

Chapter 678

1973 REPLACEMENT PART

Nurses and Nursing Home Administrators

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PROFESSIONAL NURSES
(Generally)

678.010 Definitions for ORS 678.010 to 678.410. As used in ORS 678.010 to 678.410, unless the context requires otherwise:

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

(2) "Diagnosing" in the context of the practice of nursing means identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing care.

(3) "Human responses" means those signs, symptoms and processes which denote the person's interaction with an actual or potential health problem.

(4) "Physician" means a person licensed to practice under ORS chapter 677.

(5) "Practice of nursing" means diagnosing and treating human responses to actual or potential health problems through such services as identification thereof, health teaching, health counseling and providing care supportive to or restorative of life and well-being and including the performance of such additional services requiring education and training which are recognized by the nursing profession as proper to be performed by nurses licensed under ORS 678.010 to 678.410 and which are recognized by rules of the board. "Practice of nursing" includes executing medical orders as prescribed by a physician or dentist but does not include such execution by a member of the immediate family for another member where the person executing the care is not licensed under ORS 678.010 to 678.410.

(6) "Practice of practical nursing" means the application of knowledge drawn from basic education in the social and physical sciences in planning and giving nursing care and in assisting persons toward achieving of health and well-being.

(7) "Practice of registered nursing" means the application of knowledge drawn from broad in-depth education in the social and physical sciences in assessing, planning, ordering, giving, delegating, teaching and supervising care which promotes the person's optimum health and independence.

(8) "Treating" means selection and performance of those therapeutic measures essential to the effective execution and management of the nursing care and execution of the prescribed medical orders.

[Amended by 1957 c.316 §2; 1973 c.584 §1]

678.015 [1957 c.316 §6; repealed by 1973 c.584 §24]

678.020 [Amended by 1953 c.254 §16; repealed by 1957 c.316 §3 (678.021 enacted in lieu of 678.020)]

678.021 License required to practice nursing. After July 1, 1973, it shall be unlawful for any person to practice nursing or offer to practice nursing in this state or to use any title or abbreviation, sign, card or device to indicate the person is practicing either practical or registered nursing unless the person is licensed under ORS 678.010 to 678.410 at the level for which the indication of practice is made and the license is valid and in effect.

[1957 c.316 §4 (enacted in lieu of 678.020; 1973 c.584 §2)]

678.030 [Repealed by 1957 c.316 §7 (678.031 enacted in lieu of 678.030)]

678.031 Application of ORS 678.010 to 678.410. ORS 678.010 to 678.410 do not apply to:

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

(2) The practice of nursing which is incidental to the planned program of study for students enrolled in nursing education programs accredited by the board.

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

(4) The practice of any other occupation or profession licensed under the laws of this state.

(5) Care of the sick with or without compensation when performed in connection with the practice of the religious tenets of a well-recognized church or denomination which relies exclusively on treatment by prayer and spiritual means by adherents thereof so long as the adherent does not engage in the practice of nursing as defined in ORS 678.010 to 678.410 and 678.990 or hold oneself out as a registered nurse or a licensed practical nurse.

[1957 c.316 §8 (enacted in lieu of 678.030); 1973 c.584 §3]

(General Licensing)

678.040 Qualifications of applicants for license. Each applicant for a license under ORS 678.010 to 678.410 shall furnish satisfactory evidence that the applicant is of good moral character, that the applicant's physical and mental health is such that it is safe for the applicant to practice, and that the

applicant has been graduated from a nursing education program accredited by the board.

[Amended by 1953 c.254 §16; 1957 c.316 §9; 1973 c.584 §4]

678.045 Qualifications for licensed practical nurse. An applicant for a license to practice nursing as a licensed practical nurse shall submit evidence satisfactory to the board on a form provided by the board that the applicant:

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

(2) Has completed the prescribed curriculum of an accredited nursing education program at the level required by the board for practical nurses and holds a certificate of graduation therefrom.

