Chapter 681

1961 REPLACEMENT PART

(1963 reprint)

Osteopaths

681.010 Definitions
681.020 Licensing of osteopaths
681.025 Fellow or preceptorship; permission of board
681.030 Persons and practices not affected
681.040 Qualifications of applicants for examination
681.050 Examination fees
681.060 Conduct of examination; issuance of certificates
681.070 Certificate from national board in lieu of state examination
681.090 Reciprocity
681.095 Filing copy of license with county clerk; furnishing secretary of board with lists of licenses filed; clerk of court to notify secretary when licentiate convicted of a crime
681.100 Annual registration certificate
681.110 Failure to procure annual certificate of registration
681.120 Duty of practitioner on changing location; effect of absence from state
681.130 Publication of registry list
681.140 Grounds for denial or revocation of licenses
681.143 Procedure for suspension or revocation of licenses
681.146 Disciplinary action by board
681.150 Appeal from order of denial or revocation
681.152 Restoration of license to practice
681.155 Automatic suspension of licenses; termination of suspension
681.160 Appointment of osteopath to Board of Medical Examiners
681.170 Unlawful practices
681.990 Penalties

CROSS REFERENCES

Administrative procedures governing state agencies, 183.310 to 183.510
Deaths or injuries, report of, Ch. 146
Military or naval service, persons relieved from payment of fees, 408.450
Osteopaths exempt from jury duty, 10.040
Physician-patient privileged communications, 44.040

681.020

Falsification of physician's certificate, 106.990(1), (3)
Professional designation of licensed osteopath, 676.110

681.040

Necessity for certificate of proficiency in fundamental sciences, 676.010
Waiver of educational requirement for admission to examination, 670.010

681.095

Action by county clerk upon revocation or suspension of license, 677.205

681.130

Supplying list of licensees to Secretary of State, 676.140

681.140

Falsification of health certificate prohibited, 106.990(1), (3)
Injunction against practicing after suspension or revocation of license, 676.220
Restoration of license, 681.152

681.160

Appointive officers, term, removal and appointment of successor, 236.140

681.170

Intoxication of physician where patient's death results, 163.070
Unlawful abortion where mother or child dies is manslaughter, 163.060

681.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Abortion" means the expulsion of the foetus at a period of uterogestation so early that it has not acquired the power of sustaining an independent life. It shall be conclusively presumed for the purpose of this chapter that the foetus has not acquired such power earlier than 150 days after gestation, and a disputable presumption of lack of such power shall arise if the expulsion takes place earlier than 240 days after gestation.

(2) "Board" means the Board of Medical Examiners of the State of Oregon.

(3) "Extern" means a regularly enrolled student in an established school of osteopathy that is recognized as of good standing by the American Osteopathic Association, who has had two full terms of instruction of eight months or more each therein and who is employed by a legally incorporated hospital in this state recognized as standard by the board.

(4) "Fellow" means an individual who has not qualified under subsections (1) and (2) of ORS 681.040 and who is pursuing some special line of study as part of a supervised program of a school of osteopathy, a hospital approved for internship or residency training, or an institution for medical research or education that provides for a period of study under the supervision of a responsible member of that hospital or institution, such school, hospital or institution having been approved by the board.

(5) "Fraud or misrepresentation" means:

(a) The intentional misrepresentation or misstatement of a material fact.

(b) Concealment of or failure to make known any material fact.

(c) Any other means by which misinformation or a false impression is knowingly given.

(6) "Manifestly incurable condition of sickness, disease or injury" means one that is declared so incurable by competent osteopathic physicians and surgeons.

(7) "Preceptorship" means service for not more than 90 days, under the supervision of an individual licensed to practice osteopathy and surgery in this state, as a part of a program of an established school of osteopathy recommended as of good standing by the American Osteopathic Association, by a student who has completed at least three years of study of at least eight months each in such school of osteopathy.

(8) "Unprofessional or dishonorable conduct" means conduct unbecoming a person licensed to practice osteopathy and surgery or detrimental to the best interests of the public.

[Amended by 1953 c.183 §4; 1961 c.399 §1]

681.020 Licensing of osteopaths. The holder of a certificate issued under this chapter shall be entitled to use the words "Osteopathic Physician and Surgeon" to designate his profession, and hereby is authorized to issue any certificate which is authorized or required from any physician or surgeon under the laws of this state, and shall be privileged to use anesthetics and antiseptics.

