a reasonable period of time for a Board's representative to consult with the Attorney General's office and to obtain either written or oral legal argument or advice, if necessary.

Stat. Auth: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

818-005-0045
Record Keeping, Confidentiality

Any information obtained in the criminal records check is confidential. The Board must restrict the dissemination of information obtained in the criminal records check. Only

those persons, as identified by the Board, with a demonstrated and legitimate need to know the information, may have access to criminal records check records.

Stat. Auth.: ORS 181.534, 676.303 & 679.253
Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11

DIVISION 12

STANDARDS OF PRACTICE

818-012-0005
Scope of Practice

(1) No dentist may perform any of the procedures listed below:
(a) Rhinoplasty;
(b) Blepharoplasty;
(c) Rhydidectomy;
(d) Submental liposuction;
(e) Laser resurfacing;
(f) Browlift, either open or endoscopic technique;
(g) Platysmal muscle plication;
(h) Otoplasty;
(i) Dermabrasion;
(j) Lip augmentation;
(k) Hair transplantation, not as an isolated procedure for male pattern baldness; and
(l) Harvesting bone extra orally for dental procedures, including oral and maxillofacial procedures.
(2) Unless the dentist:
(a) Has successfully completed a residency in Oral and Maxillofacial Surgery accredited by the American Dental Association, Commission on Dental Accreditation (CODA), and
(b) Has successfully completed a clinical fellowship, of at least one continuous year in duration, in esthetic (cosmetic) surgery recognized by the American Association of Oral and Maxillofacial Surgeons or by the American Dental Association Commission on Dental Accreditation, or
(c) Holds privileges either:
(A) Issued by a credentialing committee of a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to perform these procedures in a hospital setting; or
(B) Issued by a credentialing committee for an ambulatory surgical center licensed by the State of Oregon and accredited by either the JCAHO or the Accreditation Association for Ambulatory Health Care (AAAHC).
(3) A dentist may utilize Botulinum Toxin Type A to treat a condition that is within the scope of the practice of dentistry after completing a minimum of 16 hours in a hands on clinical course(s) in which the provider is approved by the Academy of General Dentistry Program Approval for Continuing Education (AGD PACE) or by the American Dental Association Continuing Education Recognition Program (ADA CERP).

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.010(2), 679.140(1)(c), 679.140(2), 679.170(6) & 680.100
Hist.: OBD 6-2001, f. & cert. ef. 1-8-01; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14; OBD 6-2014, f. 7-2-14, cert. ef. 8-1-2014

818-012-0010
Unacceptable Patient Care

The Board finds, using the criteria set forth in ORS 679. 140(4), that a licensee engages in or permits the performance of unacceptable patient care if the licensee does or permits any person to:

(1) Provide treatment which exposes a patient to risk of harm when equivalent or better treatment with less risk to the patient is available.

(2) Fails to seek consultation whenever the welfare of a patient would be safeguarded or advanced by having recourse to those who have special skills, knowledge and experience; provided, however, that it is not a violation of this section to omit to seek consultation if other competent licensees in the same locality and in similar circumstances would not have sought such consultation.

(3) Fail to provide or arrange for emergency treatment for a patient currently receiving treatment.

(4) Fail to exercise supervision required by the Dental Practice Act over any person or permit any person to perform duties for which the person is not licensed or certified.

(5) Render services which the licensee is not licensed to provide.

(6) Fail to comply with ORS 453.605 to 453.755 or rules adopted pursuant thereto relating to the use of x-ray machines.

(7) Fail to maintain patient records in accordance with OAR 818-012-0070.

(8) Fail to provide goods or services in a reasonable period of time which are due to a patient pursuant to a contract with the patient or a third party.

(9) Attempt to perform procedures which the licensee is not capable of performing due to physical or mental disability.

(10) Perform any procedure for which the patient or patient's guardian has not previously given informed consent provided, however, that in an emergency situation, if the patient is a minor whose guardian is unavailable or the patient is unable to respond, a licensee may render treatment in a reasonable manner according to community standards.

(11) Use the behavior management technique of Hand Over Mouth (HOM) without first obtaining informed consent for the use of the technique.

(12) Use the behavior management technique of Hand Over Mouth Airway Restriction (HOMAR) on any patient.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.140(1)(e), 679.140(4) & 680.100
Hist.: DE 6, f. 8-9-63, ef. 9-11-63; DE 14, f. 1-20-72, ef. 2-10-72; DE 5-1980, f. & ef. 12-26-80; DE 2-1982, f. & ef. 3-19-82; DE 5-1982, f. & ef. 5-26-82; DE 9-1984, f. & ef. 5-17-84; Renumbered from 818-010-0080; DE 3-1986, f. & ef. 3-31-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0020; DE 2-1997, f. & cert. ef. 2-20-97; DE 3-1997, f. & cert. ef. 8-27-97; OBD 7-2001, f. & cert. ef. 1-8-01

818-012-0015
Licensee to Notify Board of Certain Events

Licensees shall report to the Board incidents of mortality that occur in the course of the licensee's practice.

(1) The licensee performing the dental procedure must submit a written detailed report to the Board within five working days of the incident along with the patient's complete original dental records. The detailed report(s) must include:

(a) Name, age and address of patient;

(b) Name of the licensee and other persons present during the incident;

(c) Address where the incident took place;

(d) Type of anesthesia and dosages of drugs administered to the patient; and

(e) A narrative description of the incident including approximate times and evolution of symptoms.

(2) Reports filed with the Board under this rule are confidential and are only subject to public disclosure pursuant to ORS 192.502(2).

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7)
Hist.: OBD 10-2001, f. & cert. ef. 1-8-01

818-012-0020
Additional Methods of Discipline for Unacceptable Patient Care

In addition to other discipline, the Board may order a licensee who engaged in or permitted unacceptable patient care to:

(1) Make restitution to the patient in an amount to cover actual costs in correcting the unacceptable care.

(2) Refund fees paid by the patient with interest.

(3) Complete a Board-approved course of remedial education.

(4) Discontinue practicing in specific areas of dentistry or hygiene.

(5) Practice under the supervision of another licensee.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.140(5)(h) & 680.100
Hist.: DE 3-1986, f. & ef. 3-31-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0045

818-012-0030
Unprofessional Conduct

The Board finds that in addition to the conduct set forth in ORS 679.140(2), a licensee engages in unprofessional conduct if the licensee does or permits any person to:

(1) Attempt to obtain a fee by fraud or misrepresentation.

(2) Obtaining a fee by fraud or misrepresentation.

(a) A licensee obtains a fee by fraud if the licensee obtains a fee by knowingly making or permitting any person to make a material, false statement intending that a recipient who is unaware of the truth rely upon the statement.

(b) A licensee obtains a fee by misrepresentation if the licensee obtains a fee through making or permitting any person to make a material, false statement.

(c) Giving cash discounts and not disclosing them to third party payors is not fraud or misrepresentation.

(3) Offer rebates, split fees, or commissions for services rendered to a patient to any person other than a partner, employee, or employer.

(4) Accept rebates, split fees, or commissions for services rendered to a patient from any person other than a partner, employee, or employer.

(5) Initiate, or engage in, with a patient, any behavior with sexual connotations. The behavior can include but is not limited to, inappropriate physical touching; kissing of a sexual nature; gestures or expressions, any of which are sexualized or sexually demeaning to a patient; inappropriate procedures, including, but not limited to, disrobing and draping practices that reflect a lack of respect for the patient's privacy; or initiating inappropriate communication, verbal or written, including, but not limited to, references to a patient's body or clothing that are sexualized or sexually demeaning to a patient; and inappropriate comments or queries about the professional's or patient's sexual orientation, sexual performance, sexual fantasies, sexual problems, or sexual preferences.

(6) Engage in an unlawful trade practice as defined in ORS 646.605 to 646.608.

(7) Fail to present a treatment plan with estimated costs to a patient upon request of the patient or to a patient's guardian upon request of the patient's guardian.

(8) Misrepresent any facts to a patient concerning treatment or fees.

(9)(a) Fail to provide a patient or patient's guardian within 14 days of written request:

(A) Legible copies of records; and

(B) Duplicates of study models and radiographs, photographs or legible copies thereof if the radiographs, photographs or study models have been paid for.

(b) The dentist may require the patient or guardian to pay in advance a fee reasonably calculated to cover the costs of making the copies or duplicates. The dentist may charge a fee not to exceed $30 for copying 10 or fewer pages of written material and no more than $0.50 per page for pages 11 through 50 and no more than $0.25 for each additional page (including records copied from microfilm), plus any postage costs to mail copies requested and actual costs of preparing an explanation or summary of information, if requested. The actual cost of duplicating x-rays may also be charged to the patient. Patient records or summaries may not be withheld from the patient because of any prior unpaid bills, except as provided in (9)(a)(B) of this rule.

(10) Fail to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders services.

(11) Use prescription forms pre-printed with any Drug Enforcement Administration number, name of controlled substances, or facsimile of a signature.

(12) Use a rubber stamp or like device to reproduce a signature on a prescription form or sign a blank prescription form.

(13) Order drugs listed on Schedule II of the Drug Abuse Prevention and Control Act, 21 U.S.C. Sec. 812, for office use on a prescription form.

(14) Violate any Federal or State law regarding controlled substances.

(15) Becomes addicted to, or dependent upon, or abuses alcohol, illegal or controlled drugs, or mind altering substances.

(16) Practice dentistry or dental hygiene in a dental office or clinic not owned by an Oregon licensed dentist(s), except for an entity described under ORS 679.020(3) and dental hygienists practicing pursuant to ORS 680.205(1)(2).

(17) Make an agreement with a patient or person, or any person or entity representing patients or persons, or provide any form of consideration that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Oregon Board of Dentistry; to truthfully and fully answer any questions posed by an agent or representative of the Board; or to participate as a witness in a Board proceeding.

(18) Fail to maintain at a minimum current BLS for Healthcare Providers Certificate or its equivalent. (Effective January 1, 2015.)

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.140(1)(c), 679.140(2), 679.170(6) & 680.100
Hist.: DE 6, f. 8-9-63, ef. 9-11-63; DE 14, f. 1-20-72, ef. 2-10-72; DE 5-1980, f. & ef. 12-26-80; DE 2-1982, f. & ef. 3-19-82; DE 5-1982, f. & ef. 5-26-82; DE 9-1984, f. & ef. 5-17-84; Renumbered from 818-010-0080; DE 3-1986, f. & ef. 3-31-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0020; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 2-1997, f. & cert. ef. 2-20-97; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2007, f.. & cert. ef. 3-1-07; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 6-2014, f. 7-2-14, cert. ef. 8-1-2014; OBD 6-205, f. 7-9-15, cert. ef. 10-1-15

818-012-0040
Infection Control Guidelines

In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the Centers for Disease Control and Prevention and the American Dental Association. Additionally, licensees must comply with the following requirements:

(1) Disposable gloves shall be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene shall be performed prior to gloving.

(2) Masks and protective eyewear or chin-length shields shall be worn by licensees and other dental care workers when spattering of blood or other body fluids is likely.

(3) Between each patient use, instruments or other equipment that come in contact with body fluids shall be sterilized.

(4) Heat sterilizing devices shall be tested for proper function by means of a biological monitoring system

that indicates micro-organisms kill each calendar week in which scheduled patients are treated. Testing results shall be retained by the licensee for the current calendar year and the two preceding calendar years.
(5) Environmental surfaces that are contaminated by blood or saliva shall be disinfected with a chemical germicide which is mycobactericidal at use.
(6) Impervious backed paper, aluminum foil, or plastic wrap may be used to cover surfaces that may be contaminated by blood or saliva and are difficult or impossible to disinfect. The cover shall be replaced between patients.
(7) All contaminated wastes and sharps shall be disposed of according to any governmental requirements.

Stat. Auth.: ORS 679.120, 679.250(7), 680.075 & 680.150
Stats. Implemented: ORS 679.140, 679.140(4) & 680.100
Hist.: DE 1-1988, f. 12-28-88, cert. ef. 2-1-89; DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 2-1992, f. & cert. ef. 6-24-92; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14; OBD 6-2014, f. 7-2-14, cert. ef. 8-1-2014

818-012-0060
Failure to Cooperate with Board

No licensee shall:

(1) Fail to report to the Board violations of the Dental Practice Act.

(2) Use threats or harassment to delay or obstruct any person in providing evidence in any investigation, contested case, or other legal action instituted by the Board.

(3) Discharge an employee based primarily on the employee's attempt to comply with or aid in the compliance with the Dental Practice Act.

(4) Use threats or harassment to obstruct or delay the Board in carrying out its functions under the Dental Practice Act.

(5) Deceive or attempt to deceive the Board with respect to any matter under investigation including altering or destroying any records.

(6) Make an untrue statement on any document, letter, or application submitted to the Board.

(7) Fail to temporarily surrender custody of original patient records to the Board when the Board makes a written request for the records. For purposes of this rule, the term records includes, but is not limited to, the jacket, treatment charts, models, radiographs, photographs, health histories, billing documents, correspondence and memoranda.

No person shall:

(8) Deceive or attempt to deceive the Board with respect to any matter under investigation including altering or destroying any records.

(9) Make an untrue statement on any document, letter, or application submitted to the Board.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.060(4), 679.170(5), 679.250(8), 679.290, 679.310(1), 680.050(4) & 680.100
Hist.: DE 9-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0050; DE 2-1997, f. & cert. ef. 2-20-97; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08

818-012-0070
Patient Records

(1) Each licensee shall have prepared and maintained an accurate record for each person receiving dental services, regardless of whether any fee is charged. The record shall contain the name of the licensee rendering the service and include:

(a) Name and address and, if a minor, name of guardian;

(b) Date and description of examination and diagnosis;

(c) An entry that informed consent has been obtained and the date the informed consent was obtained. Documentation may be in the form of an acronym such as "PARQ" (Procedure, Alternatives, Risks and Questions) or "SOAP" (Subjective Objective Assessment Plan) or their equivalent.

