

Chapter 677

1967 REPLACEMENT PART

Physicians

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GENERAL PROVISIONS

677.010 Chapter definitions. As used in this chapter, subject to the exemptions in ORS 677.060 and unless the context requires otherwise:

(1) "Approved internship" means a course of training served in a hospital that is approved by the board or by the approving agency of the American Medical Association or the American Osteopathic Association.

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

(3) "Diagnose" means to examine another person in any manner to determine the source or nature of a disease or other physical or mental condition, or to hold oneself out or represent that a person is so examining another person. It is not necessary that the examination be made in the presence of such other person; it may be made on information supplied either directly or indirectly by such other person.

(4) "Drug" means all medicines and preparations for internal or external use of man, intended to be used for the cure, mitigation or prevention of diseases or abnormalities of man, which are recognized in any published United States Pharmacopoeia or National Formulary, or otherwise established as a drug.

(5) "Extern" means a regularly enrolled student in an established school of medicine that is recognized as of good standing by the board, the American Medical Association or 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.

(6) "False testimony" means testimony

given by a person before a court or administrative agency or body, which he knows to be false or should have known to be false.

(7) "Fellow" means an individual who has not qualified under subsections (1) and (2) of ORS 677.100 and who is pursuing some special line of study as part of a supervised program of a school of medicine, 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.

(8) "Intern" means an individual who has entered into a hospital or hospitals for training in the practice of medicine for a period of time pursuant to ORS 677.100.

(9) "Licensee" means an individual holding a valid license issued by the board.

(10) "Preceptee" means an individual enrolled in a medical school who enters a special training program, approved by the board, and under the supervision of a person licensed to practice medicine in this state.

(11) "Prescribe" means to direct, order or designate the use of or manner of using by spoken or written words or other means.

(12) "Resident" means an individual who, in order to qualify for some particular specialty in the field of medicine, pursues a special line of study as part of a supervised program of a hospital approved by the board.

(13) "School of medicine" means a school that grants to its graduates a degree of Doctor of Medicine or Doctor of Osteopathy and is approved by the American Medical Association or the American Osteopathic Association, or any other such school approved by the board.

[Amended by 1961 c.400 §1; 1967 c.470 §3]

677.015 Statement of purpose. Recognizing that to practice medicine is not a natural right of any person but is a privilege granted by legislative authority, it is necessary in the interests of the health, safety and welfare of the people of this state to provide for the granting of that privilege and the regulation of its use, to the end that the public is protected from the practice of medicine by unauthorized or unqualified persons and from unprofessional conduct by persons licensed to practice under this chapter.

[1967 c.470 §2]

677.020 [Repealed by 1967 c.470 §68]

677.030 [Amended by 1957 c.681 §1; 1967 c.470 §8; renumbered 677.085]

677.040 [Amended by 1967 c.470 §59; renumbered 677.325]

677.050 [Amended by 1967 c.470 §7; renumbered 677.080]

677.060 Persons and practices not within scope of chapter. This chapter does not affect or prevent the following:

(1) The practice of medicine in this state by any commissioned medical officer serving in the Armed Forces of the United States or Public Health Service, or any medical officer on duty with the United States Veterans' Administration, while any such medical officer is engaged in the performance of the actual duties prescribed for him by the laws and regulations of the United States.

(2) The practice of medicine by anyone licensed to practice in a neighboring state, who resides near the boundary of this state, and whose practice extends into this state, but who does not maintain an office or appoint a place to meet patients or receive calls within this state.

(3) The meeting in this state of any licensed practitioner of medicine of any other state or country with a licensed practitioner of medicine in this state, for consultation.

(4) The furnishing of medical or surgical assistance in cases of emergency requiring immediate attention.

(5) The domestic administration of family remedies.

(6) The practice of dentistry, optometry, chiropractic, naturopathy, podiatry or cosmetic therapy, by any person authorized by this state. Nothing in subsection (5) of ORS 677.085 prevents the use of the words "Doctor" or "Specialist," or any abbreviation or combination thereof, or any letters or words of similar import by any person duly licensed to practice optometry within Oregon.

(7) The practice of the religion of persons who endeavor to prevent or cure disease or suffering by prayer or other spiritual means in accordance with the tenets of any church. Nothing in this chapter interferes in any manner with the individual's right to select the practitioner or mode of treatment of his choice, or interferes with the right of the person so employed to give the treatment so chosen; provided that sanitary laws, rules and regulations are complied with.

(8) The sale of lenses, artificial eyes, limbs or surgical instruments or other apparatus or appliances of a similar character.

(9) The sale of drugs, medicines and chemicals by licensed pharmacists in accordance with the laws of this state.

(10) Professional or domestic nursing.

(11) The sale by duly licensed vendors or manufacturers of proprietary medicine, ointments, salves or cosmetics in the original packages bearing duly certified and accepted trade-marks, or the sale of mineral waters or mineral substances in their native state or condition or dissolved in pure water.

(12) The sale, rent or use for hire of any device or appliance, the sale of which is not prohibited by the laws of Oregon or the United States.

(13) The practice of physiotherapy, electrotherapy or hydrotherapy carried on under the direction of a duly licensed practitioner of medicine, podiatry, naturopathy or chiropractic, or any other method of practice.

(14) The practice or use of massage, Swedish movement, physical culture, or other natural methods requiring use of the hands.

(15) The examination of any person by a law enforcement officer to determine if that person is in violation of a statute or city ordinance.

