Chapter 678

1959 REPLACEMENT PART

Nurses and Nursing Home Administrators

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PROFESSIONAL NURSES

678.010 Definitions for ORS 678.010 to 678.360. As used in ORS 678.010 to 678.360, unless the context requires otherwise:

(1) "Board" means the Oregon State Board of Nursing.

(2) Words used in the feminine gender may include the masculine. [Amended by 1957 c 316 §2]

678.015 "Practice of professional nursing" defined. The practice of professional nursing is the performance for compensation of any act, requiring substantial specialized judgment and skill and based on knowledge and application of the principles of biological, physical and social science, in the observation, care and counsel of the ill, injured or infirm, or in the maintenance of health or prevention of illness of others, or in the supervision and teaching of principles and techniques of nursing to other personnel involved in the nursing care of patients, or the administration of medications and treatments, whether the piercing of tissues is involved or not, as prescribed by a person authorized to practice medicine or surgery, osteopathy or dentistry in Oregon. This section does not authorize a licensed professional nurse to perform acts of diagnosis or prescription of therapeutic or corrective measures [1957 c 316 §6]

678.020 [Amended by 1953 c.254 §16; repealed by 1957 c.316 §3 (ORS 678.021 enacted in lieu of ORS 678.020)]

678.021 License required to practice as professional nurse. Except as provided in ORS 678 031 or 678 061, it shall be unlawful for any person not licensed under ORS 678 010 to 678 170 by the Oregon State Board of Nursing:

(1) To practice professional nursing or offer to practice professional nursing.

(2) To use any sign, card or device to indicate that such person is a licensed professional nurse or to hold oneself out to be a licensed professional nurse, or to append the letters "R N." to her name. [1957 c.316 §4 (enacted in lieu of ORS 678 020)]

678.030 [Repealed by 1957 c 316 §7 (ORS 678 031 enacted in lieu of ORS 678.030)]

678.031 Application of ORS 678.010 to 678.160. ORS 678.010 to 678.160 shall not be construed to affect or prevent:

(1) The employment of nurses in institutions or agencies of the Federal Government.

(2) The practice of nursing which is incidental to the program of study by students enrolled in schools of nursing approved by the board.

(3) The furnishing of nursing assistance in an emergency.

(4) Services and acts of technicians, assistants and other persons performed under the direction and control of persons duly licensed to practice medicine or surgery, osteopathy, dentistry, chiropractic, naturopathy or chiropody in this state within the limits of the license of the licentiate under whose direction and control the services and acts are performed; provided, that nothing in this Act shall be construed to permit any person who is not licensed under ORS 678 010 to 678 170 by the Oregon State Board of Nursing to do any act prohibited by subsection (2) of ORS 678 021.

(5) The practice of any other occupation or profession licensed under the laws of this state. [1957 c 316 §8 (enacted in lieu of ORS 678 030)]

Note: The Legislative Counsel has not undertaken, pursuant to ORS 173 160, to substitute for the words "this Act" in subsection (4) above, references to ORS sections

678.040 Qualifications of applicants for license. Each applicant for a license shall furnish satisfactory evidence that she is of good moral character, that her physical and mental health is such that it is safe for her to practice, and that she has been graduated from a school of nursing approved by the board. Every applicant for a license who entered a school of nursing subsequent to the year 1930 shall also furnish satisfactory evidence that she has been graduated from a high school or from an educational institution of equal or higher educational level. [Amended by 1953 c 254 §16; 1957 c.316 §9]

678.050 Examining applicants; issuing license; reciprocity. (1) Examinations for the licensing of applicants shall be held not less frequently than once every year, and at such times and places as the board may determine. Notice of the examination dates shall be published in at least one professional nursing journal and by mail to all approved schools of nursing in Oregon. All duly qualified applicants who pass the examination shall be issued the license provided for in ORS 678.010 to 678 160. The licenses issued by the board shall be signed by the executive

secretary and shall be attested by the president and secretary of the board. The applicant shall be required to pass a written examination in such subjects relating to nursing as the board may determine are necessary to guard the health and welfare of the people.

(2) Upon written application and receipt of a fee of $15, the board may in its discretion issue a license without examination to a nurse who is licensed to practice professional nursing in another state of the United States or a foreign country and who was graduated from a school of nursing where the requirements were essentially equivalent to those of approved schools of nursing in Oregon. The board shall be sole judge of credentials of any nurse applying for a license without examination. [Amended by 1953 c.254 §16; 1957 c.316 §10]

678.060 [Amended by 1953 c.254 §16; repealed by 1957 c 316 §11 (ORS 678 061 enacted in lieu of ORS 678 060)]

678.061 Temporary permits for recent graduates of approved schools or nurses licensed in other states. A temporary permit to practice nursing in Oregon may be granted to an applicant who is licensed to practice nursing in another state or a recent graduate of any approved school of nursing upon the filing of a written application and payment of the registration fee of $15. This fee shall serve as the fee for the initial license when granted by the board. The temporary permit to practice nursing shall be granted for a period not to exceed three months and may be renewed at the discretion of the board [1957 c 316 §12 (enacted in lieu of ORS 678.060)]

678.070 [Repealed by 1953 c.254 §16]

678.080 Recording and exhibiting license. Any person to whom a license is issued shall, within 30 days thereafter, cause the license to be recorded with the clerk of the county in which the licensee first practices in Oregon. A licensee shall be prepared, whenever requested, to exhibit the current license or a certified copy thereof. [Amended by 1953 c.254 §16; 1957 c 316 §13]

678.085 False representation or concealment prohibited. No person shall wilfully make a false statement or representation of any material matter, or wilfully conceal any material fact in applying for a license or temporary permit under ORS 678.010 to 678.160 or a renewal of such license or permit. [1953 c.254 §14; 1957 c.316 §14]

678.090 [Repealed by 1953 c.254 §16]

678.100 [Amended by 1953 c.254 §16; repealed by 1957 c.316 §15 (ORS 678.101 enacted in lieu of ORS 678 100)]

678.101 Renewal of license; temporary retirement from practice. (1) Every person licensed to practice professional nursing or hereafter licensed to practice professional nursing in this state shall apply for renewal of her license on or before July 1 of each year. Each application shall be accompanied by a renewal fee of $3. Any person not submitting her application and renewal fee on or before July 1 of each year and who does not request to be placed on the nonpracticing list as provided in subsection (2) of this section shall be considered delinquent and her license declared void.