(d) Date and description of treatment or services rendered;

(e) Date and description of treatment complications;

(f) Date and description of all radiographs, study models, and periodontal charting;

(g) Health history; and

(h) Date, name of, quantity of, and strength of all drugs dispensed, administered, or prescribed.

(2) Each dentist shall have prepared and maintained an accurate record of all charges and payments for services including source of payments.

(3) Each dentist shall maintain patient records and radiographs for at least seven years from the date of last entry unless:

(a) The patient requests the records, radiographs, and models be transferred to another dentist who shall maintain the records and radiographs;

(b) The dentist gives the records, radiographs, or models to the patient; or

(c) The dentist transfers the dentist's practice to another dentist who shall maintain the records and radiographs.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140(1)(e) & 679.140(4)

Hist.: DE 9-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-90, cert. ef. 2-1-90; Renumbered from 818-011-0060; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 7-2001, f. & cert. ef. 1-8-01

818-012-0075
Administration of Local Anesthesia – Lip Color Procedures

A dentist licensed in Oregon may administer local anesthesia to a person who proposes to receive permanent lip color and/or permanent hair removal in the lip area from a permanent color technician/tattoo artist or an electrologist licensed under ORS 690.350 to 690.430. Prior to the administration of local anesthesia for this purpose, the licensed dentist shall:

(1) Receive a written order from a licensed permanent color technician/tattoo artist or a licensed electrologist, which shall be maintained in the patient record;

(2) Obtain a current health history;

(3) Perform an oral examination; and

(4) Create and maintain a patient record as required by OAR 818-012-0070.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.500
Hist.: OBD 6-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04

818-012-0080
Prescription Practices

(1) In conjunction with dental treatment, a dentist may prescribe, dispense, or administer medications relevant to the care being provided.

(2) It is improper to prescribe or dispense drugs outside the scope of the practice of dentistry or in a manner that impairs the health and safety of an individual including:

(a) Prescribing or dispensing drugs in such amounts as to constitute a departure from the prevailing standards of acceptable dental practice; and

(b) Prescribing or dispensing controlled substances for persons who are not patients of record in the dentist's practice unless the dentist is acting on behalf of the dentist of record.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.140(2)(h) & 680.100
Hist.: DE 9-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0070; OBD 13- 2001, f. & cert. ef. 4-18-01

818-012-0090
Obtaining Controlled Substances

(1) No licensee shall obtain or attempt to obtain any controlled substance by any misrepresentation or subterfuge.

(2) No licensee shall prescribe any controlled substance for the licensee's personal consumption.

(3) No licensee shall purchase any controlled substance for the licensee's personal consumption other than by prescription from a licensed practitioner in conjunction with treatment to the licensee.

Stat. Auth.: ORS Ch. 679 & 680
Stats. Implemented: ORS 679.140(2)(g) & 680.100
Hist.: DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89

818-012-0100
Controlled Substances Record Keeping Requirements

(1) Each dentist shall have a current and constant inventory of all controlled substances.

(2) Each time a dentist dispenses any drug listed on Schedule II of the Drug Abuse Prevention and Control Act, 21 U.S.C., Sec 812, the dentist shall record the following information on a readily retrievable record of dispensing maintained separate from patient records:

(a) Name of each patient;

(b) Name, strength, and quantity of the drug dispensed; and

(c) Date the drug was dispensed.

(3) Each dentist shall:

(a) Maintain a record of any controlled substance lost, destroyed, or stolen which shall include the name and quantity of the controlled substance and the date of such loss, destruction or theft; and

(b) Report the loss, destruction, or theft to the United States Drug Enforcement Administration regional office.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140(2)(g) & 679.140(h)
Hist.: DE 9-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0100

818-012-0110
Extension of Authority to Operate a Dental Practice

(1) Upon the death or disability of a shareholder dentist, the administrator, executor, personal

representative, guardian, conservator or receiver of the former dentist shareholder shall notify the Board in writing of the management arrangement for the dental practice.

(2) At least 30 days prior to the expiration of an initial 12-month period following the creation of an ownership interest described in ORS 679.020(7), the administrator, executor, personal representative, guardian, conservator or receiver of the former dentist shareholder shall submit to the Board a written request for extension of authority to continue maintaining and operating a dental practice. One 12-month extension (for a total of 24 months) shall be automatically granted.

(3) Any request for extension beyond 24 months shall be submitted in writing to the Board at least 60 days prior to the expiration of the 24-month period. The Board on a case-by-case basis shall review such requests.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.020
Hist.: OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04

DIVISION 13

HEALTH PROFESSIONALS' SERVICES PROGRAM

818-013-0001
Definitions

For the purpose of this section, the following definitions apply:

(1) "Confidential" means that, to the highest degree possible, the identities of the licensees investigated for alleged addiction to, dependence upon, or abuse of alcohol, drugs, and mind altering substances, or mental health disorders, and who have a diagnosed substance abuse disorder or mental health disorder, will be kept confidential by the Board and not be a matter of public record.

(2) "Diagnosis" means the principal mental health or substance use diagnosis listed in the DSM. The diagnosis is determined through the evaluation and any examinations, tests, or consultations suggested by the evaluation, and is the medically appropriate reason for services.

(3) "Direct Observe" means that a collection taker is in the restroom with donor and observes the providing of the sample throughout the entire process.

(4) "Diversion Coordinator" means the individual(s) authorized by the Board and the Executive Director to know the identities of the licensees who are candidates for or who are enrolled in HPSP.

(5) "Division" means the Oregon Health Authority, Addictions and Mental Health Division.

(6) "DSM" means the *Diagnostic and Statistical Manual of Mental Disorders*, published by the American Psychiatric Association.

(7) "Evaluation" means the process a Board approved, independent evaluator uses to diagnose the licensee's symptoms and to recommend treatment options for the licensee.

(8) "Health Professionals' Services Program" (HPSP) means the consolidated, statewide health professionals program for licensees diagnosed with a substance use disorder, a mental health disorder, or both types of disorders, as established by ORS 676.190.

(9) "Independent evaluator" means a Board approved individual or entity qualified to evaluate, diagnose, and recommend treatment regimens for substance abuse disorders, mental health disorders, or co-occurring disorders.

(10) "Mental health disorder" means a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress or disability or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom that is identified in the DSM. "Mental health disorder" includes gambling disorders.

(11) "Monitoring agreement" means an individualized agreement between a licensee and the HPSP vendor that meets the requirements for a diversion agreement set by ORS 676.190.

(12) "Monitoring Entity" means an independent third-party that monitors licensees' program enrollment statuses and monitoring agreement compliance.

(13) "Non-disciplinary" means the Board will not take disciplinary action or enter disciplinary orders against a licensee who agrees to enter into the HPSP and remains compliant with that program.

(14) "Non-identifying" means a system where the licensee is referred to by number rather than name and the licensee's identity remains confidential to the Board.

(15) "Program" means the process whereby allegations of addiction to, dependence upon, or abuse of alcohol, drugs, or mind altering substances or mental health disorders are investigated, evaluated, and reported to the Board for action.

(16) "Substance Use Disorders" means disorders related to the taking of a drug of abuse including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse, and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorder, mood disorder, etc., as defined in DSM criteria.

(17) "Substantial non-compliance" means that a licensee is in violation of the terms of his or her monitoring agreement in a way that gives rise to concerns about the licensee's ability or willingness to participate in the program. Substantial non-compliance and non-compliance

include, but are not limited to, the factors listed in ORS 676.190(1)(f). Conduct that occurred before a licensee entered into a monitoring agreement does not violate the terms of that monitoring agreement.

(18) "Successful completion" means the licensee has complied with the licensee's monitoring agreement to the satisfaction of the Board.

(19) "Toxicology testing" means urine testing or alternative chemical monitoring including, but not limited to blood, saliva, or breath as conducted by a laboratory certified, accredited or licensed and approved for toxicology testing.

(20) "Treatment" means the planned, specific, individualized health and behavioral-health procedures, activities, services and supports that a treatment provider uses to remediate symptoms of a substance use disorder, mental health disorder or both types of disorders.

(21) "Vendor" means the entity that has contracted with the Division to conduct the program.

(22) "Voluntary" means that the Board cannot compel a licensee to enter the HPSP.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented:ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14

818-013-0005
Participation in Health Professionals' Services Program

(1) Effective July 1, 2010, the Board participates in the Health Professionals' Services Program (HPSP).

(a) The Board establishes procedures to process cases of licensees preparatory to transfer to HPSP.

(b) The procedures will be confidential, non-disciplinary, and voluntary.

(c) The Executive Director will have overall management responsibilities for the procedures. The Executive Director will designate Board staff to serve as Diversion Coordinator(s) who will manage and conduct investigations and report to the Board.

(d) The Diversion Coordinator(s) will investigate information related to addiction to, dependence upon, or abuse of alcohol, drugs, or mind altering substances or mental health disorders, by licensees and provide licensees with resources for evaluations, if appropriate.

(2) Only licensees of the Board who meet the referral criteria may be referred by the Board to the HPSP.

(a) The Board may refer a licensee to the HPSP in lieu of public discipline.

(b) In the event a licensee declines to submit to an evaluation or declines referral to HPSP, the Diversion Coordinator(s) will present the matter to the Board for decision and the Board's action may jeopardize the confidential nature of licensee's status as a candidate for, or enrollment in, HPSP.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14

818-013-0010
Procedures for Board Referrals

(1) When the Board receives information involving a licensee who may have a substance related disorder, mental disorder, or both types of disorders, the Board staff will investigate and complete a non-identifying confidential report to be presented at a Board meeting.

(2) The Board will consider all relevant factors before determining whether to refer a licensee to the HPSP, including but not limited to licensee's disciplinary history; the severity and duration of the licensee's impairment; the extent to which licensee's practice can be limited or managed to eliminate danger to the public; and the likelihood that licensee's impairment can be managed with treatment.

(3) If a licensee meets referral criteria and the Board approves entry into the HPSP, the Board will provide a written referral to HPSP.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11

818-013-0015
Referral of Licensees to the HPSP

(1) A Board referral to HPSP will include, at a minimum:

(a) Copies of documents from a Board approved independent evaluator which provide a diagnosis of a substance related disorder or a mental health disorder or both disorders, and provide treatment options;

(b) A written statement from the Board as to whether the licensee's impairment presents, or presented, a danger to the public;

(c) A written statement from the licensee agreeing to enter the HPSP in lieu of discipline and agreeing to abide by all of the terms and conditions established by the vendor;

(d) A written statement that the licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the Board within three (3) business days after the licensee is arrested or convicted; and

(e) A letter of instruction to the vendor detailing the additional agreement provisions required by the Board.

(2) For referral to HPSP, the licensee shall:

(a) Sign an Agreement to Enter the Health Professionals' Services Program.

(b) Provide written authorization allowing for the release of documents by the Board to the HPSP vendor, and permit the verbal exchange of information between the Board and the HPSP vendor.

(c) Within one (1) business day of the effective date of the Agreement to Enter the Health Professionals' Services Program, licensee will make contact with the HPSP vendor to initiate procedures to enter HPSP.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11

818-013-0020
Additional Required Provisions

(1) Prior to referral to HPSP, the licensee shall agree, by written statement, to waive any privilege with respect to any physical, psychiatric, psychological, or substance use treatment, in favor of the Board; and to execute waivers or releases with any and all health care providers to permit exchange of information between the health care providers and the Board.

(2) Monitoring agreement will be for a minimum of five (5) years, or as determined by the Board.

(3) Urinalysis testing shall be directly observed.

(4) Licensee shall assure that at all times the Board has the most current information regarding licensee's address and telephone numbers for both residences and employments.

(5) Licensee will be responsible for all costs for treatment including, but not limited to, evaluations, residential treatment, after care regimens, group therapy programs, counseling, and toxicology testing. Failure to meet those financial obligations may constitute substantial non-compliance.

(6) As warranted, the Board shall add any additional agreement provisions and will convey those to the vendor by letter of instruction.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11

818-013-0025
Approval of Independent Evaluators

(1) To be approved by the Board as an independent evaluator, an evaluator must be:

(a) Licensed as required by the jurisdiction in which the evaluator works; and

(b) Able to provide a comprehensive assessment of and written report describing a licensee's diagnosis, degree of impairment, and treatment options.

(2) The Board will not accept an independent evaluator in a particular case if, in the Board's judgment, the evaluator's judgment is likely to be influenced by a personal or professional relationship with a licensee.

(3) The Board will maintain a list of approved independent evaluators on the Board's Web site at www.oregon.gov/Dentistry.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11

818-013-0030
Approval of Treatment Providers

(1) To be approved by the Board as a treatment provider, a provider must be:

(a) Licensed as required by the jurisdiction in which the provider works; and

(b) Able to provide appropriate treatment considering licensee's diagnosis, degree of impairment, and treatment options proposed by the independent evaluator.

(2) The Board will not accept a provider as a treatment provider in a particular case if, in the Board's judgment, the treatment provider's judgment is likely to be influenced by a personal or professional relationship with a licensee.

(3) The Board will maintain a list of approved treatment providers on the Board's Web site at www.oregon.gov/Dentistry.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11

818-013-0035
Non-Compliance Action

The Board, upon being notified of a licensee's substantial non-compliance, will investigate and determine the appropriate sanction which may include, but is not limited to, a limitation of licensee's practice and any other sanction, up to and including termination from HPSP and formal discipline. In the event the HPSP vendor or the monitoring entity reports a matter of non-compliance to the Diversion Coordinator(s), the matter, following an investigation, will be brought to the Board for decision and the Board's action may jeopardize the confidential nature of licensee's enrollment in HPSP.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11

DIVISION 15

ADVERTISING

818-015-0005
General Provisions

(1) "To advertise" means to publicly communicate information about a licensee's professional services or qualifications for the purpose of soliciting business.