[Amended by 1953 c.159 §6; 1955 c.157 §1; 1961 c.400 §2; 1967 c.470 §4]

677.070 Chapter not applicable to regulation of other healing arts. This chapter is designed solely for the regulation of the practice of medicine and does not apply to the regulation of the other healing arts or the corrective art of optometry; and chapter 470, Oregon Laws 1967, shall not change or limit the rights of persons lawfully practicing such healing arts or the corrective art of optometry with respect to the practice of their professions as presently authorized.

[Amended by 1967 c.470 §5]

677.075 Effect of 1967 Act. (1) Chapter 470, Oregon Laws 1967, is not intended to be retroactive, and nothing in such Act affects the validity or authorizes cancellation of a license issued before June 23, 1967, to any practitioner of medicine and surgery or osteopathy and surgery, on account of anything that occurred before June 23, 1967. However, this section does not prevent the revocation of any such license on any ground which was a cause for revocation before June 23, 1967.

(2) The repeal of ORS chapter 681 (1961 Replacement Part) by chapter 470, Oregon Laws 1967, does not affect the validity of any license issued under ORS chapter 681 before June 23, 1967. After June 22, 1967, such licenses are subject in all respects to this chapter.

[Formerly 677.340]

677.080 Prohibited acts. No person shall:

(1) Knowingly make any false statement or representation on a matter, or wilfully conceal any fact material to the right of the person to practice medicine or to obtain a license under this chapter.

(2) Sell or fraudulently obtain or furnish any medical and surgical diploma, license, record or registration, or aid or abet in the same.

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

(4) Except as provided in ORS 677.060, practice medicine in this state without a license required by this chapter.

[Formerly 677.050]

677.085 What constitutes practice of medicine. A person is practicing medicine if he does one or more of the following:

(1) Advertise, hold out to the public or represent in any manner that he is authorized to practice medicine in this state.

(2) For compensation directly or indirectly received or to be received, offer or undertake to prescribe, give or administer any drug or medicine for the use of any other person.

(3) Offer or undertake to perform any surgical operation upon any person.

(4) Offer or undertake to diagnose, cure or treat in any manner, or by any means, methods, devices or instrumentalities, any disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental condition of any person.

(5) Except as provided in ORS 677.060,

append the letters "M.D." or "D.O." to his name, or use the words "Doctor," "Physician," "Surgeon," "Professor," "Healer" or "Specialist," or any abbreviation or combination thereof, or any letters or words of similar import in connection with his name, or any trade name in which he is interested, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions mentioned in this section.

(6) Act as the representative or agent of any person in doing any of the things mentioned in subsections (1) to (5) of this section.

[Formerly 677.030]

LICENSING

677.100 Qualifications of applicant for license. (1) An applicant for a license to practice medicine in this state, except as otherwise provided in subsection (2) of this section, must possess the following qualifications:

(a) Have attended and graduated from a school of medicine.

(b) Have completed an approved internship.

(c) Have complied with ORS 676.010 to 676.090.

(d) Have complied with each rule of the board which applies to all similar applicants for a license to practice medicine in this state.

(e) Have provided evidence sufficient to prove to the satisfaction of the board that the applicant is of good moral character.

(2) If an applicant establishes that he has complied with ORS 676.010 to 676.090, that he is of good moral character and that he has qualifications which the board determines are the equivalent of the qualifications required by paragraphs (a), (b) and (d) of subsection (1) of this section, the applicant satisfies the requirements of subsection (1) of this section.

(3) An applicant for a license to practice medicine must make written application to the board showing compliance with this section, ORS 677.110, 677.120 and 677.145 and the rules of the board, and containing such further information as the rules of the board may require.

[Amended by 1957 c.681 §11; 1967 c.470 §9]

677.105 [1961 c.400 §4; repealed by 1967 c.470 §68]

677.110 Scope and administration of examination. (1) Applicants who satisfy the requirements of ORS 677.100 and pay the examination fee required by ORS 677.145 shall be admitted to an examination in subjects covered in schools of medicine that grant degrees of Doctor of Medicine or Doctor of Osteopathy. The examination shall be sufficient to test the applicant's fitness to practice medicine. The examination shall be by written or printed questions and answers, and shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an average score of not less than 75 with a score of not less than 70 in each subject is required for passing.

(2) If an applicant fails the examination, the board may permit him to take a subsequent examination, if he has otherwise complied with the law and the rules of the board.

(3) If an applicant in any one examination conducted by the board obtains a score of less than 70 in not more than two of the subjects and an average score of not less than 75 in the examination, the board may permit him within 12 months after the examination to take a special examination in the subjects in which he received less than 70. If the applicant receives a score of not less than 70 in the subjects in which he is so examined, he is considered to have passed the examination.

(4) After any applicant satisfactorily passes the examination in the required subjects, and otherwise complies with the law and the rules of the board, the board shall grant a license to the applicant to practice medicine in Oregon.

[Amended by 1953 c.159 §6; 1957 c.681 §2; 1967 c.470 §10]

677.120 Reciprocity. (1) A physician and surgeon who lawfully has been issued a license to practice in another state or territory of the United States or the District of Columbia, the qualifications and licensing examinations of which are substantially similar to those of the State of Oregon, may be licensed by the board to practice his profession in this state without taking an examination, except when an oral examination is required under subsection (3) of this section, upon compliance with ORS 676.010 to 676.090.

(2) The board may, at its discretion, accept a certificate issued by the National Board of Medical Examiners of the United

States chartered under the laws of the District of Columbia or the National Board of Examiners for Osteopathic Physicians and Surgeons in lieu of its own examination.