(2) A person licensed to practice professional nursing in this state who desires to retire temporarily from the practice of professional nursing shall give written notice of such desire to the board and upon receipt of such notice, the name of such person shall be placed upon a nonpracticing list maintained by the board. While on this list such person shall not be subject to the payment of the renewal fee and shall not engage in the practice of professional nursing in this state. When such person desires to resume the practice of professional nursing, request for renewal of license and payment of the renewal fee for the current year shall be made to the board. If the licensee has not practiced professional nursing in any state for a period of five years, the board before reissuing a license may require the applicant to demonstrate her ability to give safe nursing care by undergoing a supervised experience in nursing practice as shall be designated by the board No person will be issued a renewal license if, in the judgment of the board, the applicant's conduct has been such, during her absence, that she would be denied a license if applying for an initial license to practice professional nursing in this state. [1957 c.316 §16 (enacted in lieu of ORS 678.100)]

678.110 [Repealed by 1957 c.316 §17 (ORS 678.111 enacted in lieu of ORS 678 110)]

678.111 Grounds for revocation or suspension of license or permit or censure of licensee. The license or temporary permit to practice professional nursing of any person may be revoked or suspended or the licensee may be reprimanded or censored by the board, for any of the following causes:

(1) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude if the conviction occurs after a license or temporary permit to practice professional nursing is issued to such licensee. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence.

(2) Gross incompetence of the licensee in the practice of professional nursing.

(3) Any wilful fraud or misrepresentation in applying for or procuring a license, a renewal license, or temporary permit to practice professional nursing in this state.

(4) Fraud or deceit of the licensee in the practice of professional nursing or in her admission to such practice.

(5) Mental or physical inability to give safe nursing care.

(6) Habitual or excessive use of intoxicating liquor or drugs.

(7) Conduct derogatory to the morals or standards of professional nursing. [1957 c.316 §18 (enacted in lieu of ORS 678.110)]

678.115 Revocation or suspension or disciplinary action by board. (1) The board has jurisdiction to hear all charges brought against an accused licensee. All charges must be in writing, verified under oath by some party familiar with the facts charged, and filed with the secretary of the board. If the charges are considered worthy of a hearing, the board shall designate a time and place for the hearing. A written notice stating the time and place of the hearing and the nature of the charge shall be served upon the accused licensee by registered or certified mail at least 15 days before the date of the hearing. If the service by registered or certified mail cannot be effected for any reason, the notice of hearing shall be given by sending the notice by ordinary mail to the accused's last known postoffice address at least 20 days before the date of the hearing.

(2) At any hearing the accused has the right to appear in person, be represented by counsel and introduce testimony in her behalf. The accused has the right to have witnesses, books, papers and documents subpenaed for her by the board upon due application.

(3) The board shall consider the charges, answer, testimony, exhibits and all other documents introduced at the hearing and shall make findings of fact and a decision based thereon The decision shall be in the form of a written order. The order shall be filed with the board and a copy served upon the accused as soon as is feasible in the same manner that notice is served on the accused under subsection (1) of this section.

(4) If any person fails to comply with any lawful rule, regulation or order of the board, or fails to obey any subpena issued by a member of the board, or refuses to testify concerning any matter on which she may lawfully be interrogated by the board, the secretary may apply to any circuit court of this state or judge thereof to compel obedience thereto. The court or judge, upon application, may compel obedience by proceedings for contempt as in the case of failure to obey a lawful judgment, decree, order or process of the court. [1957 c.316 §20 (enacted in lieu of ORS 678.120)]

678.120 [Repealed by 1957 c 316 §19 (ORS 678 115 enacted in lieu of ORS 678 120)]

678.121 Appeal from action of board. (1) If the board suspends or revokes the license or temporary permit of the accused licensee, she may appeal from the decision of the board to the circuit court for the county in which the accused licensee resides. Within 30 days after the filing of the decision the appellant shall file a notice of appeal with the secretary of the board.

(2) Within 15 days after the filing of the notice of appeal, the secretary of the board shall file with the clerk of the circuit court of the county to which the appeal has been taken:

(a) A copy of the complaint, notice to appear and any other documents in the nature of pleadings filed by the board.

(b) The answer and any other documents in the nature of pleadings filed by the accused.

(c) A transcript of testimony, exhibits and any documents in the possession of the board which have any relevancy to the appeal.

(3) Upon the filing of the records as required by this section, the clerk of the court shall set the appeal for hearing and notify

the appellant and the board of the time and place of the hearing, which shall be before a judge of that court On appeal the court shall consider the record certified by the secretary of the board and such other evidence or testimony that either party may offer and introduce; and the court may affirm, reverse or modify the order of revocation or suspension entered by the board.

(4) No person whose license or temporary permit has been revoked or suspended by the board shall practice professional nursing pending the final decision of the court upon appeal from the decision or order of the board [1957 c.316 §22]

678.125 Restoration of right to practice after license revoked. Whenever the license of a licensed professional nurse is revoked for any cause, the Oregon State Board of Nursing may, in its discretion, after the lapse of 12 months from the date of such revocation, upon written application and after a hearing, restore to such former licensed professional nurse the right to practice professional nursing in this state. [1957 c.316 §24]

678.130 Fees. All applicants for licensing by examination under ORS 678.010 to 678.160 shall pay a fee of $15 before each examination. For issuing a duplicate license the board shall charge a fee of $5. For proctoring an examination for licensure in another state the board shall charge a fee of $3. For certifying to a foreign state the license of a nurse in this state, the board shall charge a fee of $1. Licenses declared void due to delinquent payment of dues and failure to file written notice requesting to be placed on the nonpracticing list can only be renewed thereafter upon written application to the board and payment of a fee of $15. [Amended by 1953 c 254 §16; 1957 c.316 §25]

678.140 Oregon State Board of Nursing. (1) There hereby is created an Oregon State Board of Nursing whose duty it shall be to examine and license professional nurses, to accredit schools of nursing in Oregon and to discharge the other duties prescribed by this chapter. The board shall be composed of five members, each of whom shall be at the time of appointment:

(a) A licensed professional nurse.