(2) Advertising shall not be false, deceptive, misleading or not readily subject to verification and shall not make claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof.

(3) A licensee who authorizes another to disseminate information about the licensee's professional services to the public is responsible for the content of that information unless the licensee can prove by clear and convincing evidence that the content of the advertisement is contrary to the licensee's specific directions.

Stat. Auth.: OR 679
Stats. Implemented: ORS 679.140(2)(e)
Hist.: DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 3-1997, f. & cert. ef. 8-27-97; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08

818-015-0007
Specialty Advertising

(1) A dentist may only advertise as a specialist in an area of dentistry which is recognized by the Board and in which the dentist is licensed or certified by the Board.

(2) The Board recognizes the following specialties:

(a) Endodontics;

(b) Oral and Maxillofacial Surgery;

(c) Oral and Maxillofacial Radiology;

(d) Oral and Maxillofacial Pathology;

(e) Orthodontics and Dentofacial Orthopedics;

(f) Pediatric Dentistry;

(g) Periodontics;

(h) Prosthodontics; and

(i) Dental Public Health.

(3) A dentist whose license is not limited to the practice of a specialty under OAR 818-021-0017 may advertise that the dentist performs or limits practice to specialty services even if the dentist is not a specialist in the advertised area of practice so long as the dentist clearly discloses that the dentist is a general dentist or a specialist in a different specialty. For example, the following disclosures would be in compliance with this rule for dentists except those licensed pursuant to 818-021-0017: "Jane Doe, DDS, General Dentist, practice limited to pediatric dentistry." "John Doe, DMD, Endodontist, practice includes prosthodontics."

Stat. Auth.: OR 679
Stats. Implemented: ORS 679.140(2)(e)
Hist.: DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 3-1997, f. & cert. ef. 8-27-97; OBD 5-2001, f. & cert. ef. 1-8-01; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f & cert. ef. 11-15-11

DIVISION 21

EXAMINATION AND LICENSING

818-021-0010
Application for License to Practice Dentistry

(1) An applicant to practice general dentistry, in addition to the requirements set forth in ORS 679.060 and 679.065, shall submit to the Board satisfactory evidence of:

(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental school located outside the United States or Canada, completion of a predoctoral dental education program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Certification of having passed the dental examination administered by the Joint Commission on National Dental Examinations or Canadian National Dental Examining Board Examination.

(2) An applicant who has not met the educational requirements for licensure may apply for examination if the Dean of an accredited school certifies the applicant will graduate.

(3) An applicant must pass a Board examination consisting of a clinical portion administered by the Board, or any clinical Board examination administered by any state or regional testing agency and a jurisprudence portion administered by the Board. Clinical examination results will be recognized by the Board for five years.

(4) An applicant who passes the clinical portion but not the jurisprudence portion of the examination may retake the jurisprudence examination without limit on the number of times. The applicant must pass the jurisprudence portion within five years of passing the clinical portion or must retake the clinical examination.

(5) A person who fails any Board approved clinical examination three times must successfully complete the remedial training recommended by the testing agency. Such remedial training must be conducted by a dental school accredited by the Commission on Dental Accreditation of the American Dental Association.

Stat. Auth.: ORS 670 & 679
Stat. Implemented: ORS 679.060, 679.065, 679.070 & 679.080
Hist.: DE 10-1984, f. & ef. 5-17-84; DE 7-1985, f. & ef. 11-1-85; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, corrected by DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-20-053 & 818-20-055; DE 1-1997, f. & cert. ef. 1-2-97, DE 5-1997, f. & cert. ef. 12-31-97; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05

818-021-0011
Application for License to Practice Dentistry Without Further Examination

(1) The Oregon Board of Dentistry may grant a license without further examination to a dentist who holds a license to practice dentistry in another state or states if the dentist meets the requirements set forth in ORS 679.060 and 679.065 and submits to the Board satisfactory evidence of:

(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental school located outside the United States or Canada, completion of a predoctoral dental education program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or completion of a postdoctoral General Dentistry Residency program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Having passed the dental clinical examination conducted by a regional testing agency or by a state dental licensing authority; and

(d) Holding an active license to practice dentistry, without restrictions, in any state; including documentation from the state dental board(s) or equivalent authority, that the applicant was issued a license to practice dentistry, without restrictions, and whether or not the licensee is, or has been, the subject of any final or pending disciplinary action; and

(e) Having conducted licensed clinical practice in Oregon, other states or in the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for a minimum of 3,500 hours in the five years immediately prior to application; and

(f) Having completed 40 hours of continuing education in accordance with the Board's continuing education requirements contained in these rules within the two years immediately preceding application.

(2) Applicants must pass the Board's Jurisprudence Examination.

(3) A dental license granted under this rule will be the same as the license held in another state; i.e., if the dentist holds a general dentistry license, the Oregon Board will issue a general (unlimited) dentistry license. If the dentist holds a license limited to the practice of a specialty, the Oregon Board will issue a license limited to the practice of that specialty. If the dentist holds more than one license, the Oregon Board will issue a dental license which is least restrictive.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.060, 679.065, 679.070, 679.080 & 679.090
Hist.: OBD 4-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 12-2001 (Temp), f. & cert. ef. 1-9-01 thru 7-7-01; OBD 14-2001 (Temp), f. 8-2-01, cert. ef. 8-15-01 thru 2-10-02; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2002 (Temp), f. & cert. ef. 7-17-02 thru 1-12-03; Administrative correction 4-16-03; OBD 1-2003, f. & cert. ef. 4-18-03; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06

818-021-0012
Specialties Recognized

(1) A dentist may advertise that the dentist is an endodontist, oral and maxillofacial pathologist, oral and maxillofacial surgeon, oral and maxillofacial radiologist, orthodontist and dentofacial orthopedist, pediatric dentist, periodontist, prosthodontist or dental public health dentist only if the dentist is licensed or certified by the Board in the specialty in accordance with Board rules.

(2) A dentist may advertise that the dentist specializes in or is a specialist in endodontics, oral and maxillofacial pathology, oral and maxillofacial surgery, oral and maxillofacial radiology, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics or dental public health only if the dentist is licensed or certified by the Board in the specialty in accordance with Board rules.

Stat. Auth.: ORS 679
Stat. Implemented: ORS 679.140
Hist.: DE 5-1997, f. & cert. ef. 12-31-97; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 4-2011, f & cert. ef. 11-15-11

818-021-0015
Certification as a Specialist

The Board may certify a dentist as a specialist if the dentist:

(1) Holds a current Oregon dental license;

(2) Is a diplomate of or a fellow in a specialty board accredited or recognized by the American Dental Association; or

(3) Has completed a post-graduate program approved by the Commission on Dental Accreditation of the American Dental Association; or

(4) Was qualified to advertise as a specialist under former OAR 818-010-0061.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140(2)(d)
Hist.: DE 3-1997, f. & cert. ef. 8-27-97; OBD 5-1999, f. 6-25-99, cert. ef. 7-1-99

818-021-0017
Application to Practice as a Specialist

(1) A dentist who wishes to practice as a specialist in Oregon, who does not have a current Oregon license, in addition to meeting the requirements set forth in ORS 679.060 and 679.065, shall submit to the Board satisfactory evidence of:

(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association and active licensure as a general dentist in another state. Licensure as a general dentist must have been obtained as a result of the passage of any clinical Board examination administered by any state or regional testing agency;

(b) Certification of having passed the dental examination administered by the Joint Commission on National Dental Examinations or Canadian National Dental Examining Board Examination; and

(c) Proof of satisfactory completion of a post-graduate specialty program accredited by the Commission on Dental Accreditation of the American Dental Association.

(2) A dentist who graduated from a dental school located outside the United States or Canada who wishes to practice as a specialist in Oregon, who does not have a current Oregon license, in addition to meeting the requirements set forth in ORS 679.060 and 679.065, shall submit to the Board satisfactory evidence of:

(a) Completion of a post-graduate specialty program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, proficiency in the English language, and evidence of active licensure as a general dentist in another state obtained as a result of the passage of any clinical Board examination administered by any state or regional testing agency; or

(b) Completion of a post-graduate specialty program of not less than two years at a dental school

accredited by the Commission on Dental Accreditation of the American Dental Association, proficiency in the English language and certification of having successfully passed the clinical examination administered by any state or regional testing agency within the five years immediately preceding application; and

(c) Certification of having passed the dental examination administered by the Joint Commission on National Dental Examinations or Canadian National Dental Examining Board Examination; and

(3) An applicant who meets the above requirements shall be issued a specialty license upon:

(a) Passing a specialty examination approved by the Board.

(b) Passing the Board's jurisprudence examination.

(4) Any applicant who does not pass the first examination for a specialty license may apply for a second and third regularly scheduled specialty examination. The applicable fee and application for the reexamination shall be submitted to the Board at least 45 days before the scheduled examination. If the applicant fails to pass the third examination for the practice of a recognized specialty, the applicant will not be permitted to retake the particular specialty examination until he/she has attended and successfully passed a remedial program prescribed by a dental school accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

(5) Licenses issued under this rule shall be limited to the practice of the specialty only.

Stat. Auth.: ORS 679
Stat. Implemented: ORS 679.140, 679.060, 679.065, 679.070, 679.080 & 679.090
Hist.: DE 4-1997, f. & cert. ef. 12-31-97; OBD 2-1999 (Temp), f. 3-10-99, cert. ef. 3-15-99 thru 9-10-99; OBD 5-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 11-2001, f. & cert. ef. 1-8-01; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 11-27-11; OBD 4-2011, f & cert. ef. 11-15-11

818-021-0020
Application for License to Practice Dental Hygiene

(1) An applicant to practice dental hygiene, in addition to the requirements set forth in ORS 680.040 and 680.050, shall submit to the Board satisfactory evidence of:

(a) Having graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental hygiene program located outside the United States or Canada, completion of not less than one year in a program accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language, and

(c) Certification of having passed the dental hygiene examination administered by the Joint Commission on National Dental Examinations or the Canadian National Dental Hygiene Certificate Examination.

(2) An applicant who has not met the educational requirements for licensure may apply if the Director of an accredited program certifies the applicant will graduate.

(3) An applicant must pass a Board examination consisting of a clinical portion administered by the Board, or any clinical Board examination administered by any state or regional testing agency and a jurisprudence portion administered by the Board. Clinical examination results will be recognized by the Board for five years.

(4) An applicant who passes the clinical portion but not the jurisprudence portion of the examination may retake the jurisprudence examination without limit on the number of times. The applicant must pass the jurisprudence portion within five years of passing the clinical portion or must retake the clinical examination.

(5) A person who fails any Board approved clinical examination three times must successfully complete the remedial training recommended by the testing agency. Such remedial training must be conducted by a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association.

Stat. Auth.: ORS 679
Stat. Implemented: ORS 679.010, 679.040, 679.050, 680.060, & 680.070
Hist.: DE 15, f. 1-20-72, ef. 2-10-72; DE 29, f. & ef. 3-2-77; DE 7-1985; f. & ef. 11-1-85; DE 1-1988, f. 12-28-88, cert. ef. 2-89, corrected by DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-20-053 & 818-20-055; DE 5-1997, f. & cert. ef. 12-31-97; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05

818-021-0025
Application for License to Practice Dental Hygiene Without Further Examination

(1) The Oregon Board of Dentistry may grant a license without further examination to a dental hygienist who holds a license to practice dental hygiene in another state or states if the dental

hygienist meets the requirements set forth in ORS 680.040 and 680.050 and submits to the Board satisfactory evidence of:

(a) Having graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental hygiene program located outside the United States or Canada, completion of not less than one year in a program accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Evidence of having passed the clinical dental hygiene examination conducted by a regional testing agency or by a state dental or dental hygiene licensing authority; and

(d) Holding an active license to practice dental hygiene, without restrictions, in any state; including documentation from the state dental board(s) or equivalent authority, that the applicant was issued a license to practice dental hygiene, without restrictions, and whether or not the licensee is, or has been, the subject of any final or pending disciplinary action; and

(e) Having conducted licensed clinical practice in Oregon, in other states or in the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or teaching all disciplines of clinical dental hygiene at a dental hygiene education program accredited by the Commission on Dental Accreditation of the American Dental Association for a minimum of 3,500 hours in the five years immediately preceding application. For dental hygienists employed by a dental hygiene program, documentation from the dean or appropriate administration of the institution regarding length and terms of employment, the applicant's duties and responsibilities, the actual hours involved in teaching all disciplines of clinical dental hygiene, and any adverse actions or restrictions; and

(f) Having completed 24 hours of continuing education in accordance with the Board's continuing education requirements contained in these rules within the two years immediately preceding application.

(2) Applicants must pass the Board's Jurisprudence Examination.

Stat. Auth.: ORS 680
Stats. Implemented: ORS 680.040, 680.050, 680.060, 680.070 & 680.072
Hist.: OBD 4-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 12-2001 (Temp), f. & cert. ef. 1-9-01 thru 7-7-01; OBD 14-2001 (Temp), f. 8-2-01, cert. ef. 8-15-01 thru 2-10-02; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2002 (Temp), f. & cert. ef. 7-17-02 thru 1-12-03; Administrative correction 4-16-03; OBD 1-2003, f. & cert. ef. 4-18-03; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 4-2011, f & cert. ef. 11-15-11

818-021-0026
State and Nationwide Criminal Background Checks, Fitness Determinations

(1) The Board requires fingerprints of all applicants for a dental or dental hygiene license to determine the fitness of an applicant. These will be provided on prescribed forms provided by the Board. Fingerprints may be obtained at a law enforcement office or at a private service. The Board will submit fingerprints to the Oregon State Police for checks against state and national data sources. Any original fingerprint cards will subsequently be destroyed by the Oregon State Police.