[Formerly 678.250]

678.050 Examining applicants; issuing license; reciprocity. (1) Examinations for the licensing of applicants under ORS 678.010 to 678.410 shall be held at least once a year, and at such times and places as the board may determine. Notice of the examination dates shall be given by mail to all accredited nursing education programs in Oregon. All duly qualified applicants who pass the examination shall be issued the license provided for in ORS 678.010 to 678.410 according to the nature of the license for which application is made and examination taken and passed. The licenses issued by the board shall be signed by the executive director and shall be attested by the president and secretary of the board. The board shall issue a wallet sized license as evidence of current licensure. The applicant shall be required to pass an examination in such subjects relating to nursing at the practical or registered level as the board may determine necessary to protect the public health and welfare.

(2) The board may issue by indorsement a license without examination to a nurse who is licensed by examination to practice nursing at the registered or practical level in another state of the United States or a foreign country if in the opinion of the board the applicant meets the requirements of licensing in this state and can demonstrate to the satisfaction of the board competency to practice nursing at the applied-for level. The board shall be sole judge of credentials of any nurse applying for a license without examination.

(3) Subject to such terms and conditions as the board may impose, the board may issue a limited license to practice registered or practical nursing:

(a) To a graduate of an accredited nursing education program at the appropriate level upon the applicant's filing for the first examination to be given following the applicant's graduation. The license issued under this paragraph expires when the results of the examinations are received by the applicant but requires no fee other than the examination fee.

(b) To an applicant whose license has become void by reason of nonpayment of fees at either level and who otherwise meets the requirements of the board. The license issued under this paragraph expires on the date set in the license by the board.

[Amended by 1953 c.254 §16; 1957 c.316 §10; 1969 c.71 §1; 1973 c.584 §5]

678.060 [Amended by 1953 c.254 §16; repealed by 1957 c.316 §11 (678.061 enacted in lieu of 678.060)]

678.061 [1957 c.316 §12 (enacted in lieu of 678.060); 1963 c.50 §2; 1969 c.71 §2; repealed by 1973 c.584 §24]

678.070 [Repealed by 1953 c.254 §16]

678.080 Recording and exhibiting license. Any person to whom a license is issued under ORS 678.010 to 678.410 shall, whenever requested in relation to employment as a registered or practical nurse or in relation to enforcement of ORS 678.010 to 678.410 to exhibit the evidence of current licensure described in subsection (1) of ORS 678.050.

[Amended by 1953 c.254 §16; 1957 c.316 §13; 1973 c.584 §6]

678.085 [1953 c.254 §14; 1957 c.316 §14; repealed by 1973 c.584 §24]

678.090 [Repealed by 1953 c.254 §16]

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

678.101 Renewal of license; temporary retirement from practice. (1) Every person licensed to practice nursing shall apply for renewal of the license other than a limited license before 12:01 a.m. on July 1 of each odd-numbered year for registered nurses and even-numbered year for practical nurses. Each application shall be accompanied by a renewal fee payable to the board. Any person not submitting the application and renewal fee before 12:01 a.m. on July 1 of the appropriate year shall be considered delinquent and the license is void.

(2) If the applicant has not practiced nursing at the registered or practical level in any state for a period of five years, the board in issuing a limited license may require the applicant to demonstrate ability to give safe nursing care by undergoing a supervised experience in nursing practice as shall be designated by the board. No person shall be issued a license if, in the judgment of the board, the applicant's conduct has been such, during absence from practice, that the applicant would be denied a license if applying for an initial license to practice nursing in this state.

[1957 c.316 §16 (enacted in lieu of 678.100); 1965 c.158 §1; 1969 c.71 §3; 1973 c.584 §7]

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

(Discipline of Nurses)

678.111 Causes for revocation, suspension of license or probation, reprimand or censure of licensee. In the manner prescribed in ORS chapter 183 for a contested case, the license to practice nursing of any person may be revoked or suspended or the licensee may be placed on probation for a period specified by the board and subject to such condition as the board may impose or may be reprimanded or censured 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 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 of the conviction.

(2) Gross incompetence or gross negligence of the licensee in the practice of nursing at the level for which the licensee is licensed.

(3) Any wilful fraud or misrepresentation in applying for or procuring a license or renewal thereof.

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

(5) Use of any narcotic or dangerous drug or intoxicating liquor to an extent or in a manner dangerous or injurious to the licensee or others or to an extent that such use impairs the ability to conduct safely the practice for which the licensee is licensed.