(b) A resident of the state and actively engaged in the practice of professional nursing.

(c) A graduate from an approved school of nursing who has practiced successfully for a period of at least five years and who has demonstrated her ability for professional leadership and promoted the development of improved nursing care of patients.

(2) The members of the board shall be appointed by the Governor from a list of 10 names suggested by the Oregon State Nurses' Association The members of the board shall be appointed to hold office for terms of three years, beginning on July 1 Upon the expiration of the term of office the Governor shall likewise fill the vacancy for a term of three years from the date of expiration of term of office from the list of 10 names submitted to him every year by the Oregon State Nurses' Association. An unexpired term of a board member shall be filled in the same manner as an original appointment is made, and in such case the appointment shall be for the remainder of the unexpired term. [Amended by 1953 c 254 §16; 1957 c 316 §26]

678.150 Powers, functions and duties of board and board members. (1) The board shall meet as soon as is practicable after July 1 of each year and shall elect from their number a president and secretary, who shall also act as treasurer, each of whom shall serve for one year or until a successor is elected and qualified. Special meetings of the board may be called by the secretary upon the request of any three members. Three members shall constitute a quorum.

(2) Before entering upon the duties of the office the elected secretary shall execute a bond in the penal sum of $1,000, in favor of the State of Oregon, conditioned for the faithful discharge of the duties of the office and a full accounting for all moneys received, which shall be satisfactory to and be filed with the Secretary of State. The cost of the bond shall be paid from the funds of the board.

(3) The board shall adopt a seal which shall be in the care of the elected secretary.

(4) The board shall keep a record of all its proceedings, including names and addresses of all the nurses licensed or having temporary permits and schools of nursing approved under ORS 678 010 to 678.160. The records shall at all reasonable times be open to public scrutiny.

(5) The board may hire, define the duties and fix the salary of an executive secretary and hire and define the duties of such em-

ployes, assistants and agents as are necessary to carry into effect the provisions of ORS 678.010 to 678 360, and may defray the necessary operating expenses of the board. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board.

(6) The board is empowered to bond such employed personnel as it sees fit.

(7) The board shall have the power to make such rules and regulations as may be necessary or proper to determine the qualifications of applicants for a license to practice professional nursing in this state and to establish educational, moral and professional standards for such applicants subject to laws of this state.

(8) The board is authorized to:

(a) Adopt and from time to time revise such rules and regulations not inconsistent with the laws of this state as may be necessary to enable it to carry into effect the provisions of ORS 678.010 to 678.360.

(b) Prescribe minimum curricula and standards for educational schools and programs preparing persons for licensing under ORS 678.010 to 678.160.

(c) Provide for surveys by an agent or agents designated by the board of such schools and programs at such times as may be necessary.

(d) Accredit such schools and programs as meet the requirements of ORS 678.010 to 678.160 and of the board.

(e) Deny or withdraw accreditation from educational programs for failure to meet prescribed minimum curricula or other standards.

(f) Examine, license and renew the licenses of duly qualified applicants.

(g) Issue subpenas, compel the attendance of witnesses and administer oaths to persons giving testimony at hearings.

(h) Cause the prosecution of all persons violating the provisions of ORS 678.010 to 678.160 and incur necessary expenses thereof.

(9) The board shall have all powers necessary or proper to carry granted powers into effect. [Amended by 1953 c.254 §16; 1957 c.316 §28; subsections (5) to (9) enacted as 1957 c.316 §30]

678.160 Compensation of board members. Subject to limitations imposed by law members of the board shall be compensated for all legitimate and necessary expenses incurred in the discharge of their duties and shall receive $10 per day for each day or part thereof during which they are in attendance upon board meetings or otherwise engaged in discharging their duties. [Amended by 1953 c.254 §16; 1957 c.316 §31]

678.162 District attorney to represent board. In any action, suit or proceeding under ORS 678.010 to 678.168, or brought by or against the board, the district attorney for the county in which the venue of such action, suit or proceeding may be, shall represent the board if the board so requests [1953 c.254 §9]

678.164 Enjoining violations or threatened violations. (1) Upon suit by the board, the circuit courts have jurisdiction to restrain or enjoin any violation or threatened violation of ORS 678.010 to 678.168. Such suit may be brought against a person who has failed to become licensed or obtain a temporary permit or whose license or temporary permit has been revoked or declared void.

(2) The remedies provided for in this section are in addition to, and not in lieu of, other penalties provided for in ORS 678.010 to 678.168 and 678.990. [1953 c.254 §11; 1957 c.316 §32]

678.166 Jurisdiction over prosecutions for violations. Justice courts, district courts and circuit courts have concurrent jurisdiction of prosecutions for violation of ORS 678.010 to 678.168. [1953 c.254 §10]

678.168 Disposition of fines. All fines imposed and collected under subsections (1) and (2) of ORS 678.990 shall be paid into the treasury of the county in which such suits, actions or proceedings were commenced. All moneys thus paid into the treasury, over and above the amount necessary to reimburse the county for any expense incurred by the county in any suit, action or proceeding shall be paid before January 1 of each year into the State Treasury and become a part of the fund to be used by the board solely in the enforcement of ORS 678.010 to 678.168. [1953 c.254 §12]

678.170 Disposition of receipts. All money received by the board under ORS 678.010 to 678.360, together with all money received by the board from other sources, shall be deposited in the General Fund and credited to a special account available to the board in performing the functions imposed upon it by

law. All moneys credited to such special account hereby are appropriated for such purposes.