(2) These rules are to be applied when evaluating the criminal history of all licensees and applicants for a dental or dental hygiene license and conducting fitness determinations based upon such history. The fact that the applicant has cleared the criminal history check does not guarantee the granting of a license.

(3) Except as otherwise provided in section (1), in making the fitness determination the Board shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicates the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, or permit; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime:

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(4) The Board may require fingerprints of any

licensed Oregon dentist or dental hygienist, who is the subject of a complaint or investigation for the purpose of requesting a state or nationwide criminal records background check.

(5) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.

(6) Additional information required. In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee/applicant as necessary, such but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(7) Criminal offender information is confidential. Dissemination of information received under HB 2157 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(8) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted, to inspect the individual's own state and national criminal offender records and, if requested by the individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(9) The Board shall determine whether an individual is fit to be granted a license or permit, based on the criminal records background check, on any false statements made by the individual regarding criminal history of the individual, or any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as a part of an investigation. If an individual is determined to be unfit, then the individual may not be granted a license or permit. The Board may make fitness determinations conditional upon applicant's acceptance of probation, conditions, or limitations, or other restrictions upon licensure.

(10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records that may be indicative of a person's inability to perform as a licensee with care and safety to the public.

(11) If an applicant or licensee is determined not to be fit for a license or permit, they are entitled to a contested case process pursuant to ORS 183.414 - 183.470. Challenges to the accuracy of completeness of information provided by the Oregon State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(12) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, then the application is considered incomplete.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 181, 183, 670.280, 679.060, 679.115, 679.140, 679.160, 680.050, 680.082 & 680.100
Hist.: OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 4-2011, f & cert. ef. 11-15-11

818-021-0030
Dismissal from Examination

(1) The Board may dismiss any applicant from an examination whose conduct interferes with the examination and fail the applicant on the examination.

(2) Prohibited conduct includes but is not limited to:

(a) Giving or receiving aid, either directly or indirectly, during the examination process;

(b) Failing to follow directions relative to the conduct of the examination, including termination of procedures;

(c) Endangering the life or health of a patient;

(d) Exhibiting behavior which impedes the normal progress of the examination; or

(e) Consuming alcohol or controlled substances during the examination.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.070 & 680.060
Hist.: DE 10-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-020-0075

818-021-0040
Examination Review Procedures

(1) An applicant may review the applicant's scores on each section of the examination.

(2) Examination material including test questions, scoring keys, and examiner's personal notes shall not be disclosed to any person.

(3) Any applicant who fails the examination may request the Chief Examiner to review the examination. The request must be in writing and must be postmarked within 45 days of the postmark on the

notification of the examination results. The request must state the reason or reasons why the applicant feels the results of the examination should be changed.

(4) If the Chief Examiner finds an error in the examination results, the Chief Examiner may recommend to the Board that it modify the results.

Stat. Auth.: ORS 183 & 192
Stats. Implemented: ORS 183.310(2)(b) & 192.501(4)
Hist.: DE 10-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-020-0080

818-021-0050
Community Health Experience for Dental and Dental Hygiene Students

Dental hygiene students or full-time students of dentistry may participate in clinical studies off the premises of the school the student is attending if the clinical studies are part of the approved curriculum.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.025(2)(b) & 680.020(2)(b)
Hist.: DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

818-021-0060
Continuing Education — Dentists

(1) Each dentist must complete 40 hours of continuing education every two years. Continuing education (C.E.) must be directly related to clinical patient care or the practice of dental public health.

(2) Dentists must maintain records of successful completion of continuing education for at least four licensure years consistent with the licensee's licensure cycle. (A licensure year for dentists is April 1 through March 31.) The licensee, upon request by the Board, shall provide proof of successful completion of continuing education courses.

(3) Continuing education includes:

(a) Attendance at lectures, dental study groups, college post-graduate courses, or scientific sessions at conventions.

(b) Research, graduate study, teaching or preparation and presentation of scientific sessions. No more than 12 hours may be in teaching or scientific sessions. (Scientific sessions are defined as scientific presentations, table clinics, poster sessions and lectures.)

(c) Correspondence courses, videotapes, distance learning courses or similar self-study course, provided that the course includes an examination and the dentist passes the examination.

(d) Continuing education credit can be given for volunteer pro bono dental services provided in the state of Oregon; community oral health instruction at a public health facility located in the state of Oregon; authorship of a publication, book, chapter of a book, article or paper published in a professional journal; participation on a state dental board, peer review, or quality of care review procedures; successful completion of the National Board Dental Examinations taken after initial licensure; a recognized specialty examination taken after initial licensure; or test development for clinical dental, dental hygiene or specialty examinations. No more than 6 hours of credit may be in these areas.

(4) At least three hours of continuing education must be related to medical emergencies in a dental office. No more than four hours of Practice Management and Patient Relations may be counted toward the C.E. requirement in any renewal period.

(5) All dentists licensed by the Oregon Board of Dentistry will complete a one-hour pain management course specific to Oregon provided by the Pain Management Commission of the Oregon Health Authority. All applicants or licensees shall complete this requirement by January 1, 2010 or within 24 months of the first renewal of the dentist's license.

(6) At least 2 hours of continuing education must be related to infection control. (Effective January 1, 2015)

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(9)
Hist.: DE 3-1987, f. & ef. 10-15-87; DE 4-1987(Temp), f. & ef. 11-25-87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-020-0072; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 9-2000, f. & cert. ef. 7-28-00; OBD 16-2001, f. 12-7-01, cert. ef. 4-1-02; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 3-2011 (Temp), filed 6-30-11, cert ef. 7-1-11 thru 12-27-11; OBD 4-2011, f & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f.7-9-15, cert. ef. 10-01-15

818-021-0070
Continuing Education — Dental Hygienists

(1) Each dental hygienist must complete 24 hours of continuing education every two years. An Expanded Practice Permit Dental Hygienist shall complete a total of 36 hours of continuing education every two years. Continuing education (C.E.) must be directly related to clinical patient care or the practice of dental public health.

(2) Dental hygienists must maintain records of successful completion of continuing education for at least four licensure years consistent with the licensee's licensure cycle. (A licensure year for dental

hygienists is October 1 through September 30.) The licensee, upon request by the Board, shall provide proof of successful completion of continuing education courses.

(3) Continuing education includes:

(a) Attendance at lectures, dental study groups, college post-graduate courses, or scientific sessions at conventions.

(b) Research, graduate study, teaching or preparation and presentation of scientific sessions. No more than six hours may be in teaching or scientific sessions. (Scientific sessions are defined as scientific presentations, table clinics, poster sessions and lectures.)

(c) Correspondence courses, videotapes, distance learning courses or similar self-study course, provided that the course includes an examination and the dental hygienist passes the examination.

(d) Continuing education credit can be given for volunteer pro bono dental hygiene services provided in the state of Oregon; community oral health instruction at a public health facility located in the state of Oregon; authorship of a publication, book, chapter of a book, article or paper published in a professional journal; participation on a state dental board, peer review, or quality of care review procedures; successful completion of the National Board Dental Hygiene Examination, taken after initial licensure; or test development for clinical dental hygiene examinations. No more than 6 hours of credit may be in these areas.

(4) At least three hours of continuing education must be related to medical emergencies in a dental office. No more than two hours of Practice Management and Patient Relations may be counted toward the C.E. requirement in any renewal period.

(5) Dental hygienists who hold a Nitrous Oxide Permit must meet the requirements contained in OAR 818-026-0040(9) for renewal of the Nitrous Oxide Permit.

6) At least 2 hours of continuing education must be related to infection control. (Effective January 1, 2015)

Stat.Auth.: ORS 679
Stats. Implemented: ORS 679.250(9)
Hist.: DE 3-1987, f. & ef. 10-15-87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-020-0073; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 9-2000, f. & cert. ef. 7-28-00; OBD 2-2002, f. 7-31-02, cert. ef. 10-1-02; OBD 2-2004, f. 7-12-04, cert. ef. 7-15-04; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 3-2011(Temp), filed 6-30-11, cert. ef. 7-1-11 thru 12-27-11; OBD 4-2011, f & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15 ef. 10-01-15

818-021-0080
Renewal of License

Before the expiration date of a license, the Board will, as a courtesy, mail notice for renewal of license to the last mailing address on file in the Board's records to every person holding a current license. The licensee must return the completed renewal application along with current renewal fees prior to the expiration of said license. Licensees who fail to renew their license prior to the expiration date may not practice dentistry or dental hygiene until the license is reinstated and are subject to the provisions of OAR 818-021-0085 "Reinstatement of Expired Licenses."

(1) Each dentist shall submit the renewal fee and completed and signed renewal application form by March 31 every other year. Dentists licensed in odd numbered years shall apply for renewal in odd numbered years and dentists licensed in even numbered years shall apply for renewal in even numbered years.

(2) Each hygienist must submit the renewal fee and completed and signed renewal application form by September 30 every other year. Hygienists licensed in odd numbered years shall apply for renewal in odd numbered years and hygienists licensed in even numbered years shall apply for renewal in even numbered years.

(3) The renewal application shall contain:

(a) Licensee’s full name;

(b) Licensee’s mailing address;

(c) Licensees business address including street and number or if the licensee has no business address, licensee’s home address including street and number;

(d) Licensee’s business telephone number or if the licensee has no business telephone number, licensee’s home telephone number;

(e) Licensee’s employer or person with whom the licensee is on contract;

(f) Licensee’s assumed business name;

(g) Licensee’s type of practice or employment;

(h) A statement that the licensee has met the educational requirements for renewal set forth in OAR 818-021-0060 or 818-021-0070;

(i) Identity of all jurisdictions in which the licensee has practiced during the two past years; and

(j) A statement that the licensee has not been disciplined by the licensing board of any other jurisdiction or convicted of a crime.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.090, 679.120, 680.072 & 680.075
Hist.: DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 2-1989(Temp), f. & cert. ef. 11-30-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 7-2000, f. 6-22-00, cert. ef. 7-1-00

818-021-0085
Renewal or Reinstatement of Expired License

Any person whose license to practice as a dentist or dental hygienist has expired, may apply for reinstatement under the following circumstances:

(1) If the license has been expired 30 days or less, the applicant shall:

(a) Pay a penalty fee of $50;

(b) Pay the biennial renewal fee; and

(c) Submit a completed renewal application and certification of having completed the Board's continuing education requirements.

(2) If the license has been expired more than 30 days but less than 60 days, the applicant shall:

(a) Pay a penalty fee of $100;

(b) Pay the biennial renewal fee; and

(c) Submit a completed renewal application and certification of having completed the continuing education requirements.

(3) If the license has been expired more than 60 days, but less than one year, the applicant shall:

(a) Pay a penalty fee of $150;

(b) Pay a fee equal to the renewal fees that would have been due during the period the license was expired;

(c) Pay a reinstatement fee of $500; and

(d) Submit a completed application for reinstatement provided by the Board, including certification of having completed continuing education credits as required by the Board during the period the license was expired. The Board may request evidence of satisfactory completion of continuing education courses. (4) If the license has been expired for more than one year but less than four years, the applicant shall:

(a) Pay a penalty fee of $250;

(b) Pay a fee of equal to the renewal fees that would have been due during the period the license was expired;

(c) Pay a reinstatement fee of $500;

(d) Pass the Board's Jurisprudence Examination;

(e) Pass any other qualifying examination as may be determined necessary by the Board after assessing the applicant's professional background and credentials;

(f) Submit evidence of good standing from all states in which the applicant is currently licensed; and

(g) Submit a completed application for reinstatement provided by the Board including certification of having completed continuing education credits as required by the Board during the period the license was expired. The Board may request evidence of satisfactory completion of continuing education courses. (5) If a dentist or dental hygienist fails to renew or reinstate his or her license within four years from expiration, the dentist or dental hygienist must apply for licensure under the current statute and rules of the Board.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.090, 679.120, 680.072 & 680.075
Hist.: OBD 7-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

818-021-0088
Volunteer License

(1) An active licensed dentist or dental hygienist who will be practicing for a supervised volunteer dental clinic, as defined in ORS 679.020(3)(e) and (f), may be granted a volunteer license provided licensee completes the following:

(a) Licensee must register with the Board as a health care professional and provide a statement as required by ORS 676.345.

(b) Licensee will be responsible to meet all the requirements set forth in ORS 676.345.

(c) Licensee must provide the health care service without compensation.

(d) Licensee shall not practice dentistry or dental hygiene for remuneration in any capacity under the volunteer license.

(e) Licensee must comply with all continuing education requirements for active licensed dentist or dental hygienist.

(f) Licensee must agree to volunteer for a minimum of 40 hours per calendar year.

(2) Licensee may surrender the volunteer license designation at anytime and request a return to an active license. The Board will grant an active license as long as all active license requirements have been met.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 676.345, 679.010, 679.020, 679.025, 679.090, 680.010, 680.020, 680.050 & 680.072
Hist.: OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05

818-021-0090
Retirement of License

(1) A dentist or dental hygienist who no longer practices in any jurisdiction may retire her or his license by submitting a request to retire such license on a form provided by the Board.

(2) A license that has been retired may be reinstated if the applicant:

(a) Pays a reinstatement fee of $500;

(b) Passes the Board's Jurisprudence Examination;

(c) Passes any other qualifying examination as may be determined necessary by the Board after assessing the applicant's professional background and credentials;

(d) Submits evidence of good standing from all states in which the applicant is currently licensed; and

(e) Submits a completed application for reinstatement provided by the Board including certification of having completed continuing education credits as required by the Board during the period the license was expired. The Board may request evidence of satisfactory completion of continuing education courses.

(3) If the dentist or dental hygienist fails to reinstate her or his license within four years from retiring the license, the dentist or dental hygienist must apply for licensure under the current statute and rules of the Board.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.090, 679.120, 680.072 & 680.075
Hist.: DE 14, f. 1-20-72, ef. 2-10-72; DE 22, f. 6-12-74, ef. 7-11-74; DE 10-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-17-89, cert. ef. 2-1-89; Renumbered from 818-020-0045; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 7-2000, f. 6-22-00, cert. ef. 7-1-00

818-021-0095
Resignation of License

(1) The Board may allow a dentist or dental hygienist who no longer practices in Oregon to resign her or his license, unless the Board determines the license should be revoked.