681.025 Fellow or preceptorship; permission of board. (1) An individual who desires to become a fellow shall, prior to serving as a fellow, notify the board in writing of his intent and must receive the permission of the board to become a fellow.

(2) A student who desires to serve a preceptorship shall, at least 10 days prior to serving a preceptorship, notify the board in writing of his intent and must receive permission of the board to serve in such preceptorship.

[1961 c.399 §4]

681.030 Persons and practices not affected. This chapter shall not be construed to interfere with or prevent:

(1) The practice of or use of massage, Swedish movement, physical culture, neuropathy, chiropractic, naturopathy, or other natural methods requiring the use of the hand or hands.

(2) The practice of osteopathy and surgery by a duly appointed member of the resident staff, or by an intern while actually serving as such, in any legally incorporated osteopathic hospital in this state approved for such practice by the American Osteopathic Association.

(3) The practice of osteopathy and surgery by:

(a) A duly appointed member of the resident staff, or by an intern while actually serving as such, in any legally incorporated osteopathic hospital in this state approved as standard by the board; or

(b) An extern, fellow or a student serving a preceptorship, while actually serving in any of these capacities.

[Amended by 1961 c.399 §2]

681.040 Qualifications of applicants for examination. (1) Any person holding a diploma from an established school of osteopathy, recognized as of good standing by the Oregon Osteopathic Association, and wherein the course of study comprises at least four years of eight months each, shall, upon application and the presentation of such diploma to the State Board of Medical Examiners and satisfying the board that he is the legal holder thereof, be granted by the board an examination in anatomy, physiology, chemistry, surgery, bacteriology, histology, pathology, gynecology, obstetrics, theory and practice of osteopathy and diagnosis.

(2) All applicants who graduate after July 1, 1949, shall present evidence of having completed an internship of at least one year in a legally incorporated osteopathic hospital which is approved for internship by the American Osteopathic Association.

681.050 Examination fees. The fee for the examination, which shall accompany the application, shall be no less than $25 upon the first application to take an examination to practice and no less than $10 for any subsequent application. The fee shall be paid to the treasurer of the board and used by the board as are the other fees received by it.

681.060 Conduct of examination; issuance of certificates. (1) Except as otherwise provided in this chapter, the examination shall be conducted in the same manner as is prescribed by law for other examinations by the board.

(2) After examination, if the same is satisfactory, the board shall grant a license to the applicant to practice osteopathy and the science of healing as taught in the branches and embraced in the subjects covered by the examination in the State of Oregon, which license can only be granted by the consent of at least four members of the board, except as provided in this chapter, and the license shall be signed by the president and secretary of the board and attested by the seal thereof.

681.070 Certificate from national board in lieu of state examination. The board may, at its discretion, accept a certificate of successful examination issued by the National Board of Examiners of Osteopathic Physicians and Surgeons in lieu of its own examination.

681.080 [Repealed by 1953 c.183 §4]

681.090 Reciprocity. (1) Subject to subsections (2) and (3) of this section, in all cases where an applicant for a license under this chapter produces and delivers to the board a certificate from another board of medical examiners appointed under the laws of any state or territory of the United States, which state or territory recognizes licenses from this state, certifying to the fact that the person presenting the certificate is duly and well qualified to practice osteopathy and the science of healing as taught in the branches and embraced in the subjects covered by the examination in the state issuing the certificate, and the board issuing the certificate has subjected the applicant to a thorough examination to ascertain these facts, such applicant may, at the discretion of the examining board, upon the payment of a fee of no less than $100, and otherwise complying with the requirements of the laws of this state, receive from the board a license to the same effect and in the same form as if the examination of the applicant was had in this state, and shall thereupon be legally qualified to practice osteopathy and the science of healing as taught in the branches and embraced in the subjects covered by the examination.

(2) All applicants who graduate after July 1, 1949, shall present evidence of having completed an internship of at least one year in a legally incorporated osteopathic hospital which is approved for internship by the American Osteopathic Association.