(3) The person described in subsection (1) of this section, when his application is based on a license issued in another state or territory or the District of Columbia, or by certification of the National Board of Medical Examiners of the United States or the National Board of Examiners for Osteopathic Physicians and Surgeons, five years or more prior to the filing of his application with the board, may be required at the discretion of the board to take an oral examination. This oral examination shall be given by a group consisting of one or more members of the board and a nonmember designated by the board who is licensed to practice medicine in this state.

[Amended by 1957 c.681 §3; 1967 c.470 §16]

677.125 Reciprocal agreements. The board may enter into agreements with medical or osteopathic examining boards of other states and territories of the United States, and the District of Columbia, having qualifications and standards at least as high as those of this state, providing for reciprocal licensing in this state, without further examination, of persons who have been licensed upon written examination in the other state or territory. Approval of these agreements by any other officer or agency of this state is not required.

[1967 c.470 §18]

677.130 [Amended by 1967 c.470 §19; renumbered 677.145]

677.132 Limited license. (1) When a need exists, the board may issue a limited license for an annual period to an applicant who possesses the qualifications prescribed by the rules of the board if such applicant graduated from a school of medicine which at the time of the applicant's graduation was approved by the board pursuant to ORS 677.100. The board shall supervise the activities of the holder of a limited license and impose such restrictions as it finds necessary on his practice. Each person holding a limited license must obtain a license under ORS 677.100 to 677.120 at the earliest time possible. After such time the board may refuse to renew a limited license at the end of any annual period if it determines that the holder thereof is not pursuing diligently an attempt to become qualified for a license under ORS 677.100 to 677.120.

(2) The board by rule shall prescribe the types of and limitations upon licenses issued under this section, which shall include but not be limited to the following:

- (a) Limited license, institutional practice.
- (b) Limited license, public health.
- (c) Limited license, fellow.
- (d) Limited license, resident.
- (e) Limited license, special.

(3) A person licensed under this section is not required to obtain the certificate specified by ORS 676.010 during the first year that the person holds a limited license. The board in its discretion may waive the requirement for a certificate under ORS 676.010 in the second and subsequent years if the person proves to the satisfaction of the board that he has attempted diligently to obtain the certificate during the preceding year or years in which he held a limited license under this section.

(4) A person licensed under this section is subject to all the provisions of this chapter and to all the rules of the board, has the same duties and responsibilities and is subject to the same penalties and sanctions as any other person licensed under this chapter. [1967 c.470 §12]

677.134 Limited license, institutional practice or public health. (1) A limited license, institutional practice, permits the holder of the license to engage in the performance of the duties of a member of the medical staff, under the supervision of the chief medical officer, at a mental or tuberculosis hospital operated by the State of Oregon or any political subdivision therein.

(2) Without prior approval by the board, the holder of a limited license, institutional practice, practicing at a mental or tuberculosis hospital operated by the State of Oregon or any political subdivision therein may transfer to another such institution upon giving written notice to the board not later than the fifth day before the effective date of such transfer. The holder of such a license practicing at any other hospital similarly may transfer to a mental or tuberculosis hospital operated by the State of Oregon or any political subdivision therein without prior approval by the board, upon giving such notice to the board. However, the holder of such a license practicing at any other hospital may not transfer to a hospital not operated by the State of Oregon or any political subdivision therein except upon prior issuance by the board of a new limited license.

(3) A limited license, public health, permits the holder of the license to perform the duties of a health officer at a local health department, or to perform public health work as an employe of the State Board of Health. [1967 c.470 §13]

677.136 General limitations. ORS 677.134 does not permit the holder of a limited license, institutional practice, to engage in the practice of medicine other than specifically authorized by such license or the holder of a limited license, public health, to engage in the private practice of medicine. [1967 c.470 §14]

677.138 Limited license, special. (1) An applicant for a license to practice medicine in this state, basing his application under ORS 677.120 on a license issued to him in another state and who possesses all of the qualifications required by the board of such a licensee to practice medicine in this state, may be issued a limited license, special, if he meets all of the following conditions:

(a) The applicant has been granted permission by the board to file an application for a limited license, special.

(b) The applicant has completed his application under ORS 677.120 to the satisfaction of the board.

(c) The board has determined by its investigation that the applicant possesses all of the qualifications required by the board of such applicant for a license to practice medicine.

(d) The applicant has paid the fee required by ORS 677.145.

(2) A limited license, special, entitles the holder to practice medicine in this state only until the adjournment of the next regular board meeting specified in the license. However, the board may, in its discretion, and upon written request of the holder of the license, extend the limited license to the adjournment of the board meeting next following the board meeting specified in the license. [1967 c.470 §15]

677.140 [Amended by 1957 c.681 §4; repealed by 1967 c.470 §68]

677.145 Fees. (1) The fees for licensing to practice medicine in this state shall be:

(a) \$75 upon the first application to take an examination to practice.

(b) \$35 for any subsequent application for the examination provided for under paragraph (a) of this subsection.

(c) \$100 upon application for a license

based upon a certificate of successful examination issued by the National Board of Medical Examiners of the United States or the National Board of Examiners for Osteopathic Physicians and Surgeons.

(d) \$100 upon application for a license by reciprocity.

(2) The annual fee for a limited license for institution, public health, resident or fellow shall be \$25. The fee for a limited license, special, shall be \$20.

(3) The annual registration fee shall be:

(a) \$25 a year for one engaged in active practice.