(2) Licenses that are resigned under this rule may not be reinstated.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.090, 679.120, 680.072 & 680.075
Hist.: OBD 7-2000, f. 6-22-00, cert. ef. 7-1-00

818-021-0100
Competency Examination

(1) The Board may require any licensee to pass the Board examination or require any licensee to participate in a practice review as set forth in section (2) of this rule.

(2) One or more consultants will review the licensee's treatment of patients selected at random and report observations to the Board

(3) If the results of the examination or practice review provide evidence that the licensee lacks competency, the Board may refuse to renew the licensee's license or take disciplinary action against the licensee.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(9)
Hist.: DE 3-1979, f. & ef. 8-16-79; DE 11-1984, f. & ef. 5-17-84; Renumbered from 818-010-0095; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-010-0050 and 818-010-0060; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90

818-021-0110
Reinstatement Following Revocation

(1) Any person whose license has been revoked for a reason other than failure to pay the annual fee may petition the Board for reinstatement after five years from the date of revocation.

(2) The Board shall hold a hearing on the petition and, if the petitioner demonstrates that reinstatement of the license will not be detrimental to the health or welfare of the public, the Board may allow the petitioner to retake the Board examination.

(3) If the license was revoked for unacceptable patient care, the petitioner shall provide the Board with satisfactory evidence that the petitioner has completed a course of study sufficient to remedy the petitioner's deficiencies in the practice of dentistry or dental hygiene.

(4) If the petitioner passes the Board examination, the Board may reinstate the license, place the petitioner on probation for not less than two years, and impose appropriate conditions of probation.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140
Hist.: DE 11-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-010-0070

818-021-0115
Display of Licenses

Every licensee of the Board shall have conspicuously displayed their current license in every

office where that licensee practices in plain sight of the licensee's patients.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.020, 679.025 & 680.020
Hist.: DE 1-1993, f. & cert. ef. 1-29-93

818-021-0120
Application Valid for 180 Days

(1) If all information and documentation necessary for the Board to act on an application is not provided to the Board by the applicant within 180 days from the date the application is received by the Board, the Board shall reject the application as incomplete.

(2) An applicant whose application has been rejected as incomplete must file a new application and must pay a new application fee.

(3) An applicant who fails the examination or who does not take the examination during the 180-day period following the date the Board receives the application, must file a new application and must pay a new application fee.

Stat. Auth.: ORS 679 & 680
Stats. Implemented.: ORS 679.060, 679.065, 679.070, 679.080, 680.040, 680.050, 680.060, 680.070 & 680.072
Hist.: OBD 4-2001, f. & cert. ef. 1-8-01

818-021-0125
Reapplication Following Denial of Licensure

A person whose application for licensure has been denied on grounds other than failure of the licensure examination may not reapply for five years from the date of the Board's Final Order denying licensure.

Stat. Auth.: ORS 679 & 680
Stats. Implemented.: ORS 679.060, 679.065, 679.070, 679.080, 680.040, 680.050, 680.060, 680.070 & 680.072
Hist.: OBD 4-2001, f. & cert. ef. 1-8-01

DIVISION 26

ANESTHESIA

818-026-0000
Purpose

(1) These rules apply to the administration of substances that produce general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation in patients being treated by licensees. These regulations are not intended to prohibit training programs for licensees or to prevent persons from taking necessary action in case of an emergency.

(2) Nothing in this Division relieves a licensee from the standards imposed by ORS 679.140(1)(e) and 679.140(4).

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f, 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-026-0010
Definitions

As used in these rules:

(1) "Anesthesia Monitor" means a person trained in monitoring patients under sedation and capable of assisting with procedures, problems and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

(2) "Anxiolysis" means the diminution or elimination of anxiety.

(3) “General Anesthesia” means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(4) “Deep Sedation” means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(5) “Moderate Sedation” means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

(6) “Minimal Sedation” means minimally depressed level of consciousness, produced by non-intravenous pharmacological methods, that retains the patient’s ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. When the intent is minimal sedation for adults, the appropriate initial dosing of a single non-intravenous pharmacological method is no more than the maximum recommended dose (MRD) of a drug that can be prescribed for unmonitored home use. Nitrous oxide/oxygen may be used in combination with a single non-intravenous pharmacological method in minimal sedation.

(7) “Nitrous Oxide Sedation” means an induced, controlled state of minimal sedation, produced solely by the inhalation of a combination of nitrous oxide and oxygen in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command.

(8) “Maximum recommended dose” (MRD) means maximum Food and Drug Administration-recommended dose of a drug, as printed in Food and Drug Administration-Approved labeling for unmonitored dose.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10

818-026-0020
Presumption of Degree of Central Nervous System Depression

(1) In any hearing where a question exists as to the degree of central nervous system depression a licensee has induced (i.e., general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation), the Board may base its findings on, among other things, the types, dosages and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status.

(2) The following drugs are conclusively presumed to produce general anesthesia and may only be used by a licensee holding a General Anesthesia Permit:

(a) Ultra short acting barbiturates including, but not limited to, sodium methohexital, thiopental, thiamylal;

(b) Alkylphenols -- propofol (Diprivan) including precursors or derivatives;

(c) Neuroleptic agents;

(d) Dissociative agents -- ketamine;

(e) Etomidate; and

(f) Volatile inhalational agents.

(3) No permit holder shall have more than one person under any form of sedation or general anesthesia at the same time exclusive of recovery.

(4) A licensee that does not hold a Moderate, Deep Sedation or General Anesthesia Permit may not administer, for purpose of anxiolysis or sedation, Benzodiazepines or narcotics in children under 6 years of age.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-026-0030
Requirement for Anesthesia Permit, Standards and Qualifications of an Anesthesia Monitor

(1) A permit holder who administers sedation shall assure that drugs, drug dosages, and/or techniques used to produce sedation shall carry a margin of safety wide enough to prevent unintended deeper levels of sedation.

(2) No licensee shall induce central nervous system sedation or general anesthesia without first having obtained a permit under these rules for the level of anesthesia being induced.

(3) A licensee may be granted a permit to administer sedation or general anesthesia with documentation of training/education and/or competency in the permit category for which the licensee is applying by any one the following:

(a) Initial training/education in the permit category for which the applicant is applying shall be completed no more than two years immediately prior to application for sedation or general anesthesia permit; or

(b) If greater than two years but less than five years since completion of initial training/education, an applicant must document completion of all continuing education that would have been required for that anesthesia/permit category during that five year period following initial training; or

(c) If greater than two years but less than five years since completion of initial training/education, immediately prior to application for sedation or general anesthesia permit, current competency or experience must be documented by completion of a comprehensive review course approved by the Board in the permit category to which the applicant is applying and must consist of at least one-half (50%) of the hours required by rule for Nitrous Oxide, Minimal Sedation, Moderate Sedation and General Anesthesia Permits. Deep Sedation and General Anesthesia Permits will require at least 120 hours of general anesthesia training.

(d) An applicant for sedation or general anesthesia permit whose completion of initial training/education is greater than five years immediately prior to application, may be granted a sedation or general anesthesia permit by submitting documentation of the requested permit level from another state or jurisdiction where the applicant is also licensed to practice dentistry or dental hygiene, and provides documentation of the completion of at least 25 cases in the requested level of sedation or general anesthesia in the 12 months immediately preceding application; or

(e) Demonstration of current competency to the satisfaction of the Board that the applicant possesses adequate sedation or general anesthesia skill to safely deliver sedation or general anesthesia services to the public.

(4) Persons serving as anesthesia monitors in a dental office shall maintain current certification in Health Care Provider Basic Life Support (BLS)/Cardio Pulmonary Resuscitation (CPR) training, or its equivalent, shall be trained in monitoring patient vital signs, and be competent in the use of monitoring and emergency equipment appropriate for the level of sedation utilized. (The term "competent" as used in these rules means displaying special skill or knowledge derived from training and experience.)

(5) A licensee holding an anesthesia permit shall at all times hold a current Health Care Provider BLS/CPR level certificate or its equivalent, or a current Advanced Cardiac Life Support (ACLS) Certificate or Pediatric Advanced Life Support (PALS) Certificate, whichever is appropriate for the patient being sedated.

(6) When a dentist utilizes a single dose oral agent to achieve anxiolysis only, no anesthesia permit is required.

(7) The applicant for an anesthesia permit must pay the appropriate permit fee, submit a completed Board-approved application and consent to an office evaluation.

(8) Permits shall be issued to coincide with the applicant's licensing period.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

818-026-0035
Classes of Anesthesia Permit

The Board shall issue the following classes of permits:

(1) A Nitrous Oxide Permit authorizes a dental hygienist or a dentist to induce nitrous oxide sedation.

(2) A Minimal Sedation Permit authorizes a dentist to induce minimal sedation and nitrous oxide sedation.

(3) A Moderate Sedation Permit authorizes a dentist to induce moderate sedation, minimal sedation and nitrous oxide sedation.

(4) A Deep Sedation Permit authorizes a dentist to induce deep sedation, moderate sedation, minimal sedation, and nitrous oxide sedation. The Board shall issue a Deep Sedation Permit to a licensee who holds a Class 3 Permit on or before July 1, 2010.

(5) A General Anesthesia Permit authorizes a dentist to induce general anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide sedation.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10

818-026-0040
Qualifications, Standards Applicable, and Continuing Education Requirements for Anesthesia Permits: Nitrous Oxide Permit

Nitrous Oxide Sedation.

(1) The Board shall issue a Nitrous Oxide Permit to an applicant who:

(a) Is either a licensed dentist or licensed hygienist in the State of Oregon;

(b) Maintains a current BLS for Healthcare Providers certificate or its equivalent; and

(c) Has completed a training course of at least 14 hours of instruction in the use of nitrous oxide from a dental school or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association, or as a postgraduate.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow delivery of appropriate care in an emergency situation;

(b) An operating table or chair which permits the patient to be positioned so that the patient's airway can be maintained, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system; and

(g) Sphygmomanometer and stethoscope and/or automatic blood pressure cuff.

(3) Before inducing nitrous oxide sedation, a permit holder shall:

(a) Evaluate the patient;

(b) Give instruction to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian;

(c) Certify that the patient is an appropriate candidate for nitrous oxide sedation; and

(d) Obtain informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient's record.

(4) If a patient chronically takes a medication which can have sedative side effects, including, but not limited to, a narcotic or benzodiazepine, the practitioner shall determine if the additive sedative

effect of nitrous oxide would put the patient into a level of sedation deeper than nitrous oxide. If the practitioner determines it is possible that providing nitrous oxide to such a patient would result in minimal sedation, a minimal sedation permit would be required.

(5) A patient under nitrous oxide sedation shall be visually monitored by the permit holder or by an anesthesia monitor at all times. The patient shall be monitored as to response to verbal stimulation, oral mucosal color and preoperative and postoperative vital signs.

(6) The permit holder or anesthesia monitor shall record the patient's condition. The record must include documentation of all medications administered with dosages, time intervals and route of administration.

(7) The person administering the nitrous oxide sedation may leave the immediate area after initiating the administration of nitrous oxide sedation only if a qualified anesthesia monitor is continuously observing the patient.

(8) The permit holder shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(b) The patient can talk and respond coherently to verbal questioning;

(c) The patient can sit up unaided or without assistance;

(d) The patient can ambulate with minimal assistance; and

(e) The patient does not have nausea, vomiting or dizziness.

(9) The permit holder shall make a discharge entry in the patient's record indicating the patient's condition upon discharge.

(10) Permit renewal. In order to renew a Nitrous Oxide Permit, the permit holder must provide proof of a current BLS for Healthcare Providers certificate or its equivalent. In addition, Nitrous Oxide Permit holders must also complete four (4) hours of continuing education in one or more of the following areas every two years: sedation, nitrous oxide, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current BLS for Healthcare Providers certificate or its equivalent, may not be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060 and 818-021-0070.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & (10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

818-026-0050
Minimal Sedation Permit

Minimal sedation and nitrous oxide sedation.

(1) The Board shall issue a Minimal Sedation Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) Maintains a current BLS for Healthcare Providers certificate, or its equivalent; and

(c) Completion of a comprehensive training program consisting of at least 16 hours of training and satisfies the requirements of the *ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007)* at the time training was commenced or postgraduate instruction was completed, or the equivalent of that required in graduate training programs, in sedation, recognition and management of complications and emergency care; or

(d) In lieu of these requirements, the Board may accept equivalent training or experience in minimal sedation anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full facemask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-

safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) Sphygmomanometer, stethoscope, pulse oximeter, and/or automatic blood pressure cuff; and

(h) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to thedrugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) Before inducing minimal sedation, a dentist who induces minimal sedation shall:

(a) Evaluate the patient;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian;

(c) Certify that the patient is an appropriate candidate for minimal sedation; and

(d) Obtain written informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient's record.

(4) No permit holder shall have more than one person under minimal sedation at the same time.

(5) While the patient is being treated under minimal sedation, an anesthesia monitor shall be present in the room in addition to the treatment provider. The anesthesia monitor may be the dental assistant.

(a) After training, a dental assistant, when directed by a dentist, may administer oral sedative agents or anxiolysis agents, calculated and dispensed by a dentist under the direct supervision of a dentist.

(6) A patient under minimal sedation shall be visually monitored at all times, including recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Color of mucosa, skin or blood must be evaluated continually. Patients must have continuous monitoring using pulse oximetry. The patient’s response to verbal stimuli, blood pressure, heart rate, and respiration shall be monitored and documented if they can reasonably be obtained.

