

Chapter 677

1979 REPLACEMENT PART

Physicians; Physicians' Assistants; Emergency Medical Technicians

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PHYSICIANS

(General Provisions)

Note: Section 33, chapter 842, Oregon Laws 1977, is operative July 1, 1986, and provides:

Sec. 33. ORS 677.010, 677.012, 677.015, 677.055, 677.060, 677.065, 677.070, 677.075, 677.080, 677.085, 677.090, 677.100, 677.110, 677.120, 677.125, 677.132, 677.134, 677.136, 677.138, 677.145, 677.150, 677.160, 677.170, 677.175, 677.180, 677.184, 677.188, 677.190, 677.200, 677.202, 677.205, 677.208, 677.220, 677.225, 677.228, 677.232, 677.235, 677.240, 677.250, 677.255, 677.259, 677.261, 677.262, 677.263, 677.265, 677.270, 677.275, 677.280, 677.290, 677.300, 677.305, 677.310, 677.320, 677.325, 677.330, 677.335, 677.410, 677.415, 677.420, 677.425, 677.510, 677.610, 677.620, 677.630, 677.640, 677.650, 677.660, 677.670, 677.680, 677.690, 677.700 and 677.990 relating to physicians are repealed.

677.010 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 humans, intended to be used for the cure, mitigation or prevention of diseases or abnormalities of humans, 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) "Medically disadvantaged area" means such an area of the state designated by the State Health Planning and Development Agency to be in need of primary health care providers.

(11) "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.

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

(13) "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.

(14) "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.

(15) "Supervision" means the routine direction and regular review by the supervising physician, as determined to be appropriate by the board, of the medical services provided by the physician's assistant. The board shall insure the maintenance of direct, verbal communication in the practice description, but this does not require the physical presence at

all times of the supervising physician.

[Amended by 1961 c.400 §1; 1967 c.470 §3; 1979 c.778 §1]

677.012 "Physician's assistant" defined. As used in this chapter, unless the context requires otherwise, "physician's assistant" means a person who is registered as a physician's assistant in accordance with ORS 677.012, 677.055, 677.065, 677.090, 677.232, 677.255 and 677.510. [1971 c.649 §2]

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]

677.055 Application of provisions governing physicians' assistants to other health professions. (1) ORS 677.012, 677.055, 677.065, 677.090, 677.232, 677.255 and 677.510 are not intended to alter or affect ORS chapter 678, regarding the practice of nursing; ORS chapter 679, regarding the practice of dentistry; ORS 680.010 to 680.170, regarding the practice of dental hygienists and auxiliaries; or ORS chapter 683, regarding the practice of optometry.

(2) ORS 677.012, 677.055, 677.065, 677.090, 677.232, 677.255 and 677.510 do not require an employe of a person licensed to practice medicine under this chapter, or of a medical clinic or hospital to be registered under ORS 677.012, 677.055, 677.065, 677.090, 677.232, 677.255 and 677.510, unless the employe is employed as a physician's assistant in which case the employe shall be registered under ORS 677.012, 677.055, 677.065, 677.090, 677.232, 677.255 and 677.510. [1971 c.649 §4]

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 and rules 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.

(16) The practice of medicine by a duly qualified intern. [Amended by 1953 c.159 §6; 1955 c.157 §1; 1961 c.400 §2; 1967 c.470 §4; 1975 c.776 §4]

677.065 Medical services rendered by physician's assistant. (1) This chapter does not prohibit a person from rendering medical services:

(a) If the person has satisfactorily completed a training program, approved by the board, for physicians' assistants;

(b) If the services are rendered under the supervision and control of a person licensed under this chapter to practice medicine and the use of the assistant's services has been approved by the board as provided by ORS 677.510; and

(c) If the person is registered as a physician's assistant as provided by ORS 677.012, 677.055, 677.065, 677.090, 677.232, 677.255 and 677.510.

(2) This chapter does not prohibit a student enrolled in an approved program for training physicians' assistants from rendering medical services if the services are rendered in the course of the program.

(3) Notwithstanding subsections (1) and (2) of this section, the degree of independent judgment that the physician's assistant may exercise shall be determined by the supervising physician and the physician's assistant in accordance with a practice description approved by the board.