(b) \$5 a year for one not engaged in active practice.

[Formerly 677.130]

677.150 Annual registration of licensees.

(1) Every person licensed to practice medicine in this state shall register annually with the board and pay each year a registration fee to the board.

(2) The application shall be made upon a form, mailed to each holder of a license by the secretary-treasurer of the board not later than October 15 of each year.

(3) In the application the applicant shall state his full name, his professional 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 may require.

(4) The application for annual registration shall be filed with the secretary-treasurer of the board not later than December 1 of each year.

(5) The board in its discretion may waive the payment of the annual registration fee for good and sufficient reason.

(6) Not later than December 31 of each year the secretary-treasurer of the board shall mail to the persons who have complied with this section a certificate of annual registration which shall remain in effect until midnight ending December 31 of the next following year.

(7) Every holder of this license shall display such certificate in some conspicuous place in his office.

[Amended by 1953 c.159 §6; 1959 c.154 §1; 1967 c.470 §21]

677.160 Failure to procure annual certificate of registration. (1) If any person licensed to practice medicine in this state fails to comply with subsection (4) of ORS 677.150 the secretary-treasurer of the board,

not later than December 10 of that year, shall mail a notice of delinquency to the person's last-known address. If such person fails to apply for registration and accompany his application with the required registration fees before January 1 of the next following, the license of such person is automatically suspended as of midnight ending December 31.

(2) In addition to any other penalties provided for by law, the board may require that a delinquent licensee pay a penalty, not to exceed \$1 for each day he is delinquent after December 31, before issuing an annual registration certificate.

(3) All moneys received by the secretary-treasurer from fees or penalties shall be expended by him in carrying out this chapter, except as otherwise provided by law, and the board may collect such fees or penalties by law.

[Amended by 1967 c.470 §22]

677.170 Duty of practitioner on changing location; commencing practice after January 1; inactive registration. (1) Any person licensed to practice medicine in this state and registered under ORS 677.150 who changes his location during the period between any two annual registration dates shall notify the secretary-treasurer of the board of the change in his location before practicing in his new location.

(2) Any person who desires to begin the practice of medicine in this state during the period between any two annual registration dates shall register and pay the annual registration fee for that year as provided in ORS 677.145 before beginning such practice.

(3) If any person licensed to practice medicine in this state and registered under ORS 677.150 changes his location of practice to some other state or country, he shall be listed by the board as inactive. The absence from this state of a person licensed by the board does not affect the validity of his license or registration if he notifies the board of his absence from the state and, except for time served in the United States Armed Forces, pays the annual inactive registration fee prescribed by ORS 677.145 during such absence. Before resuming practice in this state, he shall notify the board of his intention to resume active practice in this state and obtain a certificate of active registration for the year he returns. The fee shall be the active registration fee less any inactive registration fee previously paid for

that year. He shall file an affidavit with the board in which he describes his activities during his absence from this state. If, in the judgment of the board, his conduct has been such, during his absence, that he would have been denied a license if applying for an initial license to practice medicine in this state, the board shall deny active registration.

[Amended by 1953 c.159 §6; 1967 c.470 §23]

677.175 Retirement; cessation; surrender of license. (1) A person licensed to practice medicine in this state may retire from practice by notifying the board in writing of his intention to retire. Upon receipt of this notice the board shall record the fact that the person is retired and excuse such person from further payment of registration fees. During the period of retirement no such person may practice medicine. If a retired licensee desires to return to practice, he shall apply to the board in writing for active registration. The board shall take action on his application as if he were listed by the board as inactive and applying for active registration under ORS 677.170.

(2) If a person licensed to practice medicine in this state ceases to practice actively for a period of more than 12 consecutive months, the board in its discretion may require the person to prove to its satisfaction that he has maintained his competence in the practice of medicine.

(3) If a person surrenders his license to practice medicine in this state, his status becomes that of an individual who never has held a license to practice medicine in this state.

[1967 c.470 §25]

677.180 Publication of list of registered licensees. Not later than March 1 of each year the board shall cause to be published a list of persons to whom the certificates referred to in ORS 677.150 have been issued for the current year. The list shall be arranged alphabetically, and also by cities. The names registered under ORS 677.170 or ORS 677.175 after the list has been published under this section shall be reported quarterly to any person upon request.

[Amended by 1967 c.470 §26]

677.184 License to show degree held; use on stationery and displays. (1) On each license issued by it, the board shall enter after the name of the person holding the license the degree to which he is entitled by reason of his diploma of graduation from a school of medicine which, at the time of the

graduation of such person, was approved by the board for purposes of ORS 677.100.

(2) Each licensee shall display his license in a prominent place in his office.

(3) In every letter, business card, advertisement, prescription blank, sign, public listing or display in connection with his profession, each person licensed to practice medicine in this state shall designate the degree appearing on his license pursuant to subsection (1) of this section. Action taken by the board under ORS 677.190 for failure to comply with this subsection does not relieve a person from criminal prosecution for violation of ORS 676.100 to 676.120.

[1967 c.470 §28]

677.188 Definitions for ORS 677.190. As used in ORS 677.190, unless the context requires otherwise:

(1) "Abortion" means the expulsion of the fetus from the uterus at a period of uterogestation so early that it has not acquired the power of sustaining an independent life. It is conclusively presumed for the purposes of ORS 677.190 that the fetus has not acquired such power earlier than the 150th day after conception or if the fetus weighs less than 400 grams and is less than 28 centimeters in length. A disputable presumption of lack of such power arises if the expulsion takes place earlier than the 182nd day after conception.