(b) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(8) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(g) A dentist shall not release a patient who has undergone minimal sedation except to the care of a responsible third party.

(9) Permit renewal. In order to renew a Minimal Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent. In addition, Minimal Sedation Permit holders must also complete four (4) hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current BLS for Healthcare Providers certificate, or its equivalent, may not be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

818-026-0055
Dental Hygiene and Dental Assistant Procedures Performed Under Nitrous Oxide or Minimal Sedation

(1) Under indirect supervision, dental hygiene procedures may be performed for a patient who is under nitrous oxide or minimal sedation under the following conditions:

(a) A licensee holding a Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agents;

(b) The permit holder, or an anesthesia monitor, monitors the patient; or

(c) if a dental hygienist with a nitrous oxide permit administers nitrous oxide sedation to a patient and then performs authorized procedures on the patient, an anesthesia monitor is not required to be

present during the time the patient is sedated unless the permit holder leaves the patient.

(d) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the

patient in accordance with 818-026-0050(7) and (8).

(2) Under direct supervision, a dental assistant may perform those procedures for which the dental assistant holds the appropriate certification for a patient who is under nitrous oxide or minimal sedation under the following conditions:

(a) A licensee holding the Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agent(b) The permit holder, or an anesthesia monitor, monitors the patient; and

(c) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with 818-026-0050(7) and (8).

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014

818-026-0060
Moderate Sedation Permit

Moderate sedation, minimal sedation, and nitrous oxide sedation.

(1) The Board shall issue or renew a Moderate Sedation Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, either maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated. Successful completion of a board approved course on minimal/moderate sedation at least every two years may be substituted for ACLS, but not for PALS; and

(c) Satisfies one of the following criteria:

(A) Completion of a comprehensive training program in enteral and/or parenteral sedation that satisfies the requirements described in Part V of the *ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007)* at the time training was commenced.

(i) Enteral Moderate Sedation requires a minimum of 24 hours of instruction plus management of at least 10 dental patient experiences by the enteral and/or enteral-nitrous oxide/oxygen route.

(ii) Parenteral Moderate Sedation requires a minimum of 60 hours of instruction plus management of at least 20 dental patients by the intravenous route.

(B) Completion of an ADA accredited postdoctoral training program (e.g., general practice residency) which affords comprehensive and appropriate training necessary to administer and manage parenteral sedation, commensurate with these Guidelines.

(C) In lieu of these requirements, the Board may accept equivalent training or experience in moderate sedation anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow a operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope, capnograph, pulse oximeter, oral and nasopharyngeal airways, larynageal mask airways, intravenous fluid administration equipment, automated external defibrillator (AED); and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one

person under moderate sedation, minimal sedation, or nitrous oxide sedation at the same time.

(4) (4) During the administration of moderate sedation, and at all times while the patient is under moderate sedation, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory, in addition to the dentist performing the dental procedures.

(5) Before inducing moderate sedation, a dentist who induces moderate sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists *Patient Physical Status Classifications*, that the patient is an appropriate candidate for moderate sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under moderate sedation shall be visually monitored at all times, including the recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry and End-tidal CO2 monitors. Patients with cardiovascular disease shall have continuous electrocardiograph (ECG) monitoring. The patient's blood pressure, heart rate, and respiration shall be recorded at regular intervals but at least every 15 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under moderate sedation shall be continuously monitored and shall not be left alone while under sedation;

(b) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from moderate sedation.

(8) A dentist shall not release a patient who has undergone moderate sedation except to the care of a responsible third party.

(a) When a reversal agent is administered, the dentist shall document justification for its use and how the recovery plan was altered.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may dispense oral medications that have been prepared by the dentist permit holder for oral administration to a patient under direct supervision or introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Moderate Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support (PALS) certificate; successful completion of a board approved course on minimal/moderate sedation at least every two years may be substituted for ACLS, but not for PALS; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS or PALS certification or successful completion of the American Dental Association's course "Recognition and Management of Complications during Minimal and Moderate Sedation" may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 1-1999, f. 2-26-99, cert. ef. 3-1-99; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-

2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 2-2001, f. & cert. ef. 1-8-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

818-026-0065
Deep Sedation

Deep sedation, moderate sedation, minimal sedation, and nitrous oxide sedation.

(1) The Board shall issue a Deep Sedation Permit to a licensee who holds a Class 3 Permit on or before July 1, 2010 who:

(a) Is a licensed dentist in Oregon; and

(b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope, capnograph, pulse oximeter, electrocardiograph monitor (ECG), automated external defibrillator (AED), oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under deep sedation, moderate sedation, minimal sedation, or nitrous oxide sedation at the same time.

(4) During the administration of deep sedation, and at all times while the patient is under deep sedation, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory, in addition to the dentist performing the dental procedures.

(5) Before inducing deep sedation, a dentist who induces deep sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists *Patient Physical Status Classifications*, that the patient is an appropriate candidate for deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under deep sedation shall be visually monitored at all times, including the recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry, electrocardiograph monitors (ECG) and End-tidal CO2 monitors. The patient's heart rhythm shall be continuously monitored and the patient’s blood pressure, heart rate, and respiration shall be recorded at regular intervals but at least every 5 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under deep sedation shall

be continuously monitored;

(b) Once sedated, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery has been met.

(c) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from deep sedation.

(8) A dentist shall not release a patient who has undergone deep sedation except to the care of a responsible third party. When a reversal agent is administered, the dentist shall document justification for its use and how the recovery plan was altered.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may administer oral sedative agents calculated by a dentist or introduce additional anesthetic agents into an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Deep Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support (PALS) certificate; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS and/or PALS certificates may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist. : OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

818-026-0070

General Anesthesia Permit

General anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide sedation.

(1) The Board shall issue a General Anesthesia Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated, and (c) Satisfies one of the following criteria:

(A) Completion of an advanced training program in anesthesia and related subjects beyond the undergraduate dental curriculum that satisfies the requirements described in the *ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007)* consisting of a minimum of 2 years of a postgraduate anesthesia residency at the time training was commenced.

(B) Completion of any ADA accredited postdoctoral training program, including but not limited to Oral and Maxillofacial Surgery, which affords comprehensive and appropriate training necessary to administer and manage general anesthesia, commensurate with these Guidelines.

(C) In lieu of these requirements, the Board may accept equivalent training or experience in general anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least three individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope, capnograph, pulse oximeter, electrocardiograph monitor (ECG), automated external defibrillator (AED), oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, intravenous medications for treatment of cardiac arrest, narcotic antagonist, antihistaminic, antiarrhythmics, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation at the same time.

(4) During the administration of deep sedation or general anesthesia, and at all times while the patient is under deep sedation or general anesthesia, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory in addition to the dentist performing the dental procedures.

(5) Before inducing deep sedation or general anesthesia the dentist who induces deep sedation or general anesthesia shall:

(a) Evaluate the patient and document, using the *American Society of Anesthesiologists Patient Physical Status Classifications*, that the patient is an appropriate candidate for general anesthesia or deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under deep sedation or general anesthesia shall be visually monitored at all times, including recovery phase. A dentist who induces deep sedation or general anesthesia or anesthesia monitor trained in monitoring patients under deep sedation or general anesthesia shall monitor and record the patient's condition on a contemporaneous record.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring of their heart rate, heart rhythm, oxygen saturation levels and respiration using pulse oximetry, electrocardiograph monitors (ECG) and End-tidal CO2 monitors. The patient's blood pressure, heart rate and oxygen saturation shall be assessed every five minutes, and shall be contemporaneously documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. The person administering the anesthesia and the person monitoring the patient may not leave the patient while the patient is under deep sedation or general anesthesia;

(b) Once sedated, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(c) During the recovery phase, the patient must be monitored, including the use of pulse oximetry, by an individual trained to monitor patients recovering from general anesthesia.

(8) A dentist shall not release a patient who has undergone deep sedation or general anesthesia except to the care of a responsible third party. When a reversal agent is administered, the dentist shall document justification for its use and how the recovery plan was altered.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made in the patient's record by the dentist indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a General Anesthesia Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support (PALS) certificate; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS and/or PALS certificates may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; Administrative correction 6-21-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

818-026-0080
Standards Applicable When a Dentist Performs Dental Procedures and a Qualified Provider Induces Anesthesia

(1) A dentist who does not hold an anesthesia permit may perform dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist licensed by the Oregon Board of Medical Examiners, another Oregon licensed dentist holding an appropriate anesthesia permit, or a Certified Registered Nurse Anesthetist (CRNA) licensed by the Oregon Board of Nursing.

(2) A dentist who does not hold a Nitrous Oxide Permit for nitrous oxide sedation may perform dental procedures on a patient who receives nitrous oxide induced by an Oregon licensed dental hygienist holding a Nitrous Oxide Permit.

(3) A dentist who performs dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist, another dentist holding an anesthesia permit, a CRNA, or a dental hygienist who induces nitrous oxide sedation, shall hold a current and valid BLS for Healthcare Providers certificate, or equivalent, and have the same personnel, facilities, equipment and drugs available during the procedure and during recovery as required of a dentist who has a permit for the level of anesthesia being provided.

(4) A dentist, a dental hygienist or an Expanded Function Dental Assistant (EFDA) who performs procedures on a patient who receives anesthesia induced by a physician anesthesiologist, another dentist holding an anesthesia permit or a CRNA shall not schedule or treat patients for non emergent care during the period of time of the sedation procedure.

(5) Once anesthetized, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(6) The qualified anesthesia provider who induces anesthesia shall monitor the patient's condition until the patient is discharged and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of anesthesia being induced. The anesthesia record shall be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures.

(7) A dentist who intends to use the services of a qualified anesthesia provider as described in section 1 above, shall notify the Board in writing of his/her intent. Such notification need only be submitted once every licensing period.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & (10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 6-2015, f. 7-9-15,cert. ef. 10-01-15

818-026-0110
Office Evaluations

(1) By obtaining an anesthesia permit or by using the services of a physician anesthesiologist, CRNA,

an Oregon licensed dental hygienist or another dentist to administer anesthesia, a licensee consents to in-office evaluations by the Oregon Board of Dentistry, to assess competence in central nervous system anesthesia and to determine compliance with rules of the Board.

(2) The in-office evaluation may include, but is not limited to:

(a) Observation of one or more cases of anesthesia to determine the appropriateness of technique and adequacy of patient evaluation and care;

(b) Inspection of facilities, equipment, drugs and records; and

(c) Confirmation that personnel are adequately trained, hold current Health Care Provider Basic Life Support level certification, or its equivalent, and are competent to respond to reasonable emergencies that may occur during the administration of anesthesia or during the recovery period.

(3) The evaluation shall be performed by a team appointed by the Board and shall include:

(a) A permit holder who has the same type of license as the licensee to be evaluated and who holds a current anesthesia permit in the same class or in a higher class than that held by the licensee being evaluated,

(b) A member of the Board's Anesthesia Committee; and

(c) Any licensed dentist, deemed appropriate by the Board President, may serve as team leader and shall be responsible for organizing and conducting the evaluation and reporting to the Board.

(4) The Board shall give written notice of its intent to conduct an office evaluation to the licensee to be evaluated. Licensee shall cooperate with the evaluation team leader in scheduling the evaluation which shall be held no sooner than 30 days after the date of the notice or later than 90 days after the date of the notice.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & (10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10

818-026-0120
Reporting of Death, Serious Complications or Injury

If a death, any serious complication or any injury occurs which may have resulted from the administration of any central nervous system anesthesia or sedation, the licensee performing the dental procedure must submit a written detailed report to the Board within five days of the incident along with the patient's original complete dental records. If the anesthetic agent was administered by a person other than the person performing the dental procedure, that person must also submit a detailed written report. The detailed report(s) must include:

(1) Name, age and address of patient;

(2) Name of the licensee and other persons present during the incident;

(3) Address where the incident took place;

(4) Type of anesthesia and dosages of drugs administered

(5) A narrative description to the incident including approximate times and evolution of symptoms; and

(6) The anesthesia record and the signed informed consent form for the anesthesia when required.

Stat.. Auth.: ORS 679 & ORS 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03,cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10

818-026-0130
Anesthesia Committee

(1) The Board hereby creates a committee to be known as the Anesthesia Committee. The chairperson shall be a dentist who is a member of the Board. All other members shall hold a Moderate, Deep Sedation or General Anesthesia Sedation Permit. At least one member, other than the chairperson, shall be a practicing specialist who holds a General Anesthesia Permit. Members serve at the pleasure of the Board and shall be appointed by the President of the Board. The Board President shall insure that the committee includes representatives of dental specialty groups including general dentists.

(2) The Anesthesia Committee shall, upon request of the Board, advise the Board on policies and procedures related to the regulation of general anesthesia, deep sedation, moderate sedation, Minimal sedation and nitrous oxide sedation.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.280
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, 6 1999 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99: OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-1-2010, f. 6-22-10, cert. ef. 7-1-10

DIVISION 35

DENTAL HYGIENE

818-035-0010
Definitions

All terms used in this Division shall have the meanings assigned under ORS 679.010 except that:

(1) "Limited Access Patient" means a patient who is unable to receive regular dental hygiene treatment in a dental office.

(2) "Long-Term Care Facility" shall have the same definition as that established under ORS 442.015(14)(b).

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.010 & 680.010
Hist.: DE 5-1984, f. & ef. 5-17-84; DE 2-1992, f. & cert. ef. 6-24-92; OBD 3-1998, f. & cert. ef. 7-13-98; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

818-035-0020
Authorization to Practice

(1) A dental hygienist may practice dental hygiene in the places specified by ORS 680.150 under general supervision upon authorization of a supervising dentist.

(2) A dentist who authorizes a dental hygienist to practice dental hygiene on a limited access patient must review the hygienist's findings.