(6) Conduct derogatory to the morals or standards of nursing.

(7) Violation of any provision of ORS 678.010 to 678.410 or rules adopted thereunder.

(8) Revocation or suspension of a license to practice nursing by another state. A certified copy of the order of revocation or suspension shall be conclusive evidence of such revocation or suspension.

(9) Physical or mental condition that makes the licensee unable to conduct safely the practice for which the licensee is licensed.

(10) Violation of any condition imposed by the board when issuing a limited license. [1957 c.316 §18 (enacted in lieu of 678.110); 1973 c.584 §11]

678.113 When demonstration of competency may be required. (1) On its own motion or upon complaint by any person and after hearing as in a contested case under ORS chapter 183, the board may require any person licensed under ORS 678.010 to 678.410 to demonstrate competency to practice nursing at the level at which the licensee is licensed by professional references or by evidence of continuing education.

(2) By rule, the board may require evidence of continuing education in an accredited program as a prerequisite for renewal of registered or practical nursing licenses, or both.

[1973 c.584 §9]

678.115 [1957 c.316 §20 (enacted in lieu of 678.120); 1971 c.734 §121; repealed by 1973 c.584 §24]

678.117 Procedure for imposing civil penalty. (1) The board shall adopt by rule a schedule establishing the amount of civil penalty that may be imposed for any violation of ORS 678.010 to 678.410 and 678.990 or any rule of the board. No civil penalty shall exceed \$100.

(2) Prior to imposing a civil penalty, the board shall give five days' advance notice to the licensee in writing, specifying the violation and giving notice that a penalty will be imposed.

(3) In imposing a penalty pursuant to this section, the board shall consider the following factors:

(a) The past history of the licensee incurring the penalty in observing the provisions of ORS 678.010 to 678.410 and the rules adopted pursuant thereto.

(b) The economic and financial conditions of the licensee incurring the penalty.

(4) Any penalty imposed under this section may be remitted or mitigated upon such

terms and conditions as the board considers proper and consistent with the public health and safety.

(5) Any penalty imposed under this section shall become due and payable when the licensee incurring the penalty receives a notice in writing from the board. The notice shall be sent by registered or certified mail, shall conform to the requirements of ORS 183.415 and shall include a statement of the amount and reason for the penalty.

(6) The licensee to whom the notice is given shall have 20 days from the date of mailing of the notice in which to make written application for a hearing before the board. All hearings shall be conducted in accordance with the applicable provisions of ORS chapter 183.

(7) Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(8) All penalties recovered under this section shall be credited to the special account described in ORS 678.170.

[1973 c.584 §22]

678.120 [Repealed by 1957 c.316 §19 (678.115 enacted in lieu of 678.120)]

678.121 [1957 c.316 §22; repealed by 1971 c.734 §21]

678.123 Prohibited acts. It shall be unlawful for any person:

(1) To sell or fraudulently obtain or furnish any diploma or license or record thereof for any person not graduated from an accredited nursing program or is not licensed under ORS 678.010 to 678.410.

(2) To practice nursing under authority of a diploma or license or record thereof illegally or fraudulently obtained or issued unlawfully.

(3) To employ unlicensed persons to practice practical or registered nursing.

678.125 [1957 c.316 §24; repealed by 1973 c.584 §24]

678.130 [Amended by 1953 c.254 §16; 1957 c.316 §25; 1963 c.50 §3; repealed by 1969 c.71 §9]

(State Board)

678.140 Oregon State Board of Nursing; confirmation. (1) There is created an Oregon State Board of Nursing in the Health Division composed of eight members, five of whom must be registered nurses and three of whom must be licensed practical nurses.

(2) The members of the board shall be appointed by the Governor for terms of

three years, beginning on January 1. No member shall be eligible to appointment for more than two consecutive terms. An unexpired term of a board member shall be filled in the same manner as an original appointment is made. The appointment shall be for the remainder of the unexpired term. All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(3) Two months before the expiration of the term of office of a nurse member of the board, or when a vacancy occurs in the office of a nurse member, the Oregon Nurses Association, if the vacancy is in a registered nurse position, or the Oregon Licensed Practical Nurses Association, if the vacancy is in a licensed practical nurse position, shall submit a list of three names of persons qualified for the appointment. The appointment must be made from the list if it is submitted within the required time.