(2) "Fraud or misrepresentation" means the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact, or any other means by which misinformation or a false impression knowingly is given.

(3) "Fraudulent claim" means a claim submitted to any patient, insurance or indemnity association, company or individual for the purpose of gaining compensation, which the person making the claim knows to be false.

(4) "Manifestly incurable condition, sickness, disease or injury" means one that is declared to be incurable by competent physicians and surgeons or by other recognized authority.

(5) "Unprofessional or dishonorable conduct" means conduct unbecoming a person licensed to practice medicine, or detrimental to the best interests of the public.

[1967 c.470 §29]

677.190 Grounds for suspension or revocation of license. The board may suspend or revoke a license to practice medicine in

this state for any of the following reasons:

(1) Unprofessional or dishonorable conduct.

(2) 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 after due consultation with another person licensed to practice medicine in this state who is not an associate or relative of the physician or patient 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 licensees involved for a period of at least three years after the date of such abortion.

(3) Employing any person to solicit patients for him.

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

(5) Obtaining any fee by fraud or misrepresentation.

(6) Wilfully or negligently divulging a professional secret.

(7) Conviction of any offense punishable by 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, shall be conclusive evidence.

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

(9) 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.

(10) Making false or misleading statements regarding his skill or the efficacy or value of the medicine, treatment or remedy prescribed or administered by him or at his direction in the treatment of any disease or other condition of the human body or mind.

(11) Impersonating another person licensed to practice medicine or permitting or allowing any person to use his license or certificate of registration.

(12) Aiding or abetting the practice of medicine by a person not licensed by the board.

(13) Using his name under the designation "doctor," "Dr.," "D.O." or "M.D." or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise.

(14) Insanity or mental disease as evidenced by an adjudication or by voluntary

commitment to an institution for treatment of a mental disease, or as determined by an examination conducted by three impartial psychiatrists retained by the board.

(15) Gross negligence in the practice of medicine.

(16) Manifest incapacity to practice medicine.

(17) The suspension or revocation by another state of a license to practice medicine, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of suspension or revocation of the state making such suspension or revocation is conclusive evidence thereof.

(18) Failing to designate the degree appearing on the license under circumstances described in subsection (3) of ORS 677.184.

(19) Wilfully violating any provision of this chapter or any rule promulgated by the board.

(20) Changing his location of practice as provided in ORS 677.170.

(21) Adjudication of or admission to a hospital for mental illness or imprisonment as provided in ORS 677.225.

(22) Making a fraudulent claim.

[Amended by 1957 c.681 §5; 1961 c.400 §5; 1967 c.470 §30]

677.200 Suspension or revocation of license by board. Except as provided in paragraph (a) of subsection (1) of ORS 677.205 and ORS 677.202, any proceeding for suspension or revocation of a license to practice medicine in this state shall be substantially in accord with the following procedure:

(1) A written complaint of some person, not excluding members or employes of the board, shall be verified and filed with the secretary-treasurer of the board.

(2) A hearing shall be given to the accused in accordance with this chapter. A copy of the complaint or other document containing the charges and a written notice stating the time and place of the hearing shall be served upon the accused not later than the 10th day before the date of the hearing. If the accused has removed from this 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 post-office address not later than the 20th day before the hearing.

(3) The hearing may be before the board or may be before three or more members or a qualified hearing officer designated by the chairman of the board to take testimony and

conduct the hearing. Testimony shall be recorded or taken stenographically at the hearing and reduced to writing. A transcript of the testimony taken shall be made. If the hearing is before one or more members of the board or a hearing officer designated by the chairman, a transcript of the testimony taken, together with any exhibits produced, shall be furnished to the board. The accused and his attorney may be present at the meeting at which the transcript is considered by the board and may be given an opportunity to argue and sum up the accused's position before the board.

(4) 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 subpoenaed for him by the board upon due application. Legal rules on introduction of evidence shall not bind the board. The board shall consider all testimony, exhibits, documents or evidence presented in support of the charges or by the accused. The board shall consider the credibility of any indirect evidence submitted. Any objections to testimony and the reasons therefor shall be noted in the record and transcribed along with the testimony.

(5) 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-treasurer of the board and a copy thereof served upon the accused as soon as feasible, unless the accused cannot be found within this state.

(6) Appearance of the accused at a hearing shall be a waiver of all irregularities in service unless he specifically objects to such irregularity. Strict rules of pleading need not be followed. Service of any papers after the service of notice to appear and copy of the complaint upon the accused may be made upon any attorney who represents the accused. [Amended by 1957 c.681 §6; 1961 c.400 §6; 1967 c.470 §31]

677.202 Procedure inapplicable in certain cases. Subsections (1) and (2) of ORS 677.200 do not apply in cases wherein:

(1) The board has refused to accept an application for licensing or has denied licensing to a person applying for a license to practice medicine in this state.

(2) The license of a person to practice medicine in this state has been suspended automatically as provided in ORS 677.160, 677.170 or 677.225.
[1967 c.470 §33]

677.205 Disciplinary action by board.

(1) The board may discipline as provided in this section any person licensed to practice medicine in this state who has:

(a) Admitted the facts of a complaint filed in accordance with subsection (1) of ORS 677.200 alleging facts which establish that he is guilty of violation of one or more of the grounds for suspension or revocation of his license as set forth in ORS 677.190;

(b) 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 677.190; or

(c) Had his license suspended automatically as provided in ORS 677.225.