(3) A supervising dentist, without first examining a new patient, may authorize a dental hygienist:

(a) To take a health history from a patient;

(b) To take dental radiographs;

(c) To perform periodontal probings and record findings;

(d) To gather data regarding the patient; and

(e) To diagnose, treatment plan and provide dental hygiene services.

(4) When hygiene services are provided pursuant to subsection (3), the supervising dentist need not be on the premises when the services are provided.

(5) When hygiene services are provided pursuant to subsection (3), the patient must be scheduled to be examined by the supervising dentist within fifteen business days following the day the hygiene services are provided.

(6) If a new patient has not been examined by the supervising dentist subsequent to receiving dental hygiene services pursuant to subsection (3), no further dental hygiene services may be provided until an examination is done by the supervising dentist.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 680.150
Hist.: DE 7, f. 2-3-66, DE 8, f. 3-20-67, ef. 3-21-67; DE 11, f. 3-31-71, ef. 4-25-71; DE 17, f. 1-20-72, ef. 2-1-72; DE 21, f. 1-9-74, ef. 2-11-74; DE 5-1978, f. & ef. 6-14-78; DE 4-1980, f. & ef. 9-8-80; DE 5-1984, f. & ef. 5-17-84; Renumbered from 818-010-0110; DE 3-1986, f. & ef. 3-31-86; DE 2-1992, f. & cert. ef. 6-24-92; OBD 3-2000, f. & cert. ef. 1-8-01; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-035-0025
Prohibitions

A dental hygienist may not:

(1) Diagnose and treatment plan other than for dental hygiene services;

(2) Cut hard or soft tissue with the exception of root planing;

(3) Extract any tooth;

(4) Fit or adjust any correctional or prosthetic appliance except as provided by OAR 818-035-0030(1)(h);

(5) Prescribe, administer or dispense any drugs except as provided by OAR 818-035-0030, OAR 818-035-0040, OAR 818-026-0060(11) and OAR 818-026-0070(11);

(6) Place, condense, carve or cement permanent restorations except as provided in OAR 818-035-0072, or operatively prepare teeth;

(7) Irrigate or medicate canals; try in cones, or ream, file or fill canals;

(8) Use the behavior management techniques of Hand Over Mouth (HOM) or Hand Over Mouth Airway Restriction (HOMAR) on any patient.

(9) Place or remove healing caps or healing abutments, except under direct supervision.

(10) Place implant impression copings, except under direct supervision.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.020(1)
Hist.: DE 2-1992, f. & cert. ef. 6-24-92; DE 2-1997, f. & cert. ef. 2-20-97; OBD 7-1999, 6-25-99, cert. ef. 7-1-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 2-2001, f. & cert. ef. 1-8-01; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15

818-035-0030
Additional Functions of Dental Hygienists

(1) In addition to functions set forth in ORS 679.010, a dental hygienist may perform the following functions under the general supervision of a licensed dentist:

(a) Make preliminary intra-oral and extra-oral examinations and record findings;

(b) Place periodontal dressings;

(c) Remove periodontal dressings or direct a dental assistant to remove periodontal dressings;

(d) Perform all functions delegable to dental assistants and expanded function dental assistants providing that the dental hygienist is appropriately trained;

(e) Administer and dispense antimicrobial solutions or other antimicrobial agents in the performance of dental hygiene functions.

(f) Prescribe, administer and dispense fluoride, fluoride varnish, antimicrobial solutions for mouth rinsing or other non-systemic antimicrobial agents.

(g) Use high-speed handpieces to polish restorations and to remove cement and adhesive material.

(h) Apply temporary soft relines to complete dentures for the purpose of tissue conditioning.

(i) Perform all aspects of teeth whitening procedures.

(2) A dental hygienist may perform the following functions at the locations and for the persons described in ORS 680.205(1) and (2) without the supervision of a dentist:

(a) Determine the need for and appropriateness of sealants or fluoride; and

(b) Apply sealants or fluoride.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.025(2)(j)
Hist.: DE 5-1984, f. & ef. 5-17-84; DE 3-1986, f. & ef. 3-31-86; DE 2-1992, f. & cert. ef. 6-24-92; OBD 7-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 1-2001, f. & cert. ef. 1-8-01; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2004; f. 5-27-04, cert. ef. 6-1-04; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15

818-035-0040
Expanded Functions of Dental Hygienists

(1) Upon completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, a dental hygienist who completes a Board approved application shall be issued an endorsement to administer local anesthetic agents and local anesthetic reversal agents under the general supervision of a licensed dentist. Local anesthetic reversal agents shall not be used in children less than 6 years of age or weighing less than 33 pounds.

(2) Upon completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, a dental hygienist may administer nitrous oxide under the indirect supervision of a licensed dentist in accordance with the Board's rules regarding anesthesia.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: DE 5-1984, f. & ef. 5-17-84; DE 3-1986, f. & ef. 3-31-86; DE 2-1992, f. & cert. ef. 6-24-92; OBD 3-1998, f. & cert. ef. 7-13-98; OBD 7-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 8-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014

818-035-0065
Expanded Practice Dental Hygiene Permit

The Board shall issue an Expanded Practice Permit to a Dental Hygienist who holds an unrestricted Oregon license, and completes an application approved by the Board, pays the permit fee, and

(1) Certifies on the application that the dental hygienist has completed at least 2,500 hours of supervised dental hygiene clinical practice, or clinical teaching hours, and also completes 40 hours of courses chosen by the applicant in clinical dental hygiene or public health sponsored by continuing education providers approved by the Board; or

(2) Certifies on the application that the dental hygienist has completed a course of study, before or after graduation from a dental hygiene program, that includes at least 500 hours of dental hygiene practice on patients described in ORS 680.205; and

(3) Provides the Board with a copy of the applicant's current professional liability policy or declaration page which will include, the policy number and expiration date of the policy.

(4) Notwithstanding OAR 818-035-0025(1), prior to performing any dental hygiene services an Expanded Practice Dental Hygienist shall examine the patient, gather data, interpret the data to determine the patient's dental hygiene treatment needs and formulate a patient care plan.

(5) An Expanded Practice Dental Hygienist may render the services described in paragraphs 6(a) to (d) of this rule to the patients described in ORS 680.205(1) if the Expanded Practice Dental Hygienist has entered into a written collaborative agreement in a format approved by the Board with a

dentist licensed under ORS Chapter 679.

(6) The collaborative agreement must set forth the agreed upon scope of the dental hygienist's practice with regard to:

(a) Administering local anesthesia;

(b) Administering temporary restorations without excavation;

(c) Prescribing prophylactic antibiotics and nonsteroidal anti-inflammatory drugs; and

(d) Referral parameters.

(7) The collaborative agreement must comply with ORS 679.010 to 680.990.

(8) From the date this rule is effective, the Board has the authority to grant a Limited Access Permit through December 31, 2011, pursuant to ORS 680.200.

Stat. Auth.: ORS 680
Stats. Implemented: ORS 680.200
Hist.: OBD 1-1998, f. & cert. 6-8-98; OBD 3-2001, f. & cert. ef. 1-8-01; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; f. OBD 6-2015, 7-9-15, cert. ef. 10-01-15

818-035-0066
Additional Populations for Expanded Practice Dental Hygiene Permit Holders

A dental hygienist with an Expanded Practice Permit may practice without supervision at locations and on persons as described in ORS 680.205 (1)(a) through (e) and on the following additional populations: Low-income persons, as defined by earning up to 200% of the Federal Poverty Level or on specific population groups designated by the Dental Health Professional Shortage Areas (DHPSA) that lack access to care and that are underserved.

Stat. Auth: ORS 679 & 680
Stats. Implemented: 680.205 & 679.250(9)
Hist.: OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-035-0072
Restorative Functions of Dental Hygienists

(1) The Board shall issue a Restorative Functions Endorsement (RFE) to a dental hygienist who holds an unrestricted Oregon license, and has successfully completed:

(a) A Board approved curriculum from a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, and successfully passed the Western Regional Examining Board's Restorative Examination or other equivalent examinations approved by the Board within the last five years; or

(b) If successful passage of the Western Regional Examining Board's Restorative Examination or other equivalent examinations approved by the Board occurred over five years from the date of application, the applicant must submit verification from another state or jurisdiction where the applicant is legally authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least 25 restorative procedures within the immediate five years from the date of application.

(2) A dental hygienist may perform the placement and finishing of direct alloy and direct composite restorations, under the indirect supervision of a licensed dentist, after the supervising dentist has prepared the tooth (teeth) for restoration(s):

(a) These functions can only be performed after the patient has given informed consent for the procedure and informed consent for the placement of the restoration(s) by a Restorative Functions Endorsement dental hygienist;

(b) Before the patient is released, the final restoration(s) shall be checked by a dentist and documented in the chart.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.010(3) & 679.250(7)
Hist.: OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-035-0100
Record Keeping

(1) An Expanded Practice Dental Hygienist shall refer a patient annually to a dentist who is available to treat the patient, and note in the patient's official chart held by the facility that the patient has been referred.

(2) When a licensed dentist has authorized an Expanded Practice Dental Hygienist to administer local anesthesia, place temporary restorations without excavation or prescribe prophylactic antibiotics and nonsteroidal anti-inflammatory drugs, the Expanded Practice Dental Hygienist shall document in the patient's official chart the name of the collaborating dentist and date the collaborative agreement was entered into.

Stat. Auth.: ORS 680
Stats. Implemented: ORS 680.205(2) & (3)
Hist.: OBD 1-1998, f. & cert. ef. 6-8-98; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 4-2011, f. & cert. ef. 11-15-11

DIVISION 42

DENTAL ASSISTING

818-042-0010
Definitions

(1) "Dental Assistant" means a person who, under the supervision of a dentist, renders assistance to a dentist, dental hygienist, dental technician or another dental assistant or renders assistance under the supervision of a dental hygienist providing dental hygiene services.

(2) "Expanded Function Dental Assistant" means a dental assistant certified by the Board to perform expanded function duties.

(3) "Expanded Function Orthodontic Assistant" means a dental assistant certified by the Board to perform expanded orthodontic function duties.

(4) "Direct Supervision" means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

(5) "Indirect Supervision" means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed.

(6) "General Supervision" means supervision requiring that a dentist authorize the procedures, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04

818-042-0020
Dentist and Dental Hygienist Responsibility

(1) A dentist is responsible for assuring that a dental assistant has been properly trained, has demonstrated proficiency, and is supervised in all the duties the assistant performs in the dental office. Unless otherwise specified, dental assistants shall work under indirect supervision in the dental office.

(2) A dental hygienist who works under general supervision may supervise a dental assistant in the dental office if the dental assistant is rendering assistance to the dental hygienist in providing dental hygiene services and the dentist is not in the office to provide indirect supervision. A dental hygienist with an Expanded Practice Permit may hire and supervise a dental assistant who will render assistance to the dental hygienist in providing dental hygiene services.

(3) The supervising dentist or dental hygienist is responsible for assuring that all required licenses, permits or certificates are current and posted in a conspicuous place.

(4) Dental assistants who are in compliance with written training and screening protocols adopted by the Board may perform oral health screenings under general supervision.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

818-042-0030
Infection Control

The supervising dentist shall be responsible for assuring that dental assistants are trained in infection control, bloodborne pathogens and universal precautions, exposure control, personal protective equipment, infectious waste disposal, Hepatitis B and C and post exposure follow-up.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00

818-042-0040
Prohibited Acts

No licensee may authorize any dental assistant to perform the following acts:

(1) Diagnose or plan treatment.

(2) Cut hard or soft tissue.

(3) Any Expanded Function duty (818-042-0070 and 818-042-0090) or Expanded Orthodontic Function duty (818-042-0100) without holding the appropriate certification.

(4) Correct or attempt to correct the malposition or malocclusion of teeth except as provided by OAR 818-042-0100.

(5) Adjust or attempt to adjust any orthodontic wire, fixed or removable appliance or other structure while it is in the patient's mouth.

(6) Administer any drug except fluoride, topical anesthetic, desensitizing agents, over the counter medications per package instructions or drugs administered pursuant to OAR 818-026-0030(6), OAR 818-026-0050(5)(a) OAR 818-026-0060(11), 818-026-0065(11), 818-026-0070(11) and as provided in 818-042-0070 and 818-042-0115.

(7) Prescribe any drug.

(8) Place periodontal packs.

(9) Start nitrous oxide.

(10) Remove stains or deposits except as provided in OAR 818-042-0070.

(11) Use ultrasonic equipment intra-orally except as provided in OAR 818-042-0100.

(12) Use a high-speed handpiece or any device that is operated by a high-speed handpiece intra-orally.

(13) Use lasers, except laser-curing lights.

(14) Use air abrasion or air polishing.

(15) Remove teeth or parts of tooth structure.

(16) Cement or bond any fixed prosthetic or orthodontic appliance including bands, brackets, retainers, tooth moving devices, or orthopedic appliances except as provided in 818-042-0100.

(17) Condense and carve permanent restorative material except as provided in OAR 818-042-0095.

(18) Place any type of cord subgingivally except as provided in OAR 818-042-0090

(19) Take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, except diagnostic or opposing models or for the fabrication of temporary or provisional restorations or appliances.

(20) Apply denture relines except as provided in OAR 818-042-0090(2).

(21) Expose radiographs without holding a current Certificate of Radiologic Proficiency issued by the Board (818-042-0050 and 818-042-0060) except while taking a course of instruction approved by the Oregon Health Authority, Oregon Public Health Division, Office of Environmental Public Health, Radiation Protection Services, or the Oregon Board of Dentistry.

(22) Use the behavior management techniques known as Hand Over Mouth (HOM) or Hand Over Mouth Airway Restriction (HOMAR) on any patient.

(23) Perform periodontal probing.

(24) Place or remove healing caps or healing abutments, except under direct supervision.

(25) Place implant impression copings, except under direct supervision.