(4) A physician's assistant may provide medical services to ambulatory patients in a

medical care setting where the supervising physician does not regularly practice only if the following conditions exist:

(a) The medical care setting is located in a medically disadvantaged area;

(b) Direct communication either in person or by telephone, radio, radiotelephone, television or similar means is maintained; and

(c) The medical services provided by the physician's assistant are reviewed by the supervising physician on a regularly scheduled basis as determined by the board.

(5) A supervising physician, upon the approval of and in accordance with the rules established by the board, may delegate to the physician's assistant the authority to administer, dispense limited emergency medications and prescribe certain limited medications necessary to the delivery of medical services as determined by the board pursuant to subsection (6) of ORS 677.255. All prescriptions written pursuant to this section shall bear the name, office address and telephone number of the supervising physician.

(6) Nothing in ORS 677.010 and this section is intended to authorize a physician's assistant to practice in a hospital licensed pursuant to paragraph (a) of subsection (11) of ORS 442.015 without the supervision of a licensed physician.

(7) Prescriptions for certain limited medications prescribed by a physician's assistant in accordance with the practice protocol approved by the board and dispensed by a registered pharmacist may be filled by the pharmacist according to the terms of the prescription, and the filling of such a prescription shall not constitute evidence of negligence on the part of the pharmacist if the prescription was dispensed within the reasonable and prudent practice of pharmacy. [1971 c.649 §3; 1979 c.778 §2]

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]

677.087 Physician required to perform agreed upon surgery personally. (1) Any physician having agreed with a patient to perform any surgical operation or procedure, shall perform the surgery personally or, prior to surgery, shall inform the patient that the physician will not be performing the surgery.

(2) This section shall not apply when the physician, because of an emergency, cannot personally notify the patient that the physician will not be performing the surgery. [1977 c.520 §2]

677.090 Performance of medical service without being registered physician's assistant prohibited. Performance of any medical services by a physician's assistant after the termination of registration by the board, after expiration of temporary registration or in the absence of renewal of annual registration constitutes the unauthorized practice of medicine and subjects the assistant to the penalties provided by ORS 677.990.

[1971 c.649 §6]

677.095 Duty of care. A physician licensed to practice medicine by the Board of Medical Examiners for the State of Oregon has the duty to use that degree of care, skill and diligence which is used by ordinarily careful physicians in the same or similar circumstances in his or a similar community.

[1975 c.796 §10d]

Note: 677 095 and 677 097 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 677 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

677.097 Procedure to obtain informed consent of patient. (1) In order to obtain the informed consent of a patient, a physician shall explain the following:

(a) In general terms the procedure or treatment to be undertaken;

(b) That there may be alternative procedures or methods of treatment, if any; and

(c) That there are risks, if any, to the procedure or treatment.

(2) After giving the explanation specified in subsection (1) of this section, the physician shall ask the patient if he wants a more detailed explanation. If the patient requests further explanation, the physician shall disclose in substantial detail the procedure, the viable alternatives and the material risks unless to do so would be materially detrimental to the patient. In determining that further explanation would be materially detrimental the physician shall give due consideration to the standards of practice of reasonable medical practitioners in the same or a similar community under the same or similar circumstances. [1977 c.657 §1]

Note: See note under 677.095.

677.098 Diethylstilbestrol prescribed or administered only after written informed consent of patient. No person shall prescribe or knowingly administer a drug containing diethylstilbestrol without first obtaining the written informed consent of the patient in accordance with subsection (1) of ORS 677.097. The fact that written informed consent was obtained from that patient shall be documented in the patient's medical record and a copy of the informed consent form shall be given to the patient. [1979 c.268 §2]

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

(d) 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 is of good moral character and that he has qualifications which the board determines are the equivalent of the qualifications required by paragraphs (a) to (c) 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; 1973 c.31 §1]

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. However, the board may require the applicant to take the Federation Licensing Examination, also known as FLEX. Any applicant taking the FLEX examination shall be scored in accordance with the rules of FLEX. In such FLEX examination, a weighted average score of not less than 75 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) 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; 1975 c.776 §5]

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 Colum-

bia, 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.