678.180 to 678.200 [Reserved for expansion]

LICENSED PRACTICAL NURSES

678.210 Definitions for ORS 678.210 to 678.360. As used in ORS 678.210 to 678.360, unless the context requires otherwise:

(1) "Licensed practical nurse," abbreviated "L. P. N.," means a person licensed in this state as a practical nurse.

(2) "Oregon State Board of Nursing" or "board" means the Oregon State Board of Nursing as enlarged under ORS 678.235.

(3) "Practical nursing" means the performing by any person, for compensation or personal profit, services in the nursing or care of the sick, not requiring specialized education, knowledge or skill equivalent to that of a graduate or registered nurse [Amended by 1959 c.49 §1]

678.220 License required to use title "Licensed Practical Nurse." (1) Any person practicing or offering to practice practical nursing in this state for compensation or personal profit may submit evidence that he or she is qualified so to practice, and become licensed as a practical nurse under ORS 678.210 to 678.360.

(2) Any person licensed pursuant to ORS 678.210 to 678.360 may use the title of "Licensed Practical Nurse" and use the initials "L. P. N." following his or her name.

678.230 Persons not affected. ORS 678.210 to 678.360 do not affect or apply to gratuitous nursing of the sick by friends or members of the family, nor do those sections apply to any person nursing the sick for hire but who does not in any way assume the title of "Licensed Practical Nurse" or use the initials "L. P. N."

678.235 Additional members for board when carrying out ORS 678.210 to 678.360. (1) The Governor shall appoint two additional persons to sit as members of the Oregon State Board of Nursing in carrying out the provisions of ORS 678.210 to 678.360. The additional members so appointed shall only sit as members of the board when the board considers or acts on matters concerning or related to ORS 678 210 to 678.360.

(2) A person is eligible for appointment to the board under this section only if, at the time of appointment, she meets all of the following qualifications:

(a) Is a resident of this state.

(b) Is a licensed practical nurse

(c) Is a graduate of an approved course in practical nursing.

(d) Has been actively engaged in the practice of practical nursing for at least five years immediately prior to her appointment and has demonstrated an ability for leadership.

(3) The term of office of a member appointed under this section is three years, beginning on July 1. Upon the expiration of the term of office of a member appointed under this section, the Governor shall fill the vacancy for a term of three years from the date of expiration of the prior term. One person shall serve no more than two consecutive terms In case of a vacancy for any cause other than expiration of term, the Governor shall make an appointment to become immediately effective for the expired term.

(4) Any person appointed as a member under this section, including a person appointed to fill a vacancy for an unexpired term, shall be appointed from a list of persons to be supplied to the Governor by the Oregon Licensed Practical Nurses' Association. The list shall contain at least five names for each vacacy to be filled.

(5) A member of the board appointed under this section shall receive a per diem of $10 each day during which she is actually engaged in the performance of her official duties, including necessary travel time In addition, subject to any other applicable law regulating travel and other expenses of state officers, she shall receive her actual and necessary travel and other expenses incurred in the performance of her official duties. The per diem and expenses are payable from the funds of the board. [1959 c.49 §3]

678.240 Board to examine and license practical nurses; rules and regulations; subpena power. (1) The board shall provide for the examining and licensing of practical nurses in the manner authorized in ORS 678 210 to 678.360.

(2) In accordance with any applicable provisions of ORS chapter 183, the board may make such reasonable rules and regulations consistent with law as are necessary or proper to:

(a) Determine the qualifications of applicants for a license to practice nursing as a licensed practical nurse.

(b) Establish educational, moral and professional standards for such applicants

(3) The board is authorized to issue subpenas, compel the attendance of witnesses and administer oaths to persons giving testimony at hearings. [Amended by 1959 c 49 §5]

678.250 Qualifications of applicants. An applicant for a license to practice nursing as a licensed practical nurse shall submit to the board written evidence on a form provided by the board, verified by oath, that the applicant:

(1) Is at least 18 years of age.

(2) Is of good moral character.

(3) Is in good physical and mental health.

(4) Has completed at least a high school education or its equivalent as determined by the board.

(5) Has completed the course of study in, and holds a certificate of graduation from, a school for the training of practical nurses, giving a course of not less than nine months and registered with the board as maintaining satisfactory standards for such a school in accordance with ORS 678.210 to 678.360, or has completed a course of study determined by the board to be the equivalent of such training.

678.260 Examination of applicants; issuing certificate. The applicant for a license to practice nursing as a licensed practical nurse shall be required to pass such written or oral examination upon the subject of practical nursing as the board shall determine Examinations shall be held not less than twice each year, at such times and places as shall be determined by the board. To an applicant passing the examination, the board shall issue a license to practice as a licensed practical nurse within the State of Oregon. Failure to pass the examination does not preclude the applicant from applying for examination at any subsequent regular examination conducted by the board.

678.270 Reciprocity. The board may issue a license to practice as a licensed practical nurse without examination to any applicant who, under the laws of another state, territory or foreign country, has been licensed or registered as a practical nurse, or entitled to perform similar services under a different occupational name, if, in the opinion of the board, the applicant has qualifications substantially equivalent to those required by ORS 678.210 to 678.360.

678.280 Application and reexamination fees. An applicant applying for a license to practice as a practical nurse shall pay a fee of $10 to the board, which fee shall accompany the application. An applicant applying for reexamination shall pay a fee of $5 to the board, which fee shall accompany the application for reexamination

678.290 Renewal of licenses. Ever person licensed to practice practical nursing or hereafter licensed to practice practical nursing in this state shall apply for renewal of her license before 12 midnight on June 30 of each even-numbered year. Each application shall be accompanied by a renewal fee of $4 payable to the board. Any person not submitting her application and renewal fee as required by this section shall be considered delinquent and her license is void. [Amended by 1957 c 293 §2, 1959 c.49 §6]

678.300 Grounds for revocation or suspension of license. The license of any person to practice practical nursing may be revoked or suspended or the licensee may be reprimanded, censured or otherwise disciplined by the board, for any of the following causes:

(1) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude, in either of which cases the record of the licensee's conviction is conclusive evidence.