(4) At the time of appointment, each member of the board must be a citizen of the United States and a resident of Oregon. Each nurse member must be licensed in the category for which appointed with at least five years' experience therein, three of which were immediately prior to appointment. The practical nurse members must be graduates of practical nurse programs accredited or approved by the board.

(5) The Governor may remove a member of the board for cause.

[Amended by 1953 c.254 §16; 1957 c.316 §26; 1971 c.650 §27; 1973 c.584 §12; 1973 c.792 §34]

678.150 Powers, functions and duties of board and board members. (1) The board shall elect annually from its number a president and secretary, each of whom shall serve until a successor is elected and qualified. The board shall meet on the call of the president or as the board may require. Special meetings of the board may be called by the secretary upon the request of any three members. Five members shall constitute a quorum.

(2) Members of the board are entitled to compensation and expenses as provided in ORS 292.495.

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

(4) The board shall keep a record of all its proceedings and of all persons licensed and schools or programs accredited or approved under ORS 678.010 to 678.410. The

records shall at all reasonable times be open to public scrutiny.

(5) Subject to the merit system, the board may hire, define the duties and fix the salary of an executive director and hire and define the duties of such other employes as are necessary to carry into effect the provisions of ORS 678.010 to 678.410. The board may also employ special consultants. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board.

(6) The board shall determine the qualifications of applicants for a license to practice nursing in this state and establish educational, moral and professional standards for such applicants subject to laws of this state.

(7) The board shall:

(a) Exercise general supervision over the practice of nursing in this state.

(b) Prescribe standards and approve curricula for nursing education programs preparing persons for licensing under ORS 678.010 to 678.410.

(c) Provide for surveys of nursing education programs at such times as may be necessary.

(d) Accredite such nursing education programs as meet the requirements of ORS 678.010 to 678.410 and of the board.

(e) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed standards.

(f) Examine, license and renew the licenses of duly qualified applicants and administer examinations for other states where requested to do so by the other state.

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

(h) Enforce the provisions of ORS 678.010 to 678.410, and incur necessary expenses therefor.

(i) Promote and coordinate continuing education programs for nurses.

(8) Determine the scope of practice as delineated by the knowledge acquired through approved courses of education or through experience.

(9) Pursuant to ORS chapter 183, the board shall adopt rules necessary to carry out the provisions of this section.

[Amended by 1953 c.254 §16; 1957 c.316 §28; subsections (5) to (9) enacted as 1957 c.316 §30; 1973 c.584 §14]

678.160 [Amended by 1953 c.254 §16; 1957 c.316 §31; 1967 c.559 §2; 1969 c.314 §79; repealed by 1973 c.584 §24]

678.162 [1953 c.254 §9; repealed by 1973 c.584 §24]

678.164 Enjoining violations or threatened violations. (1) Upon suit by the board for which no bond shall be required, the circuit courts have jurisdiction to restrain or enjoin any violation or threatened violation of ORS 687.010 to 678.410. Such suit may be brought against a person who practices nursing without a current license or who practices registered nursing when licensed as a practical nurse or who has failed to become licensed or whose license has been suspended, revoked or declared void.

(2) The remedies provided for in this section are in addition to, and not in lieu of, criminal penalties provided for in ORS 678.990.

[1953 c.254 §11; 1957 c.316 §32; 1973 c.584 §15]

678.166 [1953 c.254 §10; repealed by 1973 c.584 §24]

678.168 Disposition of fines. All fines imposed and collected under subsection (1) 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 General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 678.010 to 678.410. [1953 c.254 §12; 1973 c.584 §16]

678.170 Disposition of receipts. (1) Except as provided in subsection (2) of this section, all money received by the Health Division under ORS 678.010 to 678.410 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account. Such moneys are hereby appropriated continuously and shall be used only for the administration and enforcement of ORS 678.010 to 678.410.