(2) 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 him upon probation.

(c) Suspend his license to practice medicine in this state.

(d) Revoke his license to practice medicine in this state.

(e) Take such other disciplinary action as the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings.

(3) If the board places any person upon probation as set forth in paragraph (b) of subsection (2) 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 holder of the license furnishes the board with evidence that he is competent to practice medicine, is of good moral character and has complied with the terms of probation. If such evidence fails to establish to the satisfaction of the board that he is competent and is of good moral character, or if such evidence shows that he has not complied with the terms of the probation, the board may revoke or suspend the license.

(4) If a license to practice medicine in this state is suspended, the holder of 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 holder of the license furnishes the board evidence on the basis of which the board finds that he is competent to practice medicine, of good moral character and that he has not practiced medicine in this state during the term of suspension. If such evidence fails to establish to the satisfaction of the board that the holder is competent and of good moral character or if any evidence shows he has practiced medicine in this state during the term of suspension, the board may revoke his license after notice and hearing.

(5) The secretary-treasurer of the board shall enter each case of disciplinary action on his records.

[1957 c.681 §8; 1967 c.470 §34]

677.210 Appeal from suspension or revocation of license. If the board suspends or revokes a license to practice medicine in this state, the holder of the license may appeal from the decision of the board in the following manner:

(1) Not later than the 30th day after the filing of the decision, the appellant shall file a notice of appeal with the secretary-treasurer of the board. The notice shall state the grounds upon which the appeal is based as set forth in subsection (6) of this section. Failure of the appellant to state generally any ground on which his appeal relies as set forth in subsection (6) of this section shall be considered a waiver of such ground.

(2) At the same time, appellant shall file a bond satisfactory to the secretary-treasurer 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 actual costs of appeal as may be adjudged against him.

(3) Not later than the 10th day after the filing of the notice of appeal and bond, the secretary-treasurer shall file with the clerk of the circuit court of the county in which the hearing to revoke the license of the appellant was held, the following documents:

(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) The appeal bond.

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

(4) 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.

(5) On appeal the court shall be confined to the record certified by the secretary-treasurer of the board. The court shall consider the record so certified, and may affirm, remand for further evidence or reverse the order of revocation or suspension entered by the board.

(6) 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 substantial evidence to support the action of the board.

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

(7) If the court reverses the order of the board, the board shall issue the usual license to practice which had been revoked, and do all things necessary to reinstate appellant, not later than the 30th day after the decree of the court, unless the board appeals.

(8) Either the board or the accused may appeal from the decision of the circuit court to the Supreme Court of Oregon, not later than the 30th day after the entering of the decision, in like manner as in civil actions.

(9) No person whose license has been revoked or suspended by the board shall practice medicine in this state pending the decision of the court upon appeal from the decision or order of the board. The licensee may apply to the court for an order staying the order of the board at any stage in the appeal. The court shall hold a preliminary hearing on the application and, if the licensee shows that there is no imminent danger to the public, shall enter an order staying the order of the board pending the appeal.

[Amended by 1967 c.470 §35]

677.215 Appeal from denial of license.

(1) If the board refuses to accept an application under ORS 677.100 or to grant a license to an applicant to practice medicine in this state, not later than the 30th day after notification by the board of its refusal, the applicant may request in writing that the

board give him reasons for its refusal and set a hearing within 30 days at such time and place as the board may designate. After notice to the applicant, the hearing shall be held substantially in accordance with subsections (3) to (6) of ORS 677.200.

(2) An appeal from the action of the board under subsection (1) of this section shall be in conformity with ORS 677.210. However:

(a) The court may reverse the action of the board only on the ground that the court finds the board's decision in refusing to accept the applicant or to grant the license was arbitrary or capricious; and

(b) Subsection (7) of ORS 677.210 does not apply.

(3) If the court reverses the action of the board, the board shall continue to process the application, requiring the applicant to comply with any provisions of law or rules of the board that he has not complied with. If the applicant successfully complies with all such requirements, the board shall issue to him a license to practice medicine in this state. However, if the applicant is unsuccessful in his appeal from the decision of the board, the applicant shall pay to the board the board's actual costs incurred as a result of the applicant's appeal.

[1967 c.470 §37]

677.220 Restoration of license. Whenever a license to practice medicine in this state is revoked for any cause, the board may, in its discretion, after the lapse of six months from the date of such revocation, upon written application by the person formerly licensed and after a hearing, restore to him his license to practice medicine in this state.

[Amended by 1967 c.470 §38]

677.225 Automatic suspension of license for mental illness or imprisonment; termination of suspension. (1) A person's license to practice medicine in this state is 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 if the licensee's residence in the said hospital does not exceed 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 board, 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 677.140 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 medicine 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-treasurer 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 when:

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

(b) The board receives competent evidence that the former practitioner 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 restored.

[1955 c.317 §1; 1961 c.257 §1; 1967 c.470 §39]

677.228 Automatic suspension of license for failure to pay annual fee or report change of location; reinstatement. (1) A person's license to practice medicine in this state is suspended automatically if he fails to:

(a) Pay his annual registration fee before January 1 for each year, as required by ORS 677.160; or

(b) Notify the secretary-treasurer of the board of a change of location, as required by ORS 677.170, not later than the 30th day after such change.

(2) A person whose license has been suspended under paragraph (a) of subsection

(1) of this section is reinstated automatically when he pays to the board the annual registration fee plus all penalties then due.