(2) Gross neglect of the licensee in the practice of practical nursing.

(3) Wilful or repeated violation by the licensee of any of the provisions of ORS 678 210 to 678.360 or of the rules or regulations thereunder promulgated.

(4) Fraud or deceit of the licensee in the practice of practical nursing or in his or her admission to such practice.

(5) Habitual drunkenness or mental incompetence of the licensee or addiction of the licensee to the use of narcotics

678.310 Revocation or suspension of certificate or disciplinary action by board. (1) The members of the board have jurisdiction to hear all charges brought against an accused licensee. All charges must be in writing, verified under oath by some party familiar with the facts charged, and filed with the secretary of the board. If the board considers

the charges worthy, a hearing shall be given to the accused licensee. A written notice stating the time and place of the hearing shall be served upon the accused licensee at least 10 days before the date of hearing. At the same time a copy of the charges shall be served upon the accused.

(2) In any hearing conducted the accused shall be granted the right to appear in person or by attorney and introduce testimony in his or her behalf. He or she shall also have the right to have witnesses, books, papers and documents subpenaed for him or her by the board upon due application.

(3) The board shall consider the charges, answer, testimony, exhibits and all other documents introduced at the hearing and shall make findings of fact and a decision based thereon. The decision shall be in the form of a written order. The order shall be filed with the secretary of the board and a copy thereof served upon the accused as soon as feasible, unless the accused cannot be found within this state.

678.320 Appeal from action of board. (1) If the board suspends or revokes the license of the accused licensee, he or she may appeal from the decision of the board to the circuit court in the county in which the accused licensee resides. Within 30 days after the filing of the decision the appellant shall file a notice of appeal with the secretary of the board.

(2) Within 10 days after the filing of the notice of appeal, the secretary of the board shall file with the clerk of the circuit court of the county to which the appeal has been taken:

(a) A copy of the complaint, notice to appear and any other documents in the nature of pleadings filed by the board.

(b) The answer and any other documents in the nature of pleadings filed by the accused.

(c) A transcript of testimony, exhibits and any documents in the possession of the board which have any relevancy on the appeal.

(3) Upon the filing of the records as required by this section the clerk of the court shall set the appeal for hearing and notify the appellant and the board of the time and place of the hearing, which shall be before a judge of that court. On appeal the court shall consider the record certified by the secretary of the board and such other evidence or testimony that either party may offer and introduce and the court may affirm or reverse the order of revocation or suspension entered by the board. If an appeal is taken from the order of the board revoking the license the order of revocation shall be without effect unless affirmed on appeal by the circuit court.

678.330 Advisory council created; appointment of members; duties; meetings; organization; compensation. (1) There hereby is created an advisory council to consult with the Oregon State Board of Nursing. The advisory council shall consist of seven residents of this state, appointed by the Governor and qualified as follows:

(a) One representing the field of hospital administrators.

(b) One director of nursing education.

(c) One representing the State Board of Health.

(d) One representing the medical profession.

(e) Two licensed practical nurses.

(f) One supervisor of practical nurse education representing the State Department of Education.

(2) In making such appointments the Governor may consult with, and receive suggestions from, the Oregon Association of Hospitals, the Oregon State Nurses' Association, the State Board of Health, the Oregon State Medical Society and the Oregon Licensed Practical Nurses' Association relating to the respective appointment in each such field.

(3) Successors of the original members of the advisory council shall be appointed for terms of four years except when appointed to fill an unexpired term, in which case the appointment shall be for the remainder of the unexpired term.

(4) The advisory council has the responsibility and duty of consulting and advising with the board in matters of policy coming within the purview of ORS 678.210 to 678.360, and its administration. The advisory council shall meet not less than once each year in this state at a time and place designated by the board, and at any other time at the call of its president or the president of the board, or on written request of three of its members or three members of the board directed to the president of the council who thereupon shall call a meeting thereof to be held within 20 days following receipt of the request The council shall organize by electing from its

number a president, vice president and secretary. A member of the advisory council shall receive a per diem of $10 each day during which she is actually engaged in the performance of her official duties, including necessary travel time. In addition, subject to any other applicable law regulating travel and other expenses of state officers, she shall receive her actual and necessary travel and other expenses incurred in the performance of her official duties. The per diem and expenses shall be payable from the funds of the board. [Amended by 1959 c.49 §7]

678.340 Requirements for institution seeking to offer course in practical nursing. (1) Any institution desiring to conduct a course for the training of licensed practical nurses shall apply to the board and submit satisfactory evidence that it is prepared to give theoretical and practical instruction relative to practical nursing in the following subjects:

(a) Nursing care of the patient.

(b) Home nursing and home management, nutrition and cooking.

(c) Care of the mother and newborn.

(d) Care of children.

(e) Social and occupational adjustment.

(2) The institution applying to the board must also submit satisfactory evidence that it is prepared to meet other standards as prescribed in the curriculum and regulations which may be adopted by the board and standards specified by law.

(3) Such instruction and experience may be secured in one or more institutions approved for the purpose by the board. The length of such courses, including the teaching of all subjects mentioned, shall be not less than nine months.

678.350 Determination by board of accredited course of study. With the advice of the advisory council, the board shall determine and formulate what constitutes an accredited course of study (specific subjects) and cause it to be written and filed with the secretary of the board. The board may amend the requirements from time to time, and any amendment so made shall be in writing, filed with the secretary of the board. Upon the request of any hospital within this state, the secretary of the board shall furnish and forward by mail a copy of the written requirements constituting an accredited course and written amendments thereto.