(3) An applicant whose application is based on a certificate issued by another state or territory, or by the National Board of Examiners of Osteopathic Physicians and Surgeons, five years or more prior to the filing of his application with the Oregon board may, at the discretion of the board, be required to take an oral examination. This oral examination shall be given by a committee of examiners consisting of two members of the board, one of whom shall be the osteopathic member, and a nonmember selected by the board from a panel of osteopathic physicians and surgeons licensed to practice in this state recommended by the Oregon Osteopathic Association.
[Amended by 1957 c.680 §1]

681.095 Filing copy of license with county clerk; furnishing secretary of board with lists of licenses filed; clerk of court to notify secretary when licentiate convicted of a crime. (1) Each person licensed to practice

osteopathy and surgery in this state shall file his license or a copy thereof with the county clerk in each county in which he carries on a substantial portion of his practice. The county clerk shall file the license or copy thereof, and enter a memorandum thereof, giving the date of the license, the name of the person to whom it is issued and the date of such filing, in a book to be provided and kept for that purpose.

(2) The county clerk shall also, on or before February 1 of each year, furnish to the secretary of the State Board of Medical Examiners a list of all licenses filed in his office during the preceding year, and upon notice to him of the death of a person so licensed, or of the suspension or revocation of the license granted to such person, the county clerk shall enter at the appropriate place in the record kept by him a memorandum of such facts, so that the record kept by the county clerk corresponds with the records of the board as kept by the secretary.

(3) The absence of such record of any license claimed to be held by any person shall be prima facie evidence that no such license has been issued.

(4) The county clerk of any county shall upon request of the secretary of the State Board of Medical Examiners furnish a complete list of all such licenses on file in his office.

(5) In case any licentiate is convicted of a crime, the clerk of the court in which such conviction shall be had shall send to the secretary of the State Board of Medical Examiners a certified copy of such judgment.

[1953 c.45 §2; 1957 c.680 §2]

681.100 Annual registration certificate. (1) Every osteopathic physician and surgeon now or hereafter licensed to practice in this state shall apply for annual registration, and register annually with the board and shall pay to the board the same annual registration fee as is provided in ORS 677.150, for persons licensed to practice medicine and surgery.

(2) The application shall be made upon a blank form, which form shall be mailed to such persons by the secretary of the board not later than October 15 of each year.

(3) In the application the applicant shall state his full name, his business and residence addresses, the date and number of his license and such other facts for the identification of the applicant and his license as the board deems necessary.

(4) The application for annual registration shall be filed with the secretary of the board on or before December 1 of each year and shall be accompanied with the annual registration fee.

(5) For good and sufficient reason the board may waive the payment of the annual registration fee for a reasonable time.

(6) On or before January 1 of each year the secretary of the board shall mail to the persons who have complied with this section a certificate of annual registration, which shall remain in effect no longer than December 31 of such year.

(7) Every osteopathic physician and surgeon shall display the certificate or receipt in some conspicuous place in his office.

[Amended by 1953 c.46 §3]

681.110 Failure to procure annual certificate of registration. (1) Any osteopathic physician and surgeon licensed to practice in this state who fails or neglects to comply with ORS 681.100 regarding annual registration shall be notified by the secretary of the board of his delinquency. If such person fails or neglects to apply for registration and accompany his application with the required registration fees and any penalties provided for by this chapter within 30 days after notice of such delinquency mailed by the secretary of the board to his last known address, the license of such person shall automatically be revoked.

(2) In addition to any other penalties provided for by law, the board or the secretary of the board may require that a delinquent licensee pay a penalty, not to exceed $1 for each day he is delinquent, before issuing an annual registration certificate.

(3) All moneys received by the secretary from fees or penalties shall be disbursed by him in carrying out and maintaining the provisions of this chapter and of ORS chapter 677, except as otherwise provided by law, and the board may collect such fees or penalties by law.

681.120 Duty of practitioner on changing location; effect of absence from state. (1) Any registered osteopathic physician and surgeon who changes his location during the period between any two annual registration dates shall, before practicing in his new location, notify the secretary of the board of the change in his location.

(2) Any osteopathic physician and surgeon who desires to begin to practice in this state subsequent to January 1 in any year shall, before beginning such practice, register and pay the annual registration fee for that year as provided in ORS 681.100.