(3) A person whose license has been suspended under paragraph (b) of subsection (1) of this section is reinstated automatically if the secretary-treasurer of the board receives notification of such person's current and correct address as required by ORS 677.160 not later than the 10th day after such automatic suspension takes effect. Otherwise the suspension continues until terminated by the board.

[1967 c.470 §41]

677.230 [Repealed by 1967 c.470 §42 (677.235 enacted in lieu of 677.230)]

BOARD OF MEDICAL EXAMINERS

677.235 Board of Medical Examiners; membership; terms; vacancies. (1) The Board of Medical Examiners for the State of Oregon consists of seven members appointed by the Governor. Six of the members shall be appointed from among persons having the degree of Doctor of Medicine, and one from among persons having the degree of Doctor of Osteopathy. In addition to the above seven named persons, there shall be appointed one alternate member from among persons having the degree of Doctor of Osteopathy. The said alternate member shall be empowered to attend all meetings of the board but shall have the right to vote and act only in the stead of and when the regular osteopathic member has been excused and is absent from any board meeting. All persons appointed must have been residents of this state for at least seven years and in the active practice of their profession for at least five years immediately preceding their appointment.

(2) Not later than February 1 of each year, the Oregon Medical Association shall nominate three qualified physicians for each physician member of the board whose term expires in that year, and shall certify its nominees to the Governor. Not later than the 30th day before the expiration of the term of the regular or alternate osteopathic member of the board, the Oregon Osteopathic Association shall nominate three physicians possessing the degree of Doctor of Osteopathy and shall certify its nominees to the Governor. The Governor shall consider these nominees in selecting successors to retiring board members.

(3) Each member of the board shall serve for a term of five years beginning on

March 1 of the year he is appointed and ending February 28 of the fifth year thereafter. If a vacancy occurs on the board, another member possessing the same professional degree as the person whose position has been vacated shall be appointed as provided in this section to fill the unexpired term.

[1967 c.470 §43 (enacted in lieu of 677.230)]

677.240 Oaths, officers and meetings of board. (1) The members of the board, before entering upon their duties as members, shall take and subscribe an oath to support the Constitution and laws of the State of Oregon and of the United States, and to perform well and faithfully and without partiality the duties of such office according to the best of their knowledge and ability. The oaths shall be filed and preserved of record in the office of the board.

(2) The board shall elect annually from among its members a chairman, vice-chairman and secretary-treasurer.

(3) The board shall hold meetings at Portland, Oregon, at such times and places as shall be determined by the board.

(4) The chairman, vice-chairman or secretary-treasurer may call a special meeting of the board upon at least 10 days' notice in writing to each member, to be held at any place designated by such officer.

(5) The board shall hold meetings for examination of applicants for licenses at least twice each year at Portland, Oregon, on such dates as the board considers advisable. Special meetings for the examination of applicants for licenses may be called in the same manner as other special meetings of the board.

[Amended by 1967 c.470 §47]

677.250 Records to be kept. The board shall keep a record of all the proceedings thereof, and also a record of all applicants for a license, together with their ages, the time such applicants have spent in the study and practice of medicine, the name and location of all institutions granting to applicants degrees in medicine and such other information as the board may deem advisable. The record also shall show whether such applicants were rejected or licensed under this chapter. The record is prima facie evidence of all the matters therein recorded, and failure of a person's name to appear in the record is prima facie evidence that such person does not have a license to practice medicine in this state.

[Amended by 1967 c.470 §48]

677.260 [Repealed by 1967 c.470 §49 (677.265 enacted in lieu of 677.260)]

677.265 Powers of board generally. In addition to any other powers granted by this chapter, the board may:

(1) Promulgate necessary and proper rules:

(a) Establishing standards and tests to determine the moral, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses to practice medicine in this state.

(b) To enforce the provisions of this chapter and to exercise general supervision over the practice of medicine within this state.

(2) Issue, deny, suspend and revoke licenses and limited licenses, assess costs of proceedings and place persons on probation as provided in this chapter.

(3) Use the gratuitous services and facilities of private organizations to receive the assistance and recommendations of such organizations in administering this chapter.

(4) Make its personnel and facilities available to other regulatory agencies of this state, or other bodies interested in the development and improvement of the practice of medicine in this state, upon such terms and conditions for reimbursement as are agreed to by the board and the other agency or body.

(5) Appoint examiners, who need not be members of the board, and employ or contract with the American Public Health Association or the National Board of Medical Examiners or other organizations, agencies and persons to prepare examination questions and score examination papers.

(6) Determine the schools, colleges, universities, institutions and training acceptable in connection with licensing under this chapter. All residency, internship and other training programs carried on in this state by any hospital, institution or medical facility shall be subject to approval by the board. The board shall accept the approval by the American Osteopathic Association or the American Medical Association.

(7) Prescribe the time, place, method, manner, scope and subjects of examinations under this chapter.

(8) Prescribe all forms that it considers appropriate for the purposes of this chapter, and require the submission of photographs, fingerprints and relevant personal history

data by applicants for licenses to practice medicine in this state.

[1967 c.470 §50 (enacted in lieu of 677.260)]

677.270 Proceedings upon refusal to testify or failure to obey rule, order or subpoena of board. If any person fails to comply with any lawful rule or order of the board, or fails to obey any subpoena issued by the board, or refuses to testify concerning any matter on which he may lawfully be interrogated by the board, the secretary-treasurer may apply to any circuit court of this state, or the judge thereof, to compel obedience. The court or judge, upon such application, shall compel obedience by proceedings for contempt as in a case of failure to obey a lawful judgment, decree, order or process of the court.