678.360 Survey of courses and institutions; insuring compliance with requirements. (1) A survey of the institution or institutions with which the course is to be affiliated shall be made by an authorized member of the board, or by the secretary of the board, and a report in writing shall be submitted to the board and to the members of the advisory council. The report is to include a survey and evaluation of physical facilities, courses of study and qualifications of instructors. If, in the opinion of the board, the requirements for accredited courses for licensed practical nurses are met, the board shall declare the course to be an accredited course for licensed practical nurses and shall so register the same with its secretary.

(2) The board shall, from time to time, survey all courses for licensed practical nurses, submitting written reports to the advisory council. If the board determines that any accredited course is not maintained in accordance with standards set by the law of this state and the rules and regulations adopted by the board, notice thereof shall be given to the institution in writing. Failure to correct such defects within 60 days shall result in removal of the institution from the list of accredited institutions for training licensed practical nurses.

678.370 to 678.500 [Reserved for expansion]

LICENSED NURSING HOME ADMINISTRATORS

678.510 Definitions for ORS 678.510 to 678.620. As used in ORS 678.510 to 678 620 unless the context requires otherwise.

(1) "Board" means State Board of Health.

(2) "Governmental unit" means the state, county, city or other political subdivision, or any department, division, board or agency of any of these.

(3) "Nursing home" means any home, place or institution which operates and maintains facilities providing convalescent or chronic care, or both, for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick.

(4) "Nursing home administrator" means any individual who is charged with and performs the management of a nursing home licensed by the State Board of Health, who carries out the general and detailed administrative responsibilities for the conduct of such nursing home, as an owner or as delegated by the owner of such nursing home and who is licensed by ORS 678.510 to 678.620 to operate a nursing home.

(5) "Person" means an individual, firm, partnership, corporation, company, association or joint stock association, and includes any receiver, trustee, assignee or other similar representative thereof. [1955 c.489 §1 (1), (3), (4), (5); 1957 c.579 §1]

678.520 Operation of nursing home without licensed nursing home administrator prohibited. (1) No individual shall act as or perform the functions of a nursing home administrator without holding a certificate as a licensed nursing home administrator as provided in ORS 678 510 to 678.620 and may then only act as such administrator of a nursing home licensed by the board as provided in ORS 441 005 to 441.080.

(2) No person or governmental unit shall maintain or operate a nursing home without the services of a nursing home administrator. [1955 c 489 §11; 1957 c.579 §2]

678.530 Exclusions from application of ORS 678.510 to 678.620. The following institutions are excluded from the provisions of ORS 678.510 to 678.620:

(1) A boarding home, home for the aged, hotel or like institution which provides only board, room and laundry to persons not in need of medical or nursing treatment or supervision, except in the case of temporary acute illness.

(2) Hospitals, other than nursing homes, which are licensed under ORS 441.005 to 441.080.

(3) A nursing home which provides exclusively for patients therein remedial care or treatment by prayer or spiritual means alone in accordance with the creed or tenets of any well-recognized church or religious denomination.

(4) A chiropractic facility licensed under ORS 441.005 to 441 080. [1955 c.489 §1(2); 1957 c.579 §3]

678.540 Qualifications for certificate of licensed nursing home administrator. An individual is qualified to receive and shall be granted a certificate of licensed nursing home administrator from the board if he:

(1) Is a resident of Oregon;

(2) Has passed his twenty-first birthday;

(3) Is of good moral character;

(4) Is in good physical and mental health; and

(5) Can comply with any one of the following requirements, that he:

(a) Was in fact, prior to July 1, 1955, an administrator of a nursing home licensed by the board, as evidenced by the appearance of his name on the nursing home license which was in effect prior to July 1, 1955, or on the application for the nursing home license

(b) Was in fact an administrator of a nursing home licensed by the board prior to July 1, 1955, as evidenced by the sworn testimony or affidavit of the applicant that he devoted not less than 40 hours per week for a minimum of 26 consecutive weeks prior to July 1, 1955, in the performance of the general and detailed administrative responsibilities for the conduct of a nursing home licensed by the board.

(c) Is a graduate nurse of an approved or accredited school of nursing as approved by the Oregon State Board of Nursing, or is a professional nurse licensed in this state.

(d) Is a person licensed by the Board of Medical Examiners to practice the profession of medicine and surgery, or that of osteopathy.

(e) Is a person who has training and education in medical services and nursing care equivalent to that of a licensed professional nurse, as determined by the board, and has passed a written and oral examination by the board as provided in ORS 678.550.

(6) If an applicant does not apply for a license under this section prior to July 1, 1958, or if he allows his active or inactive license to lapse for more than 180 days, the provisions of paragraph (a) or (b) of subsection (5) of this section shall not be applicable to him [1955 c.489 §5; 1957 c.579 §4]

678.550 Examination of applicants; examination fee. (1) The board shall conduct examinations of applicants for licenses as often as the board considers necessary, but not less than once a year. The fee for the examination or reexamination shall be $25.

(2) The examination to be given by the board shall cover the practice and theory of

nursing home management and shall cover generally the fields of principles, practices and ethics of nursing including the administration of drugs and medicines as prescribed by qualified physicians and surgeons; diseases; nutrition; housekeeping and sanitation; bookkeeping; buying, preparing and handling of food; and the keeping of medical records.

(3) To constitute a passing grade an applicant must receive an average mark in all subjects of not less than 75 percent and no grade of less than 70 percent in any one subject

(4) Failure to pass the examination does not preclude the applicant from applying for reexamination at any subsequent regular examination conducted by the board. [1955 c 489 §6; 1957 c 579 §5]

678.560 Fees; disposition of fee receipts. (1) The fee to be paid for the issuance of a certificate as a nursing home administrator for the first license year is $50.

(2) The fee for the annual renewal of a license is $35.

(3) Fees are payable before July 1 of each year. If a license is not renewed before July 1, a delinquent fee of $5 in addition to the annual renewal fee shall be paid. If an active or inactive license has not been obtained within 180 days after July 1 of any year, a new license can be obtained only upon payment of $50 and by meeting all other qualifications required under ORS 678 540.