(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; 1973 c.31 §2]

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 prac-

tice. 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 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; 1973 c.31 §3]

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 Health Division. [1967 c.470 §13; 1975 c.776 §6]

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 nonrefundable fees for licensing to practice medicine in this state shall be:

(a) \$150 upon the first application to take an examination to practice, plus the actual costs of administering the examination, as determined by the board.

(b) \$35 for any subsequent application for the examination provided for under paragraph

(a) of this subsection, plus the actual costs of administering the examination, as determined by the board.

(c) \$150 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) \$150 upon application for a license by reciprocity.

(2) The annual fee for a limited license for institution, public health and student health shall be \$55. The fee for a limited license, special, shall be \$25. The fee for a limited license, resident or fellow, shall be \$25.

(3) The annual registration fee, as determined by the board shall:

(a) Not exceed \$75 a year for one engaged in active practice.

(b) Not exceed \$55 a year for one not engaged in active practice. [Formerly 677.130; 1975 c.776 §11; 1979 c.292 §1]

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 dis-

play 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 the period of inactive registration. If, in the judgment of the board, his conduct has been such, during the period of inactive registration, 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; 1975 c.776 §7]

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 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 licentiate 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) "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.

(2) "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.

(3) "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.

(4) "Unprofessional or dishonorable conduct" means conduct unbecoming a person licensed to practice medicine, or detrimental to the best interests of the public, and includes:

(a) Any conduct or practice contrary to recognized standards of ethics of the medical profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public or

any conduct, practice or condition which does or might impair a physician's ability safely and skillfully to practice medicine;

(b) Wilful performance of any surgical or medical treatment which is contrary to acceptable medical standards; and

(c) Wilful and consistent utilization of medical service or treatment which is or may be considered inappropriate or unnecessary. [1967 c.470 §29; 1969 c.684 §14; 1975 c.796 §1]

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) Conviction under ORS 435.455 or failure to comply with the provisions of ORS 435.415 or 435.425.

(3) Employing any person to solicit patients for the licensee.

(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, drugs or controlled substances.

(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 skill or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee or at the direction of the licensee 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 the license or certificate of registration.

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

(13) Using the name of the licensee 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 or repeated 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) Failing to report the change of the location of practice of the licensee as required by 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.

(23) Performing psychosurgery or intracranial brain stimulation without obtaining permission of the Psychosurgery Review Board under ORS 426.705 to 426.740, subsections (1) and (2) of 426.745, ORS 426.750 and 426.755.

(24) Refusing an invitation for an informal interview with the board requested under ORS 677.415. [Amended by 1957 c.681 §5; 1961 c.400 §5; 1967 c.470 §30; 1969 c.684 §15; 1973 c.616 §16; 1975 c.776 §8; 1975 c.796 §2a; 1979 c.744 §50]

677.200 Procedure for 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 proceed-

ing 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 ORS 183.310 to 183.500 as a contested case.

(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. 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.

[Amended by 1957 c.681 §6; 1961 c.400 §6; 1967 c.470 §31; 1971 c.734 §118]

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) Place limitations on his license to practice medicine in this state.
- (f) Take such other disciplinary action as the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings.

(3) In addition to the action authorized by subsection (2) of this section, the board may temporarily suspend the license of a physician without a hearing, simultaneously with the commencement of proceedings under ORS 677.200 if the board finds that evidence in its possession indicates that a physician's continuation in practice constitutes an immediate danger to the public.

(4) 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.

(5) 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.

(6) The secretary-treasurer of the board shall enter each case of disciplinary action on his records. [1957 c.681 §8; 1967 c.470 §34; 1975 c.796 §3]

677.208 Procedure for license denial, revocation or suspension; review of board orders. (1) Where the board proposes to refuse to issue a license, or refuses to restore an inactive registrant to an active registration, 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 or revocation, the board shall issue the license and reinstate appellant not later than the 30th day after the decision of the court. [1971 c.734 §120; 1975 c.776 §9]

677.210 [Amended by 1967 c.470 §35; repealed by 1971 c.734 §21]

677.215 [1967 c.470 §37; repealed by 1971 c.734 §21]

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)]

677.232 Fees for physicians' assistants. Every physician's assistant shall pay to the board the following nonrefundable fees:

(1) With an application for registration as a physician's assistant, \$75.