(3) If any licensed osteopathic physician and surgeon changes his residence to some other state or country and later resumes his residence in Oregon, his absence from the state shall not affect the validity of his license or registration if he notifies the board of his change of residence during his absence from the state and, except for the time served in the United States Armed Forces, pays an inactive registration fee of $5 per annum during such absence. Before resuming practice in this state, he shall notify the board of his intention to resume active practice and obtain a certificate of annual registration for the year he returns less the inactive registration fee previously paid for that year. No person is entitled to resume active practice in this state if, in the judgment of the board, the practitioner's conduct has been such, during his absence, that he would be denied a license if applying for an initial license to practice osteopathy and surgery in this state.

[Amended by 1953 c.46 §3]

681.130 Publication of registry list. On or before March 1 of each year the secretary of the board shall cause to be published a list of persons to whom certificates of annual registration have been issued. The list shall be arranged alphabetically, and also by cities and towns. The names which are added to the registry list after it has been printed and distributed shall be reported quarterly to any person upon request.

681.140 Grounds for denial or revocation of licenses. (1) The board may refuse to grant a license to any person or may suspend or revoke a license for any of the following reasons:

(a) Unprofessional or dishonorable conduct.

(b) The procuring or aiding or abetting in procuring an abortion unless such is done for the relief of a woman whose health appears in peril because of her pregnant condition and after due consultation with another duly licensed osteopathic or medical physician and surgeon who is not an associate or relative of the osteopathic physician and surgeon, and who agrees that an abortion is necessary. The record of this consultation shall be in writing and shall be maintained in the hospital where the consultation occurred or in the offices of all the physicians and surgeons participating in the consultation for a period of at least three years after the date of the abortion.

(c) The employing of what are popularly known as "cappers" or "steerers."

(d) Representing to a patient that a manifestly incurable condition of sickness, disease or injury can be permanently cured.

(e) The obtaining of any fee through fraud or misrepresentation.

(f) The wilful betraying of a professional secret.

(g) Conviction of any offense for which the punishment may be incarceration in a state penitentiary or in a federal prison. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, is conclusive evidence.

(h) Habitual or excessive use of intoxicants or drugs.

(i) Mental illness as evidenced by an adjudication or by voluntary commitment to an institution for treatment of mental illnesses or as determined by an examination conducted by three impartial psychiatrists retained by the board.

(j) Fraud or misrepresentation in applying for or procuring a license to practice in this state, or in connection with applying for or procuring an annual registration.

(k) Making false or misleading statements regarding his skill or the efficacy or value of his medicine, treatment or remedy in the treatment of any disease or other abnormal condition of the human body or mind.

(L) Advertising in any manner, either in his own name or under the name of another person, or clinic, or concern, actual or pretended, in any newspaper, pamphlet, circular or other written or printed paper or document, professional superiority to or greater skill than that possessed by fellow osteopathic physicians and surgeons, the restoration of "lost manhood," the treatment of private diseases peculiar to men or women, or the advertising or holding himself out to the public in any manner as a specialist in the diseases of the sexual organs or the diseases caused by sexual weakness, self-abuse or excessive indulgence.

(m) Advertising or holding oneself out to treat diseases or other abnormal conditions of the human body by any secret

formula, medicine, method, treatment or procedure.

(n) The use of any advertising in which untruthful, improper, misleading or deceptive statements are made.

(o) The advertising of any medicines or any means whereby the monthly periods of women can be regulated, or the menses reestablished if suppressed.

(p) The impersonation of another licensed practitioner or permitting or allowing any person to use his certificate in the practice of any system or mode of treating the sick or afflicted.

(q) Aiding or abetting the practice of any of the healing arts by an unlicensed person or persons, or aiding or abetting any person who has a license to practice any of the healing arts to employ any method of diagnosis or treatment not within the scope of his license.

(r) The use of his name under the designation "Doctor" or "Dr." or "D.O." or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise.

(s) Gross carelessness or manifest incapacity in the practice of osteopathy or surgery.

(2) After the revocation of a license the holder thereof shall not practice osteopathy or obstetrics in the state.

[Amended by 1953 c.183 §4; 1957 c.680 §3; 1961 c.399 §5]

681.143 Procedure for suspension or revocation of licenses. Any proceeding for suspension or revocation of a license to practice osteopathy and surgery shall be substantially in accord with the procedure set out in ORS 677.200.