(26) Any act in violation of Board statute or rules.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.020, 679.025 & 679.250
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 1-2001, f. & cert. ef. 1-08-01; OBD 15-2001; f. 12-7-01, cert. ef. 1-1-02; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; OBD 6-2014, f.7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-05, cert. ef. 10-1-15

818-042-0050
Taking of X-Rays — Exposing of Radiographs

(1) A dentist may authorize the following persons to place films, adjust equipment preparatory to exposing films, and expose the films under general supervision:

(a) A dental assistant certified by the Board in radiologic proficiency; or

(b) A radiologic technologist licensed by the Oregon Board of Medical Imaging and certified by the Oregon Board of Dentistry (OBD) who has completed ten (10) clock hours in a Board approved dental radiology course and submitted a satisfactory full mouth series of radiographs to the OBD.

(2) A dentist or dental hygienist may authorize a dental assistant who has completed a course of instruction approved by the Oregon Board of Dentistry, and who has passed the written Dental Radiation Health and Safety Examination administered by the Dental Assisting National Board, or comparable exam administered by any other testing entity authorized by the Board, or other comparable requirements approved by the Oregon Board of Dentistry to place films, adjust equipment preparatory to exposing films, and expose the films under the indirect supervision of a dentist, dental hygienist, or dental assistant who holds an Oregon Radiologic Proficiency Certificate. The dental assistant must successfully complete the clinical examination within six months of the dentist authorizing the assistant to take radiographs.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15

818-042-0060
Certification — Radiologic Proficiency

(1) The Board may certify a dental assistant in radiologic proficiency by credential in accordance with OAR 818-042-0120, or if the assistant:

(2) Submits an application on a form approved by the Board, pays the application fee and:

(a) Completes a course of instruction approved by the Oregon Board of Dentistry, in accordance with OAR 333-106-0055 or submits evidence the Oregon Health Authority, Center for Health Protection,

Radiation Protection Services recognizes that the equivalent training has been successfully completed;

(b) Passes the written Dental Radiation Health and Safety Examination administered by the Dental Assisting National Board, Inc. (DANB), or comparable exam administered by any other testing entity authorized by the Board, or other comparable requirements approved by the Oregon Board of Dentistry; and

(c) Passes a clinical examination approved by the Board and graded by the Dental Assisting National Board, Inc. (DANB), or any other testing entity authorized by the Board, consisting of exposing, developing and mounting a full mouth series of radiographs or by exposing and mounting a digital full mouth series of radiographic images (14 to 18 periapical and 4 bitewing radiographic images) within one hour and under the supervision of a person permitted to take radiographs in Oregon. No portion of the clinical examination may be completed in advance; a maximum of three retakes is permitted (i.e., three individual radiographic exposures, not three full mouth series); only the applicant may determine the necessity of retakes. The radiographic images should be acquired on an adult patient with at least 24 fully erupted teeth. The full mouth series must be submitted for grading within six months after it is taken.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.020, 679.025, 679.250
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef 12-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14; OBD 6-2014, f. 7-2-14, cert. ef. 8-1-2014

818-042-0070
Expanded Function Dental Assistants (EFDA)

The following duties are considered Expanded Function Duties and may be performed only after the dental assistant complies with the requirements of 818-042-0080:

(1) Polish the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis to remove stains.

(2) Remove temporary crowns for final cementation and clean teeth for final cementation;

(3) Preliminarily fit crowns to check contacts or to adjust occlusion outside the mouth;

(4) Place temporary restorative material (i.e., zinc oxide eugenol based material) in teeth providing that the patient is checked by a dentist before and after the procedure is performed;

(5) Place and remove matrix retainers for alloy and composite restorations;

(6) Polish amalgam or composite surfaces with a slow speed handpiece;

(7) Remove excess supragingival cement from crowns, bridges, bands or brackets with hand instruments providing that the patient is checked by a dentist after the procedure is performed;

(8) Fabricate temporary crowns, and temporarily cement the temporary crown. The cemented crown must be examined and approved by the dentist prior to the patient being released;

(9) Under general supervision, when the dentist is not available and the patient is in discomfort, an EFDA may recement a temporary crown or recement a permanent crown with temporary cement for a patient of record providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate; and

(10) Perform all aspects of teeth whitening procedures.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.020, 679.025 & 679.250
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15

818-042-0080
Certification — Expanded Function Dental Assistant (EFDA)

The Board may certify a dental assistant as an expanded function assistant:

(1) By credential in accordance with OAR 818-042-0120, or

(2) If the assistant submits a completed application, pays the fee and provides evidence of;

(a) Certification of Radiologic Proficiency (OAR 818-042-0060); and satisfactory completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Certification of Radiologic Proficiency (OAR 818-042-0060); and passage of the Basic or CDA examination, and the Expanded Function Dental Assistant examination, or equivalent successor examinations, administered by the Dental Assisting National Board, Inc. (DANB), or any other testing entity authorized by the Board; and certification by a licensed dentist that the applicant has successfully polished 12 amalgam or composite surfaces, removed supra-gingival excess cement from six (6) crowns or bridges with hand instruments; placed temporary

restorative material (i.e., zinc oxide eugenol based material) in six (6) teeth; preliminarily fitted six (6) crowns to check contacts or to adjust occlusion outside the mouth; removed six (6) temporary crowns for final cementation and cleaned teeth for final cementation; fabricated six (6) temporary crowns and temporarily cemented the crowns; polished the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis in six (6) patients; placed two matrix bands in each quadrant on teeth prepared for Class II restorations; and complete six (6) teeth whitening or bleach procedures.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 10-1999 (Temp), f. 12-2-99, cert. ef. 1-1-00 thru 6-28-00; OBD 8-2000, f. 6-22-00, cert. ef. 6-29-00; OBD 1-2004; f. 5-27-04, cert. ef. 6-1-04; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

818-042-0090
Additional Functions of EFDAs

Upon successful completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association, or other course of instruction approved by the Board, a certified Expanded Function Dental Assistant may perform the following functions under the indirect supervision of a dentist or dental hygienist providing that the procedure is checked by the dentist or dental hygienist prior to the patient being dismissed:

(1) Apply pit and fissure sealants provided the patient is examined before the sealants are placed. The sealants must be placed within 45 days of the procedure being authorized by a dentist or dental hygienist.

(2) Apply temporary soft relines to complete dentures for the purpose of tissue conditioning.

(3) Place cord subgingivally.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15

818-042-0095
Restorative Functions of Dental Assistants

(1) The Board shall issue a Restorative Functions Certificate (RFC) to a dental assistant who holds an Oregon EFDA Certificate, and has successfully completed:

(a) A Board approved curriculum from a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, and successfully passed the Western Regional Examining Board's Restorative Examination or other equivalent examinations approved by the Board within the last five years, or

(b) If successful passage of the Western Regional Examining Board's Restorative Examination or other equivalent examinations approved by the Board occurred over five years from the date of application, the applicant must submit verification from another state or jurisdiction where the applicant is legally authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least 25 restorative procedures within the immediate five years from the date of application.

(2) A dental assistant may perform the placement and finishing of direct alloy or direct composite restorations, under the indirect supervision of a licensed dentist, after the supervising dentist has prepared the tooth (teeth) for restoration(s):

(a) These functions can only be performed after the patient has given informed consent for the procedure and informed consent for the placement of the restoration by a Restorative Functions dental assistant.

(b) Before the patient is released, the final restoration(s) shall be checked by a dentist and documented in the chart.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.010 & 679.250(7)
Hist.: OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-042-0100
Expanded Functions – Orthodontic Assistant (EFODA)

(1) An EFODA may perform the following duties while under the indirect supervision of a licensed dentist:

(a) Remove orthodontic bands and brackets and attachments with removal of the bonding material and cement. An ultrasonic scaler, hand scaler or slow speed handpiece may be used. Use of a high speed handpiece is prohibited;

(b) Select or try for the fit of orthodontic bands;

(c) Recement loose orthodontic bands;

(d) Place and remove orthodontic separators;

(e) Prepare teeth for bonding or placement of orthodontic appliances and select, pre-position and cure orthodontic brackets, attachments and/or retainers after their position has been approved by the supervising licensed dentist;

(f) Fit and adjust headgear;

(g) Remove fixed orthodontic appliances;

(h) Remove and replace orthodontic wires. Place and ligate archwires. Place elastic ligatures or chains as directed;

(i) Cut arch wires; and

(j)Take impressions for study models or temporary oral devices such as, but not limited to, space maintainers, orthodontic retainers and occlusal guards.

(2) An EFODA may perform the following duties while under the general supervision of a licensed dentist:

(a) An expanded function orthodontic assistant may remove any portion of an orthodontic appliance causing a patient discomfort and in the process may replace ligatures and/or separators if the dentist is not available, providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate.

(b) An EFODA may recement orthodontic bands if the dentist is not available and the patient is in discomfort, providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

818-042-0110
Certification — Expanded Function Orthodontic Assistant

The Board may certify a dental assistant as an expanded function orthodontic assistant

(1) By credential in accordance with OAR 818-042-0120, or

(2) Completion of an application, payment of fee and satisfactory evidence of;

(a) Completion of a course of instruction in a program in dental assisting accredited by the American Dental Association Commission on Dental Accreditation; or

(b) Passage of the Basic, CDA or COA examination, and Expanded Function Orthodontic Assistant examination, or equivalent successor examinations, administered by the Dental Assisting National Board, Inc. (DANB)**,** or any other testing entity authorized by the Board; and certification by a licensed dentist that the applicant has successfully removed cement from bands using an ultrasonic or hand scaler, or a slow speed hand piece, on six (6) patients and recemented loose orthodontic bands, fit and adjust headgear, remove fixed orthodontic appliances and take impressions for four (4) patients.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 10-1999 (Temp). f. 12-2-99, cert. ef. 1-1-00 thru 6-28-00; OBD 8-2000, f. 6-22-00, cert. ef. 6-29-00; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-042-0115
Expanded Functions – Certified Anesthesia Dental Assistant

(1) A dentist holding the appropriate anesthesia permit may verbally authorize a Certified Anesthesia Dental Assistant to:

(a) Administer medications into an existing intravenous (IV) line of a patient under sedation or anesthesia under direct visual supervision.

(b) Administer emergency medications to a patient in order to assist the licensee in an emergent situation under direct visual supervision.

(2) A dentist holding the appropriate anesthesia permit may verbally authorize a Certified Anesthesia Dental Assistant to dispense to a patient, oral medications that have been prepared by the dentist and given to the anesthesia dental assistant by the supervising dentist for oral administration to a patient under Indirect Supervision.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.020(1), 679.025(1) & 679.250(7)
Hist.: OBD 1-2001, f. & cert. ef. 1-8-01; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06

818-042-0116
Certification – Anesthesia Dental Assistant

The Board may certify a person as an Anesthesia Dental Assistant if the applicant submits a completed application, pays the certification fee and shows satisfactory evidence of:

(1) Successful completion of:

(a) The “Oral and Maxillofacial Surgery Anesthesia Assistants Program” or successor program, conducted by the American Association of Oral and Maxillofacial Surgeons; or

(b) The “Oral and Maxillofacial Surgery

Assistants Course" or successor course, conducted by the California Association of Oral and Maxillofacial Surgeons (CALAOMS), or a successor entity; or

(c) The "Certified Oral and Maxillofacial Surgery Assistant" examination, or successor examination, conducted by the Dental Assisting National Board or other Board approved examination; and

(2) Holding valid and current documentation showing successful completion of a Health Care Provider BLS/CPR course, or its equivalent.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7)
Hist.: OBD 1-2001, f. & cert. ef. 1-8-01; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06

818-042-0117
Initiation of IV Line

Upon successful completion of a course in intravenous access or phlebotomy approved by the Board, a Certified Anesthesia Dental Assistant may initiate an intravenous (IV) infusion line for a patient being prepared for IV medications, sedation, or general anesthesia under the Indirect Supervision of a dentist holding the appropriate anesthesia permit.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.020(1), 679.025(1) & 679.250(7)
Hist.: OBD 1-2001, f. & cert. ef. 1-8-01; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06

818-042-0120
Certification by Credential

(1) Dental Assistants who wish to be certified by the Board in Radiologic Proficiency or as Expanded Function Dental Assistants, or as Expanded Function Orthodontic Dental Assistants shall:

(a) Be certified by another state in the functions for which application is made. The training and certification requirements of the state in which the dental assistant is certified must be substantially similar to Oregon's requirements; or

(b) Have worked for at least 1,000 hours in the past two years in a dental office where such employment involved to a significant extent the functions for which certification is sought; and

(c) Shall be evaluated by a licensed dentist, using a Board approved checklist, to assure that the assistant is competent in the expanded functions.

(2) Applicants applying for certification by credential in Radiologic Proficiency must obtain certification from the Oregon Health Authority, Center for Health Protection, Radiation Protection Services, of having successfully completed training equivalent to that required by OAR 333-106-0055 or approved by the Oregon Board of Dentistry.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.020, 679.025 & 679.250
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-14, cert. ef. 8-1-2014

818-042-0130
Application for Certification by Credential

An applicant for certification by credential shall submit to the Board:

(1) An application form approved by the Board, with the appropriate fee;

(2) Proof of certification by another state and any other recognized certifications (such as CDA or COA certification) and a description of the examination and training required by the state in which the assistant is certified submitted from the state directly to the Board; or

(3) Certification that the assistant has been employed for at least 1,000 hours in the past two years as a dental assistant performing the functions for which certification is being sought.

(4) If applying for certification by credential as an EFDA or EFODA, certification by a licensed dentist that the applicant is competent to perform the functions for which certification is sought; and

(5) If applying for certification by credential in Radiologic Proficiency, certification from the Oregon Health Authority, Center for Health Protection, Radiation Protection Services, or the Oregon Board of Dentistry, that the applicant has met that agency's training requirements for x-ray machine operators, or other comparable requirements approved by the Oregon Board of Dentistry.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.020, 679.025 & 679.250
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014