(4) An annual fee of $10 shall be charged if an administrator is inactive. Inactive status may be achieved only following active status by making application to the board and payment of the fee of $10 within the time prescribed by subsection (3) of this section

(5) All receipts from fees paid under ORS 678 510 to 678.620 shall be paid over into the State Treasury to the credit of the board for carrying out the general provisions of ORS 678.510 to 678 620 and the provisions of ORS 441 005 to 441 080 and the rules, regulations and standards adopted by the board pursuant thereto If the license is denied, 50 percent of the fee for the certificate shall be refunded to the applicant. [1955 c 489 §§7, 8, 1957 c 579 §6]

678.570 Investigations of licensed administrators. The State Health Officer, or his representative, may at any or all times investigate any administrator licensed pursuant to ORS 678.510 to 678.620. [1955 c.489 §4; 1957 c.579 §7]

678.575 Responsibility for supervision of nursing service. (1) A nursing home administrator who is a professional nurse duly licensed in Oregon, shall be responsible for the supervision of nursing service in the nursing home which he manages.

(2) If the nursing home administrator is not a professional nurse duly licensed in Oregon, the supervision of nursing service of such nursing home shall be the joint responsibility of the administrator and of the licensed professional nurse employed by such nursing home pursuant to law or regulation of the board. [1957 c 579 §17]

678.580 [1955 c.489 §9; repealed by 1957 c 579 §8 (ORS 678.581 enacted in lieu of ORS 678 580)]

678.581 Grounds for revoking, suspending, or refusing to issue or renew administrator's license. The board may suspend, revoke or refuse to issue, renew or reissue any nursing home administrator's license upon any of the following grounds:

(1) The employment of fraud or deception in applying for or obtaining a nursing home administrator's license.

(2) A conviction of a crime involving moral turpitude, a conviction of a felony or a conviction of a crime involving violation of any narcotic or drug control laws 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

(3) Commitment to a mental institution

(4) Habitual drunkenness or habitual intemperance in the use of spirits, narcotics, habit-forming drugs or stimulants.

(5) Gross negligence, fraud, dishonesty, malfeasance or cheating in the management of a nursing home [1957 c 579 §9 (enacted in lieu of ORS 678 580)]

678.590 [1955 c 489 §10; repealed by 1957 c 579 §10 (ORS 678 591 enacted in lieu of ORS 678 590)]

678.591 Proceedings for suspension, revocation or refusal to issue or renew license. Any proceeding for the suspension, revocation or refusal to issue, renew or reissue any nursing home administrator's license upon the grounds mentioned in ORS 678.581 shall

be substantially in accord with the following procedure:

(1) A written complaint verified by some person familiar with the facts charged shall be filed with the secretary of the board. The complaint shall set forth the facts upon which the charge is based. Upon receiving the complaint the board shall, if it considers the accusation sufficient and considers reasonable cause exists, make an order setting it for hearing, and requiring the accused to appear and answer it at the hearing, at a specified time and place. The secretary shall cause a copy of the order and of the complaint to be served upon the accused at least 15 days before the day appointed in the order for the hearing. The accused may file with the secretary his verified written answer to the complaint not less than three days before the hearing. If the accused has removed from the state or absents himself so that service of the notice and copy of the complaint is impractical, the notice and copy of the complaint shall be mailed to the accused's last-known postoffice address at least 20 days before the hearing. The complaint shall not be valid if filed later than three years from the date that the act complained of was committed by the accused.

(2) The hearing may be before the board, or may be before a member, members or representative of the board designated by the presiding officer of the board to take testimony and conduct the hearing. A full and complete record shall be kept of all proceedings. All testimony shall be reported verbatim at the hearing. If the hearing is before a member, members or representative of the board designated by the presiding officer thereof, a narrative summary of the testimony taken, together with any exhibits produced, shall be furnished to the board at its next regular or special meeting. The accused and his attorney may be present at the meeting at which the matter is considered by the board and shall be given an opportunity to sum up the accused's position and present arguments before the board. The accused may furnish at his expense a transcript of the testimony taken at the hearing for consideration by the board

(3) In any hearings conducted under this section, the accused shall be granted the right to appear in person or by attorney and to introduce testimony in his behalf. He shall also have the right to have witnesses, books, papers and documents subpenaed for him by the board upon due application and upon his payment of the cost thereof. Any member of the board or its authorized representatives shall have power to administer oaths, take the depositions of witnesses in the manner provided by law in civil cases and compel their appearance before it in person the same as in civil cases, by subpena issued over the signature of the secretary and the seal of the board and in the name of the people of the State of Oregon.

(4) The board shall consider the complaint, answer, testimony, exhibits and all other documents introduced at the hearing and shall make findings of fact and a decision based thereon. The decision shall be in the form of a written order. The order shall be filed with the secretary of the board and a copy thereof served upon the accused as soon as feasible unless the accused cannot be found within this state.

(5) Appearance of the accused at a hearing shall be a waiver of all procedural irregularities not affecting the substantial rights of the accused. Strict rules of pleading need not be followed but the practice shall conform as nearly as practical to equity suits. Service of any papers after the service of the notice to appear and a copy of the complaint upon the accused may be made upon any attorney who represents the accused.

(6) If the board finds the accused guilty of the acts charged in the complaint, it may place the accused upon probation or suspend judgment upon his case for a period not to exceed six months; or it may suspend, revoke or refuse to issue, renew or reissue a nursing home administrator's license, as may be appropriate [1957 c.579 §11 (enacted in lieu of ORS 678 590)]

678.593 Appeal from decision or order of board. If the board refuses to grant a license to an applicant or suspends, revokes or refuses to renew the license of a nursing home administrator upon the grounds mentioned in ORS 678.581, the applicant or licentiate may appeal from the decision of the board in the following manner:

(1) Within 30 days of the filing of the decision, the appellant shall file a notice of appeal with the secretary of the board. The notice shall be in substantially the following form:

To the Board of Health of the State of Oregon·

Please take notice that————hereby appeals from the order of revocation (suspension, refusal to issue, reissue or renew) heretofore filed with the secretary of the board on or about the——day of————, 19——. Please have the secretary proceed immediately to file the appeal in the circuit court of the State of Oregon as provided for by law.