(2) For registration or renewal of registration for one year to engage in active practice as a physician's assistant, \$30.

(3) For registration or renewal of registration for one year if the registrant is not engaged in active practice as a physician's assistant, \$15.

(4) With an application for reexamination as a physician's assistant, \$25. [1971 c.649 §8; 1979 c.292 §2]

(Board of Medical Examiners)

677.235 Board of Medical Examiners; membership; terms; vacancies; confirmation.

(1) The Board of Medical Examiners for the State of Oregon in the Health Division consists of eight members and one alternate member 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 public member representing health consumers and 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 meet-

ing, or when there is a tie vote among the eight members. All persons appointed must have been residents of this state for at least seven years. The physician members must have been in the active practice of their profession for at least five years immediately preceding their appointment. Neither the public member nor any person within the immediate family of the public member shall be employed as a health professional or in any health-related industry.

(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 four years beginning on March 1 of the year the member is appointed and ending February 28 of the fourth year thereafter. If a vacancy occurs on the board, another member possessing the same professional degree or fulfilling the same public capacity as the person whose position has been vacated shall be appointed as provided in this section to fill the unexpired term.

(4) 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. [1967 c.470 §43 (enacted in lieu of 677.230); 1971 c.650 §26; 1973 c.792 §33; 1979 c.388 §1]

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]

677.255 Rulemaking authority regarding registration of physicians' assistants. The board may adopt regulations regarding the registration of physicians' assistants and the medical services that assistants may perform, including but not limited to:

(1) The educational and other qualifications of such assistants;

(2) A required training program for applicants;

(3) Procedure applicable to applications for examination and registration;

(4) Tests or examinations given applicants by the board;

(5) Registration of qualified applicants, temporary registration and renewal of registration;

(6) Medical services registrants may be authorized to perform;

(7) Supervision of services of registrants; and

(8) Termination of registration of registrants. [1971 c.649 §5]

677.259 Requirements for the performance of acupuncture. (1) The performance of acupuncture for the purposes of demonstration, therapy, or the induction of analgesia by a person who is not a physician licensed under this chapter is not a violation of this chapter if the acupuncture is performed under the supervision and control of a physician licensed under this chapter.

(2) The Board of Medical Examiners for the State of Oregon shall determine the qualifications of a person authorized to perform acupuncture under subsection (1) of this section.

(3) Records of the diagnosis, treatment and patient response to acupuncture shall be maintained and submitted upon request to the board or to the University of Oregon Health Sciences Center for study.

(4) As used in this section, "acupuncture" means the selective stimulation of the body's neurological and defense mechanisms by the insertion of needles in an effort to correct neuromuscular and organic disorders or to induce analgesia. [1973 c.451 §2; 1975 c.442 §1]

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

677.261 Rules for acupuncture; scope.

(1) The board may adopt rules regarding the registration of acupuncturists and the acupuncture services which the acupuncturist may perform, including but not limited to:

(a) The educational and other qualifications of such acupuncturists;

(b) A required training program for applicants;

(c) Procedure applicable to applications for examination and registration;

(d) Tests or examinations given applicants by the board;

(e) Registration of qualified applicants, temporary registration and renewal of registration;

(f) Supervision of services of acupuncturists; and

(g) Termination of registration of acupuncturists.

(2) Nothing in this section shall limit the number of acupuncturists that may be supervised and controlled by a physician, nor shall this section prohibit an acupuncturist from

performing acupuncture under the supervision and control of more than one physician.

[1975 c.442 §5]

677.262 Unauthorized practice by acupuncturist. Performance of acupuncture by an acupuncturist after the termination of registration by the board, after expiration of temporary registration or in the absence of renewal of annual registration constitutes the unauthorized practice of medicine and subjects the acupuncturist to the penalties provided by ORS 677.990. [1975 c.442 §3]

677.263 Fees. Every acupuncturist shall pay to the board the following nonrefundable fees:

(1) With an application for registration as an acupuncturist, \$75.

(2) For registration or renewal of registration for one year to engage in active practice as an acupuncturist, \$30.