[Amended by 1967 c.470 §51]

677.275 Executive secretaries; hearing officers. The board may appoint:

(1) One or more executive secretaries, who need not be members of the board, and fix their compensation. Each executive secretary shall be under the supervision and control of the secretary-treasurer of the board, and may discharge the duties of the secretary-treasurer as provided in the rules of the board.

(2) One or more hearing officers, who need not be members of the board, and fix their compensation. Each hearing officer is vested with the full authority of the board to schedule and conduct hearings on behalf and in the name of the board on all matters referred to him for hearing by the board or its secretary-treasurer, including proceedings for placing licensees on probation and for suspension and revocation of licenses, and shall cause to be prepared and furnished to the board, for decision thereon by the board, the complete written transcript of the record of the hearing. This transcript shall contain all evidence introduced at the hearing and all pleas, motions and objections, and all rulings of the hearing officer. Each hearing officer may administer oaths and issue summonses, notices and subpoenas, but may not place any licensee on probation or issue, refuse, suspend or revoke a license.

[1967 c.470 §53]

677.280 Employment of personnel; compensation of board members. (1) Subject to any applicable provisions of the State Civil Service Law, the board may employ inspectors, special agents and investigators for the

purpose of enforcing the laws relating to the practice of medicine and securing evidence of violations thereof, and necessary clerical assistants, and may fix the compensation therefor and incur necessary other expenses.

(2) The board shall fix the sum to be paid to members of the board for each day of actual employment in the discharge of their official duties. Subject to applicable laws regulating travel and other expenses of state officers and employes, the members shall also receive the necessary traveling and other expenses incurred by them.

[Amended by 1967 c.470 §54]

677.290 Disposition of receipts. (1) The money received by the board shall be paid to the secretary-treasurer of the board who shall transmit it to the State Treasurer, to be deposited by him in the General Fund.

(2) Two dollars of the amount paid into the board as annual registration fees under ORS 677.145 is automatically appropriated to the University of Oregon Medical School to be used in maintaining a circulating library of medical and surgical books and publications for the use of practitioners of medicine in this state, and when not so in use to be kept at the library of the medical school and accessible to its students. The balance of the money transmitted to the State Treasurer is appropriated continuously to the board to be used in the payment of the necessary expenses incurred by authority of the board, but any part of the balance may, upon the order of the board, be paid into the circulating library fund.

(3) The secretary-treasurer of the board shall transmit to the State Treasurer with each remittance of money a statement showing on what account such money was collected by the board.

[Amended by 1953 c.159 §6; 1967 c.470 §55; 1967 c.637 §§29, 29a]

Note: 1967 c.637 §29a, which deleted from the end of subsection (1) of ORS 677.290 the words "and 10 percent thereof shall be subject to appropriation for general state purposes," does not become operative until July 1, 1969. See 1969 c.637 §39.

677.300 Disposition of fines. All fines imposed under this chapter shall be paid into the treasury of the county in which the suits, actions or proceedings have been 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 proceedings brought under this chapter shall

be paid into the State Treasury before January 1 of each year and become a part of the fund to be used by the board in the enforcement of this chapter, and shall be used for no other purpose.

[Amended by 1967 c.470 §56]

677.305 Petty cash fund of board. The board may maintain a petty cash fund in compliance with ORS 293.180 in the amount of \$100.

[1955 c.282 §1; 1967 c.470 §57]

677.310 Secretary-treasurer's bond. The secretary-treasurer of the board shall give a bond in a sum to be fixed by the board running to the State of Oregon conditioned upon the faithful discharge of his duties, and the proper accounting for and paying over all moneys coming into his possession as treasurer for the board. The bond is subject to approval by the board. The premium of the bond shall be paid from any moneys available for the expenses of the board.

[Amended by 1967 c.470 §58]

ENFORCEMENT

677.320 Investigation of complaints and suspected violations. Upon the complaint of any citizen of this state, or upon its own initiative, the board may investigate any alleged violation of this chapter. If, after the investigation, the board has reason to believe that any person is subject to prosecution criminally for the violation of this chapter, it shall lay the facts before the proper district attorney.

677.325 Enjoining unlicensed practice of medicine. The board may maintain a suit for an injunction against any person violating subsection (4) of ORS 677.080. 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 subsection (4) of ORS 677.080.

[Formerly 677.040]

677.330 Duty of district attorney and Attorney General; jurisdiction of prosecutions. (1) The district attorney of each county shall prosecute any violation of this chapter occurring in his county. The board shall be represented by the Attorney General acting under ORS 180.140. Each district attorney shall bring to the attention of the

grand jury of his county any acts complained of by the board as a violation of the provisions of this chapter.

(2) Upon any appeal to the Supreme Court of this state in any of the proceedings referred to in subsection (1) of this section, the Attorney General shall assist the district attorney in the trial of the cause in the Supreme Court.

(3) Justices' courts, district courts and the circuit courts have concurrent jurisdiction of prosecutions for the violation of this chapter.

[Amended by 1967 c.470 §60]

677.340 [Amended by 1967 c.470 §6; renumbered 677.075]

PENALTIES

677.990 Penalties. Violation of any provision of this chapter is a misdemeanor. In any prosecution for such violation it shall be sufficient to sustain a conviction to show a single act of conduct in violation of any of the provisions of this chapter and it shall not be necessary to show a general course of such conduct.

[Amended by 1967 c.470 §61]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1967.

Robert W. Lundy
Legislative Counsel