[1957 c.162 §2]

681.146 Disciplinary action by board. The board may discipline as provided in ORS 677.205 any person licensed by the board under this chapter who has:

(1) Admitted the facts of a complaint filed in accordance with this chapter alleging facts which establish that the licentiate is guilty of violation of one or more of the grounds for suspension or revocation of his license as set forth in ORS 681.140; or

(2) Been found guilty in accordance with ORS 677.200 of violation of one or more of the grounds for suspension or revocation of licenses as set forth in ORS 681.140.

[1957 c.681 §10]

681.150 Appeal from order of denial or revocation. In case of the refusal or revocation of a license by the board under this chapter, the applicant whose application is refused or the licentiate whose license is revoked shall have the same right of appeal as is by ORS 677.210 conferred under similar instances on other applicants and licentiates.

681.152 Restoration of license to practice. Whenever the license of a practitioner of osteopathy and surgery is revoked or annulled for any cause, the Board of Medical Examiners may, in its discretion, after the lapse of six months from the date of such revocation or annulment, upon written application and after a hearing, restore to such former practitioner the right to practice in this state.

[1959 c.47 §2]

681.155 Automatic suspension of licenses; termination of suspension. (1) A person's license to practice osteopathy and surgery in this state shall be suspended automatically if:

(a) He is adjudged to be mentally ill or admitted on a voluntary basis to any state hospital which treats or cares for the mentally ill, except for treatment as an outpatient, for X-ray examination or therapy or for residence not exceeding 25 consecutive days; or

(b) After August 9, 1961, he is an inmate in a federal prison or a state penitentiary.

(2) (a) The clerk of the court making the order of commitment under paragraph (a) of subsection (1) of this section shall cause to be mailed to the State Board of Medical Examiners, as soon as possible, a certified copy of the court order adjudging the person to be mentally ill. The clerk shall also record such memorandum as is required under ORS 681.095 in the case of a suspension of license by the board. No fees are chargeable by the clerk for performing the duties prescribed by this paragraph.

(b) The superintendent of the state hospital to which a person licensed to practice osteopathy and surgery in this state has voluntarily applied for admission shall cause to be mailed to the board, as soon as possible, a certified copy of the record of the voluntary admission of such person. Upon receipt of the copy of the record of voluntary admission by the board, the secretary of the

board shall give notice of the suspension resulting under paragraph (a) of subsection (1) of this section to the appropriate county clerk as in the case of a suspension of a license by the board.

(c) Written evidence received from the supervisory authority of a federal prison or a state penitentiary that the person is an inmate therein is prima facie evidence of incarceration for the purpose of paragraph (b) of subsection (1) of this section.

(3) A suspension under this section may be terminated by the board; but the suspension shall continue and the board shall not restore to the former practitioner the privilege to practice in this state until:

(a) The board receives competent evidence that the former practitioner is not mentally ill; or

(b) The board receives competent evidence that the former prisoner is no longer incarcerated; and

(c) The board is satisfied, with due regard for the public interest, that the former practitioner's privilege to practice may be safely restored.

[1957 c.264 §2; 1961 c.258 §1]

681.160 Appointment of osteopath to Board of Medical Examiners. The Governor shall appoint one person who is a reputable practitioner of osteopathy, selected from a number of not less than three who are recommended by the State Osteopathic Association, who shall be a member of the State Board of Medical Examiners and shall qualify in the same manner as other members of the board. His term of office is five years and he shall hold office until his successor is duly appointed and qualified.

681.170 Unlawful practices. No person shall:

(1) Present to the Board of Medical Examiners a fraudulent or false diploma, or one of which he is not the rightful owner, for the purpose of procuring a license under this chapter.

(2) File or attempt to file with the clerk of any county in the state the license of another as his own.

(3) Falsely personate anyone to whom a license has been granted by the board.

(4) Practice osteopathy or obstetrics in the state without having first obtained the license required by this chapter.

(5) Continue to practice osteopathy or obstetrics after the revocation of his license.

681.180 to 681.980 [Reserved for expansion]

681.990 Penalties. (1) Any practicing osteopathic physician and surgeon required by this chapter to procure a certificate of annual registration who fails to procure such certificate within 90 days after the date he is required by this chapter to obtain the certificate is guilty of a misdemeanor.

(2) Violation of ORS 681.170 is punishable, upon conviction, by a fine of not less than $50 nor more than $100, or by imprisonment in the county jail not less than 10 days nor more than 90 days, or by both.

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 December 1, 1961.

Sam R. Haley
Legislative Counsel