(3) For registration or renewal of registration for one year if the registrant is not engaged in active practice as an acupuncturist, \$15.

(4) With an application for reexamination as an acupuncturist, \$25. [1975 c.442 §4; 1979 c.292 §3]

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.

(9) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out its duties under this chapter. [1967 c.470 §50 (enacted in lieu of 677.260); 1975 c.776 §10]

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 and expenses of board members. (1) Subject to any applicable provisions of the State Merit System 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 members are entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1967 c.470 §54; 1969 c.314 §78]

677.290 Disposition of receipts. (1) All moneys received by the Health Division under ORS 677.010 to 677.990 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account. Such moneys are appropriated continuously and shall be used only for the administration and enforcement of ORS 677.010 to 677.990.

(2) Ten dollars of the amount received by the Health Division as annual active registration fees under ORS 677.145 is continuously appropriated to the University of Oregon Health Sciences Center 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 received by the Health Division is appropriated continuously and shall be used only for the administration and enforcement of ORS 677.010 to 677.990, but any part of the balance may, upon the order of the board, be paid into the circulating library fund. [Amended by 1953 c 159 §6; 1967 c.470 §55; 1967 c.637 §§29, 29a; 1973 c.427 §15; 1975 c.693 §18; 1979 c.27 §1]

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 General Fund in the State Treasury and placed to the credit of the Health Division Account before January 1 of each year and shall be used only for the administration and enforcement of ORS 677.010 to 677.990.

[Amended by 1967 c.470 §56; 1973 c 427 §16]

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 Court of Appeals 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 Court of Appeals.

(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; 1979 c.562 §30]

677.335 Official actions of board and personnel; privileges and immunities; scope of immunity of complainant. (1) Members of the board, members of its administrative and investigative staff, its attorneys acting as prosecutors or counsel shall have the same privilege and immunities from civil and criminal proceedings arising by reason of official actions as prosecuting and judicial officers of the state.

(2) No person who has made a complaint as to the conduct of a licensee of the board or who has given information or testimony relative to a proposed or pending proceeding for misconduct against the licensee of the board, shall be answerable for any such act in any proceeding except for perjury committed by him. [1975 c 776 §2]

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

ARTIFICIAL INSEMINATION

677.355 "Artificial insemination" defined. As used in ORS 109.239 to 109.247, 677.355 to 677.370 and subsection (3) of 677.990, "artificial insemination" means introduction of semen into a woman's vagina, cervical canal or uterus through the use of instruments or other artificial means. [1977 c.686 §1]

Note: ORS 677.355 to 677.370 and subsection (3) of 677.990 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 677 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

677.360 Who may select donors and perform procedure. Only physicians licensed under this chapter and persons under their supervision may select artificial insemination donors and perform artificial insemination. [1977 c.686 §2]

677.365 Consent required; filing with State Registrar of Vital Statistics; notice to physician. (1) Artificial insemination shall not be performed upon a woman without her prior written request and consent and, if she is married, the prior written request and consent of her husband.

(2) Whenever a child is born who may have been conceived by the use of semen of a donor who is not the woman's husband, a copy of the request and consent required under subsection (1) of this section shall be filed by the physician who performs the artificial insemination with the State Registrar of Vital Statistics. The state registrar shall prescribe the form of reporting.

(3) The information filed under subsection (2) of this section shall be sealed by the state registrar and may be opened only upon an order of a court of competent jurisdiction.

(4) If the physician who performs the artificial insemination does not deliver the child conceived as a result of the use of semen of a donor who is not the woman's husband, it is the duty of the woman and the husband who consented pursuant to subsection (1) of this section to give that physician notice of the child's birth. The physician who performs the artificial insemination shall be relieved of all liability for noncompliance with subsection (2) of this section if the noncompliance results from lack of notice to the physician about the birth. [1977 c.686 §3]

677.370 Who may be donor. No semen shall be donated for use in artificial insemination by any person who:

- (1) Has any disease or defect known by him to be transmissible by genes; or
- (2) Knows or has reason to know he has a venereal disease. [1977 c.686 §4]

(Competency to Practice Medicine)

677.410 Voluntary limitation of license; request; conditions; removal of limitations. A physician may request in writing to the board a limitation of his license to practice medicine. The board may grant such request for limitation and shall have authority, if it deems appropriate, to attach conditions to the license of the physician to practice medicine within the provisions of ORS 677.205 and 677.410 to 677.425. Removal of a voluntary limitation on licensure to practice medicine shall be determined by the board. [1975 c.796 §5]

677.415 Investigation of medical incompetence; reports to board; informal interview. (1) The board on its own motion may investigate any evidence which appears to show that a physician licensed by the board is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be mentally or physically unable safely to engage in the practice of medicine.