(2) There shall be established in the General Fund in the State Treasury a separate account to be known as the Continuing Education for Nurses Fund. Revenue coming to the board for educational purposes, including gifts, grants, registration

fees and sale of educational materials, shall be deposited in the Continuing Education for Nurses Fund. At the end of each quarter, ending after July 21, 1973, up to 25 percent of all licensing and renewal fees received by the board shall be transferred to the Continuing Education for Nurses Fund. All moneys in the fund are appropriated continuously and shall be expended by the board for the operation and expenses of its continuing education program.

[Amended by 1973 c.584 §16a]

678.210 [Amended by 1959 c.49 §1; repealed by 1973 c.584 §24]

678.220 [Repealed by 1973 c.584 §24]

678.230 [Repealed by 1973 c.584 §24]

678.235 [1959 c.49 §3; 1967 c.559 §3; repealed by 1973 c.584 §24]

678.237 [1967 c.559 §5; repealed by 1973 c.584 §24]

678.240 [Amended by 1959 c.49 §5; repealed by 1973 c.584 §24]

678.250 [Amended by 1973 c.584 §17; renumbered 678.045]

678.260 [Repealed by 1973 c.584 §24]

678.270 [Repealed by 1973 c.584 §24]

678.280 [Amended by 1969 c.71 §4; repealed by 1973 c.584 §24]

678.290 [Amended by 1957 c.293 §2; 1959 c.49 §6; 1969 c.71 §5; repealed by 1973 c.584 §24]

678.300 [Repealed by 1973 c.584 §24]

678.310 [Amended by 1971 c.734 §122; repealed by 1973 c.584 §24]

678.320 [Repealed by 1971 c.734 §21]

678.330 [Amended by 1959 c.49 §7; 1967 c.559 §6; 1969 c.314 §80; repealed by 1973 c.584 §24]

678.335 [1967 c.559 §8; repealed by 1973 c.584 §24]

678.340 Requirements for institutions desiring to establish nursing education programs. (1) Any institution desiring to establish a nursing education program leading to licensing or a continuing education program that may be recognized or required by the board to supplement such program shall apply to the board and submit satisfactory evidence that it is prepared to meet the curricula and standards prescribed by the board.

(2) In considering applications under subsection (1) of this section the board shall review state-wide needs for nursing education programs or supplementary programs, financial resources of the institution making application, its clinical resources and its ability to retain qualified faculty.

(3) No institution or program shall represent itself as qualified or accredited to

prepare nurses for licensing unless it is accredited by the board.

[Amended by 1973 c.584 §18]

678.350 [Repealed by 1973 c.584 §24]

678.360 Survey to evaluate facilities; insuring compliance with requirements.

(1) From time to time as considered necessary by the board, it shall cause a survey of the institutions accredited to provide nursing education programs to be made. A report in writing shall be submitted to the board. The report is to include an evaluation of physical facilities and clinical resources, courses of study and qualifications of instructors. If, in the opinion of the board, the requirements for accredited programs are not being met by any institution, notice thereof shall be given to the institution in writing specifying the defect and prescribing the time within which the defect must be corrected.

(2) The board shall withdraw accreditation from an institution which fails to correct the defect reported to it under subsection (1) of this section within the period of time prescribed in the report. The institution may request and if requested shall be granted a hearing before the board in the manner required for contested cases under ORS chapter 183.

[Amended by 1973 c.584 §19]

(Fees)

678.410 Fees. The following schedule establishes the maximum examination and license fees for registered and practical nurses. Actual fees, not to exceed the maximums, shall be established by the board and are subject to approval by the Executive Department.

	Registered Nurses	Practical Nurses
(1) License renewal	\$15	\$10
(2) Examination for licensure	\$35	\$25
(3) License by indorsement	\$35	\$25
(4) Limited license issued under paragraph (b) of subsection (3) of ORS 678.050	\$30	\$20
(5) Examination proctor service	\$20	\$20
(6) Duplicate license	\$10	\$10
(7) Extension of limited license	\$10	\$ 8

[1969 c.71 §7; 1973 c.584 §20]

678.510 [1955 c.489 §1(1), (3), (4), (5); 1957 c.579 §1; repealed by 1971 c.663 §17]

678.520 [1955 c.489 §11; 1957 c.579 §2; repealed by 1971 c.663 §17]