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(2) At the same time, the appellant shall also file with the board a bond satisfactory to the secretary of the board in form and amount, running to the State of Oregon, conditioned for the speedy prosecution of the appeal and the payment of such costs as may be adjudged against him upon appeal.

(3) Venue for such appeal shall be, in cases involving refusal to issue, reissue or renew a license to an applicant, in the circuit court of the State of Oregon for the county where the applicant resides, and in all other cases, in the circuit court for the county in which the hearing to revoke or suspend a license was held.

(4) Within 20 days after filing the notice of appeal and bond, the secretary shall file with the clerk of the court the following documents:

(a) Copy of the complaint, notice to appear and any other documents in the nature of pleadings filed by or with the board.

(b) The answer and any other documents in the nature of pleadings filed by the appellant.

(c) Appeal bond

(d) Transcript of testimony, exhibits and any documents in the possession of the board which have any relevancy on the appeal

(5) Upon the filing of such records the clerk of the court shall set the appeal for hearing and notify the appellant and the board of the time and place of the hearing, which shall be before a judge of that court.

(6) On appeal the court shall try the matter de novo and may affirm or reverse the order of denial, revocation, suspension or refusal to renew entered by the board.

(7) The court may reverse the order of the board only on any one or all of the following grounds:

(a) The complaint does not state sufficient grounds for the action of the board.

(b) There is no legal evidence to support the action of the board.

(c) The board did not have jurisdiction of the matter or the accused

(8) If the court reverses the order of the board, the board shall issue the usual license which had been revoked, suspended or refused and do all things necessary to reinstate appellant within 30 days from the decree of the court unless the board appeals.

(9) Either the board or the accused may appeal from the decision of the circuit court to the Supreme Court of Oregon within 30 days of the entering of the decision in like manner as in civil actions.

(10) No person whose license has been denied, revoked, suspended or refused renewal by the board shall act as a nursing home administrator pending the decision of the court upon appeal from the decision or order of the board. [1957 c.579 §13]

678.596 Judicial proceedings to prevent violations of law. Notwithstanding the existence and pursuit of any other remedy, the board may, in the manner provided by law, maintain an action in the name of the state for an injunction or other process or proceedings against any person, firm or corporation or governmental unit to restrain or prevent the illegal establishment, conduct, management or operation of a nursing home. [1957 c.579 §15]

678.600 Advisory Council. (1) The Governor shall appoint an Advisory Council composed of five residents of the state, three of whom shall be nursing home administrators, one of whom shall be a physician licensed by the Board of Medical Examiners, and one of whom shall be a professional nurse licensed in the State of Oregon to practice nursing.

(2) The appointment of each member of the Advisory Council shall be for a term of four years, except that the members of the first council appointed shall hold office, one for one year, one for two years, one for three years, and one for four years, from August 3, 1955, the term of each to be designated by the Governor

(3) At the expiration of the term of each member of the council the Governor shall appoint a member to fill the vacancy. Vacancies other than by termination of a term shall be filled by the Governor for the unexpired term only. [1955 c 489 §2; 1957 c.579 §18]

678.610 Duties of Advisory Council; meetings. (1) The Advisory Council shall consult and advise with the board in matters of policy affecting the administration of ORS 678.510 to 678.620 and in the development of

rules, regulations and standards provided for in ORS 678.510 to 678.620.

(2) The council shall meet not less than once a year.

(3) The Advisory Council shall adopt rules for transacting business, elect annually a member to serve as chairman and keep a record of its resolutions, findings, determinations and transactions

(4) Members of the council shall serve without pay, but shall be reimbursed for actual expenses incurred in the performance of the duties of their office.

(5) A majority of the council shall constitute a quorum.

(6) The State Health Officer or his representative shall serve as ex officio member of the council.

(7) The council shall:

(a) Make recommendations to the board regarding the qualifications of applicants for licenses as nursing home administrators and as to the revocation or suspension of a license of a nursing home administrator.

(b) Advise the board in all matters affecting nursing home administrators. [1955 c 489 §3; 1957 c 579 §19]

678.620 ORS 441.005 to 441.080 not to be construed as repealed. The provisions of ORS 678 510 to 678.620 shall not be construed to repeal any of the provisions of ORS 441 005 to 441.080. [1955 c 489 §13]

678.630 to 678.980 [Reserved for expansion]

PENALTIES

678.990 Penalties. (1) Violation of ORS 678 021 or 678 085 is punishable, upon conviction, by a fine of not less than $100 nor more than $200, or by imprisonment in the county jail for not less than 30 days, or both, for the first offense, and by a fine of not less than $100 or more than $500, or by imprisonment in the county jail for not less than 30 days, or both, for each subsequent offense

(2) Violation of any of the provisions of ORS 678.170 or ORS 678.210 to 678 360 is punishable, upon conviction, by a fine of not less than $25 nor more than $100.

(3) Any violation of any of the provisions of ORS 678 520 is punishable, upon conviction, by a fine of not more than $500, or by imprisonment in the county jail for not more than one year, or both. Whenever the State Board of Health has reason to believe that any person is liable to punishment under this section it may certify the facts to the district attorney of the county where the violation occurred, who may, in his discretion, cause appropriate proceedings to be brought [Amended by 1953 c.254 §16; former subsections (1) and (2) enacted as 1953 c.254 §15; subsection (3) enacted as 1955 c.489 §12; 1957 c 316 §33]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Sam R Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law

Done at Salem, Oregon,
on November 1, 1959

Sam R. Haley
Legislative Counsel