(2) Any health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.810 to 441.820, 441.990, 442.300, 442.320, 442.330, 442.340 to 442.350 and 442.400 to 442.450 and any physician licensed by the board, the Oregon Medical Association, Inc., or any component society thereof, or the Oregon Osteopathic Association shall, and any other person may, report to the board any information such physician, association, society or person may have which appears to show that a physician is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be mentally or physically unable safely to engage in the practice of medicine.

(3) If in the opinion of the board it appears such information provided to it under provisions of this section is or may be true, the board may request an informal interview with the physician. [1975 c.796 §6; 1977 c.448 §11]

677.420 Competency examination; investigation; consent; assistance. (1) Notwithstanding any other provisions of this chapter, the board may at any time direct and order a mental, physical or medical competency examination or any combination thereof, and make such investigation, including the taking of depositions or otherwise in order to fully inform itself with respect to the performance or conduct of a physician licensed by the board or any other person required to register with or be certified by the board under provisions of this chapter.

(2) If the board has reasonable cause to believe that any physician is or may be unable to practice medicine with reasonable skill and safety to patients, the board shall cause a competency examination of such physician for purposes of determining the physician's fitness to practice medicine with reasonable skill and safety to patients.

(3) Any person licensed to practice medicine in this state shall, by so practicing or by filing an annual registration to practice medicine, be deemed to have given his consent to submit to mental or physical examination when so directed by the board and, further, to have waived all objection to the admissibility of information derived from such mental or physical or medical competency examination on the grounds of privileged communication.

(4) The board may request the Oregon Medical Association, Inc. or the Oregon Osteopathic Association or both to assist the board in preparing for or conducting any medical competency examination as the board may deem appropriate. [1975 c.796 §7]

677.425 Confidential information; immunity. (1) Any information provided to the board pursuant to ORS 677.200, 677.205 or 677.410 to 677.425 is confidential and shall not be subject to public disclosure, nor shall it be admissible as evidence in any judicial proceeding.

(2) Any person who reports or provides information to the board under ORS 677.205 and 677.410 to 677.425 and who provides information in good faith shall not be subject to an action for civil damages as a result thereof. [1975 c.796 §8]

677.435 Reports of alleged professional negligence; duties of Insurance Commissioner. (1) Any insurer or approved self-insurance association required to report

claims of alleged professional negligence to the board under ORS 743.780 shall advise the board of any settlements, awards or judgments against a physician upon receipt of a written request from the board.

(2) The board shall provide the Insurance Commissioner copies of the reports required under ORS 743.780 and subsection (1) of this section.

(3) The Insurance Commissioner shall maintain a permanent record of the reports filed with him under ORS 743.780 and subsection (1) of this section and provide an index of such reports. The Insurance Commissioner, at least once every month, shall send those reports to each health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.810 to 441.820, 441.990, 442.300, 442.320, 442.330, 442.340 to 442.350 and 442.400 to 442.450 and to the board. [1977 c.448 §§2, 3, 4]

677.450 Release of certain information to health care facilities. The board may release information received under ORS 441.820 concerning the revocation or restriction of a physician's activities at a health care facility to any other health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.810 to 441.820, 441.990, 442.300, 442.320, 442.330, 442.340 to 442.350 and 442.400 to 442.450 at which that physician holds or has applied for staff privileges or other right to practice medicine at the facility. [1977 c.448 §5]

PHYSICIANS' ASSISTANTS

677.510 Approval of board required before using services of physician's assistant; term of approval; request for hearing. (1) A person licensed to practice medicine under this chapter shall not use the services of a physician's assistant without the prior approval of the board. The application shall state the name of the physician's assistant, describe the manner and extent to which his services would be used and supervised, state the education, training and experience of the physician's assistant and provide such other information in such a form as the board may require.