678.530 [1955 c.489 §1(2); 1957 c.579 §3; repealed by 1971 c.663 §17]

678.540 [1955 c.489 §5; 1957 c.579 §4; 1961 c.371 §1; repealed by 1971 c.663 §17]

678.550 [1955 c.489 §6; 1957 c.579 §5; 1967 c.487 §1; repealed by 1971 c.663 §17]

678.560 [1955 c.489 §§7, 8; 1957 c.579 §6; repealed by 1971 c.663 §17]

678.570 [1955 c.489 §4; 1957 c.579 §7; repealed by 1971 c.663 §17]

678.575 [1957 c.579 §17; repealed by 1971 c.663 §17]

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

678.581 [1957 c.579 §9 (678.581 enacted in lieu of 678.580); repealed by 1971 c.663 §17]

678.590 [1955 c.489 §10; repealed by 1957 c.579 §10 (678.591 enacted in lieu of 678.590)]

678.591 [1957 c.579 §11 (678.591 enacted in lieu of 678.590); repealed by 1971 c.663 §17 and by 1971 c.734 §21]

678.593 [1957 c.579 §13; repealed by 1971 c.663 §17 and by 1971 c.734 §21]

678.596 [1957 c.579 §15; repealed by 1971 c.663 §17]

678.600 [1955 c.489 §2; 1957 c.579 §18; repealed by 1971 c.663 §17]

678.610 [1955 c.489 §3; 1957 c.579 §19; 1969 c.314 §81; repealed by 1971 c.663 §17]

678.620 [1955 c.489 §13; repealed by 1971 c.663 §17]

and authority is retained in the administrator.

(4) "Nursing home" means any institution or facility defined as such for licensing purposes under state statute or the rules of the division.

(5) "Provisional license" means a temporary license issued to a provisional nursing home administrator under the rules of the board.

[1971 c.663 §1; 1973 c.829 §57]

678.720 Prohibited acts relating to administration of nursing homes. (1) On and after July 1, 1971, unless he holds a valid license issued under the provisions of ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990, an individual shall not:

(a) Practice or offer to practice as a nursing home administrator; or

(b) Use in connection with his name the words or letters "nursing home administrator," "NHA" or any other words, letters or abbreviations or insignia tending to indicate that such individual is a licensed nursing home administrator.

(2) On and after July 1, 1971, no nursing home shall be conducted or operated unless it is under the supervision of a nursing home administrator who holds a valid license issued under the provisions of ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990.

[1971 c.663 §2]

(Licensing)

678.730 Licensing qualifications of administrator. (1) Any individual is qualified for licensure as a nursing home administrator who:

(a) Is at least 18 years old;

(b) Is of good moral character;

(c) Is in good physical and mental health;

(d) Has graduated from high school or holds a certificate indicating high school or secondary school equivalency; provided, however, that nothing herein is intended to preclude the board from establishing standards under subsection (1) of ORS 678.820 requiring, in addition, higher levels of training and instruction. The board may waive the high school or equivalency requirement upon evaluation of experience and education;

(e) Meets training or experience and other standards as are established by rules of the board; and

LICENSED NURSING HOME ADMINISTRATORS

(Generally)

678.710 Definitions for ORS 678.710 to 678.840. As used in ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990, unless the context requires otherwise:

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

(2) "Division" means the Health Division of the Department of Human Resources.

(3) "Nursing home administrator" means an individual responsible for planning, organizing, directing and controlling the operation of a nursing home, whether or not such individual has an ownership interest in such home and whether or not such functions are shared by one or more other individuals provided that final responsibility

(f) Has passed an examination as provided in ORS 678.740.

(2) Each license as a nursing home administrator may be renewed by the board upon compliance by the licensee with the requirements of ORS 678.760 and by presenting evidence of the completion of the continuing education work required by the board. The board may require up to 50 hours of continuing education in any one-year period. [1971 c.663 §6; 1973 c.827 §68; 1973 c.829 §58a]

678.740 Examination for license; fee.

(1) Examinations for licensure as a nursing home administrator shall be conducted at such times and places as the board shall designate, but not less than once a year. The fee for examination or reexamination shall not exceed \$50 as determined by the board and approved by the Executive Department.

(2) The board shall, consistent with the purposes for which the examination is given, determine the subjects, scope, content and the minimum passing grade for examinations. [1971 c.663 §7; 1973 c.829 §59]

678.750 Applicability of licensing requirements to administrators certified by religious organizations. Nothing in ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990 or the rules adopted thereunder shall be construed to require an individual, who is certified by a recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions. Any license issued under ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990 to such an individual shall indicate the limited extent of his authority to act as an administrator. [1971 c.663 §8]

678.760 License fee; application; renewal; provisional licenses. (1) Upon compliance with the requirements of ORS 678.730 and the payment of a fee not to exceed \$50 as determined by the board and approved by the Executive Department, an individual shall upon application be granted a nursing home administrator's original license. All such licenses shall expire on June 30 following date of issue.

(2) Upon application within one year following expiration of an original or a renewal license, and the payment of \$50, the board shall issue a renewal license, provided the continuing education requirements as set by the board have been met. All renewal licenses shall expire on June 30 following date of issue.

(3) The fee for a provisional license shall not exceed \$100 as determined by the board and approved by the Executive Department. [1971 c.663 §9; 1973 c.829 §60]

678.770 Licensing reciprocity; fee. (1) The board may license by indorsement, without examination, any individual who applies therefor, meets the requirements as established by the board and on the date of making application is a nursing home administrator licensed under the laws of any other state or territory of the United States if the requirements for licensing of nursing home administrators in the state or territory in which the applicant is licensed are not less than those required in ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) or ORS 678.990.

(2) Each applicant under this section shall pay to the board at the time of filing his application a fee of \$50. [1971 c.663 §11; 1973 c.829 §61]

(Denial, Suspension, Revocation)

678.780 Grounds for license denial or revocation; hearings. (1) Subject to ORS 183.310 to 183.500, and in addition to grounds specified in subsection (3) of ORS 678.820, the board may suspend, revoke or refuse to renew any license required by ORS 678.720 upon any of the following grounds:

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

(b) The conviction of a crime involving moral turpitude, the conviction of a felony or the conviction of a crime involving mistreatment of patients or involving violation of any narcotic or drug control laws. A 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.

(c) A declaration by a court of competent jurisdiction that the licensee is mentally incompetent.

(d) Mistake or inadvertence in the issuance of the license by the board.

(e) Gross negligence, fraud, dishonesty,

malfeasance or cheating in the course of acting as a nursing home administrator.

(f) A finding of addiction to narcotic or dangerous drugs by a panel of three qualified persons appointed by the Administrator of the Health Division, after hearing and in the manner governing contested cases under ORS chapter 183.

(g) The conduct of the licensee has been such that if he were then applying for such license, his application should be denied.

(h) Violation of or noncompliance with any applicable provisions of ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990, or any lawful rule or order of the board, or continuous or substantial violations of the rules of the Health Division promulgated under ORS 441.055.

(2) Hearings may be before the board or may be before a member, members or a representative of the board designated by the chairman or vice chairman to take testimony and conduct the hearing. Any member of the board or representative designated to conduct hearings may administer oaths.

[1971 c.663 §14; 1973 c.58 §1]

678.790 Procedure; review of orders. (1) Where the board proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Judicial review of orders under subsection (1) of this section shall be in accordance with ORS 183.310 to 183.500.

(3) If the final order of the court on review reverses the board's order of suspension, revocation or refusal to renew, the board shall issue the license and reinstate the appellant not later than the 30th day after the decision of the court.

[1971 c.734 §124]

(Board)

678.800 Board of Examiners of Nursing Home Administrators; members; terms; qualifications; confirmation. (1) There is hereby created a Board of Examiners of Nursing Home Administrators in the Health Division of the Department of Human Resources.

(2) The board shall be composed of nine individuals representative of the professions and institutions concerned with the care and treatment of the chronically ill or infirm elderly patients and shall be appointed by the

Governor after consultation with the associations and societies appropriate to the professions and institutions:

(a) Four members shall be nursing home administrators licensed under ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990;

(b) One a medical doctor licensed by the Board of Medical Examiners for the State of Oregon actively engaged in private practice and conversant with the care and treatment of the long-term patient;

(c) Two licensed professional nurses actively engaged in caring for chronically ill and infirm patients and licensed by the Oregon State Board of Nursing;

(d) One member representative of the public at large;

(e) A pharmacist licensed by the State Board of Pharmacy; and

(f) Except for those persons described in paragraph (a) of this subsection, no member of the board shall have a direct financial interest in a nursing home.