(2) The board may approve or reject an application, or it may modify the proposed use of the services of the assistant and approve the application as modified. Approval shall be valid for no more than one year but may be

renewed annually. When it appears to the board that the services of a physician's assistant are being used in a manner inconsistent with the approval granted, the board may withdraw its approval. If a hearing is requested by the physician or the physician's assistant upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with ORS 677.200. [1971 c.649 §7]

EMERGENCY MEDICAL TECHNICIANS

677.610 Definitions for ORS 677.610 to 677.700. As used in ORS 485.500, 485.550 to 485.560, 485.570, 485.580, 485.585, 677.610 to 677.700 and subsection (2) of 677.990, unless the context requires otherwise:

(1) "Advanced emergency care" means the performance of acts or procedures under emergency conditions in the observation, care and counsel of the ill, injured or infirm; in the administration of medication or treatments as prescribed by a licensed physician, in so far as any of these acts require substantial specialized judgment and skill and in so far as the proper performance of any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in professional emergency care. However, "advanced emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

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

(3) "Emergency medical technician II" means a person who:

(a) Has successfully completed an emergency medical technician I training course, or its equivalent as required by ORS 485.500 to 485.595, and has successfully completed written and practical examinations for certification as an emergency medical technician II;

(b) Is trained by a physician licensed to practice medicine by the Board of Medical Examiners for the State of Oregon:

(A) To administer intravenous solutions under written or oral authorization of a physician; and

(B) To perform such other acts under written or oral authorization of a physician as authorized by the board; and

(c) Has been examined and certified as an emergency medical technician II by an authorized representative of the board.

(4) "Emergency medical technician III" means a person who:

(a) Has completed all the requirements for certification as an emergency medical technician II;

(b) Has successfully completed a course in intensive patient care of at least 156 hours under the supervision of a physician, including training in cardiac defibrillation and endotracheal intubation;

(c) Is trained by a physician to administer drugs under written or oral authorization of a physician; and

(d) Has been examined and certified as an emergency medical technician III by an authorized representative of the board.

(5) "Emergency medical technician IV" means a person who:

(a) Has completed all the requirements for certification as an emergency medical technician III;

(b) Has successfully completed an emergency medical technician IV course or its equivalent; and

(c) Has been examined and certified as an emergency medical technician IV by an authorized representative of the board. [1975 c.695 §2; 1977 c.581 §3]

677.620 Advisory committee; members; compensation. (1) The Board of Medical Examiners for the State of Oregon shall appoint an advisory committee composed of eight members who shall advise the board on educational requirements, standards for advanced emergency medical technician training and any other matters relating to emergency medical technicians II, III, and IV.

(2) Of the members of the advisory committee:

(a) Two shall be physicians licensed under this chapter whose practice consists of routinely treating emergencies such as trauma and cardiovascular injuries.

(b) Five shall be Oregon certified emergency medical technicians II, III or IV who have been residents of this state for at least two years and who have been certified as emergency medical technicians for not less than two years.

(c) One person whose occupation does not fall in categories described in paragraphs (a) and (b) of this subsection.

(3) Each congressional district shall be represented by at least one member who resides in the district at the time of his appointment.

(4) The members of the advisory committee are entitled to compensation and expenses as provided in ORS 292.495. [1975 c.695 §11]

677.630 Advisory council. The advisory council on ambulances and emergency medical technicians created under ORS 485.570 shall be advisory to the board. The council shall advise the board concerning standards, courses, eligibility and other appropriate matters. [1975 c.695 §15]

677.640 Schedule of educational requirements; standards for certification. (1) The board shall adopt a schedule of minimum educational requirements in advanced emergency care at the emergency medical technician II, III and IV levels, which shall be without prejudice or discrimination as to the different colleges or hospitals teaching advanced emergency care courses for emergency medical technicians.