(3) All members of the board shall be citizens of the United States or shall have declared their intent to become citizens of the United States and shall be residents of this state. No more than two of the members of the board may be officials or full-time employees of state or local governments.

(4) The term of office of each member is three years but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment but no member shall serve more than two consecutive terms. If there is a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term.

(5) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(6) The members of the board are entitled to compensation and expenses as provided in ORS 292.495.

[1971 c.663 §3; 1973 c.58 §2; 1973 c.792 §35]

678.810 Board meetings; officers; record of proceedings; administrative services furnished by Health Division. (1) The board shall hold at least two meetings each year. At any meeting a majority of the members of the board shall constitute a quorum for the transaction of business.

(2) The board shall elect annually from its membership a chairman and a vice chairman.

(3) The Administrator of the Health Division or a representative appointed by him from the staff of the Health Division shall serve without voting rights as secretary to the board. The secretary shall keep a record of the transactions of the board and have custody of the records, documents and other property belonging to it.

(4) At the direction of the board, all other ministerial functions associated with carrying on the duties, functions and powers of the board, including, but not limited to, secretarial, clerical, investigative and fiscal shall be performed by the secretary or under his direction by employes of the Health Division.

[1971 c.663 §4]

678.820 Duties and powers of board. It shall be the function of the board to:

(1) Develop, impose and enforce standards which shall be met by individuals in order to receive and retain a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and otherwise suitable and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) Develop and apply appropriate techniques, including examinations and investigations for determining whether an individual meets such standards;

(3) Issue licenses to individuals determined after application of such techniques, to meet such standards, and subject to ORS 183.310 to 183.500 revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the board in writing, charging that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(6) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the state with a view to the improvement of standards imposed for the licensing of such administrators and the procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such;

(7) Encourage qualified educational institutions and other qualified organizations to establish, provide, conduct and continue such training and instruction courses and programs as will enable all otherwise qualified individuals to meet requirements established under ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990;

(8) Approve courses and programs conducted within or without the state as sufficient to meet education and training requirements established pursuant to ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990 and advise the appropriate state agencies regarding receipt and administration of such federal funds as are made available for such purposes;

(9) In accordance with ORS 183.300, adopt, amend and repeal rules which are necessary to carry out the provisions of ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990;

(10) Maintain a register of all licensed nursing home administrators.
[1971 c.663 §5]

678.830 Disposition of fees; refund of fee if license denied. (1) All moneys received by the division under ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration of ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990 and the rules of the board adopted thereunder and the provisions of ORS 441.005 to 441.063 and the rules for nursing homes adopted by the division thereunder.

(2) If a license is denied under ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990, 50 percent of the fee for the license shall be refunded to the applicant. No portion of an examination fee is refundable.

[1971 c.663 §12; 1973 c.427 §20]

(Enforcement)

678.840 Prevention of violations of ORS 678.710 to 678.840. Notwithstanding the existence and pursuit of any other remedy, the board may maintain an action in the name of the state for injunction or other process or proceedings against any person, firm, corporation or governmental unit to restrain or prevent the illegal conduct or operation of a nursing home in violation of ORS 678.710 to 678.780, 678.800 to 678.840 and subsection (3) of ORS 678.990.

[1971 c.663 §15]

PENALTIES

678.990 Penalties. (1) Violation of any provision of ORS 678.010 to 678.410 is a Class C misdemeanor.

(2) It shall be a misdemeanor for any person to:

(a) Sell or fraudulently obtain or furnish any license or permit or aid or abet therein under ORS 678.710 to 678.840; or

(b) Violate any of the provisions of ORS 678.720.

[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; 1971 c.663 §16; subsection (3) enacted as 1971 c.663 §13; 1973 c.584 §21]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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, 1973.

Thomas G. Clifford
Legislative Counsel