(2) The board shall adopt standards for advanced certification of emergency medical technicians. [1975 c.695 §12]

677.650 Requirements for certification; application. (1) No emergency medical technician shall be certified to render advanced emergency care in this state unless he:

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

(b) Is a graduate of an approved advanced course in emergency care.

(2) A person desiring to render advanced emergency care in this state on a regular basis shall make a written application to the executive secretary of the board for certification to render such services. The application shall be on a form prescribed by the board. [1975 c.695 §13]

677.660 Certification for courses prior to September 13, 1975. Any person who has satisfactorily completed a course equivalent to courses adopted under ORS 485.500, 485.550 to 485.560, 485.570, 485.580, 485.585, 677.610 to 677.700 and subsection (2) of 677.990 and the rules promulgated thereunder prior to September 13, 1975, shall be considered certified at the respective level for which

such training had been received as of September 13, 1975. [1975 c.695 §10]

677.670 Reregistration; fee; continuing education; exemption; approval of continuing education programs; scope of programs; waiver of fees. (1) A nonrefundable initial application fee of \$20 shall be submitted with the application. In addition, a nonrefundable examination fee shall be submitted in the following amounts:

(a) Emergency medical technician II, \$15.

(b) Emergency medical technician III, \$75.

(c) Emergency medical technician IV, \$45 plus the actual cost for administering the examination.

(2) Every emergency medical technician certified under ORS 677.610 to 677.700 shall reregister the certificate on July 1 of each odd-numbered year by paying to the executive secretary a fee of \$30. If such fee is not paid by October of such year, the certificate shall be considered revoked as of October 1 of that year and shall be reissued only upon application made within three years from the date of revocation and upon payment of an additional \$10 restoration fee.

(3) Each person holding a certificate under ORS 677.610 to 677.700 shall submit, at the time of application for renewal of this certificate, evidence satisfactory to the board of successful completion of an approved program of continuing education in emergency care, completed within the two calendar years preceding the date on which the evidence is submitted.

(4) The board may exempt any person holding a certificate under ORS 677.610 to 677.700 from the requirements of subsection (2) of this section upon an application showing evidence satisfactory to the board that the person was unable to comply with the requirements because of physical or mental condition or because of other unusual or extenuating circumstances. However, no person shall be exempted from the requirements of subsection (2) of this section more than once in any five-year period.

(5) The board shall prescribe criteria and approve programs of continuing education in emergency care to meet the requirements of this section. The board may also approve a program to be presented by persons qualified to do so.

(6) Any person seeking approval of a program of continuing education in emergency

care, to be offered to assist persons holding certificates under ORS 677.610 to 677.700 to comply with the requirements of subsection (2) of this section, shall submit proof to the board, at such times as the board may require, copies of courses of study to be offered and proof of such other qualifications as the board may require. Approval granted to any program of continuing education shall be reviewed periodically and approval may be withdrawn from any program that fails to meet the requirements of the board.

(7) Any program of continuing education in emergency care approved under this section shall consist of at least 15 hours of study covering new, or review or specialty subjects, in the field of emergency care.

(8) Upon request, the board shall waive the fees specified by this section for an applicant for an emergency medical technician certificate or certificate renewal who:

(a) Serves as a volunteer emergency medical technician for a public agency on a regular basis; and

(b) Agrees not to provide emergency medical services for profit. [1975 c.695 §14; 1979 c.292 §4]

677.680 Grounds for refusal to grant certificate or suspension, or revocation thereof. The board may refuse to grant, or may suspend or revoke, a certificate under ORS 677.610 to 677.670 for any of the following reasons:

(1) The use of fraud or deception in securing a certificate.

(2) Failure to complete satisfactorily an approved course.

(3) The impersonation of another emergency medical technician.

(4) Rendering emergency care under an assumed name.

(5) Subject to ORS 670.280, conviction of any criminal offense. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(6) Any reason that renders the applicant unfit to perform the duties of an emergency medical technician at the II, III or IV level.

(7) Unprofessional conduct.

(8) Obtaining a fee by fraud or misrepresentation.

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

(10) The presence of a mental disorder that demonstrably affects a technician's performance, as certified by the two psychiatrists retained by the board.

(11) Suspension or revocation of an emergency medical technician certificate issued by another state:

(a) For a reason which would permit the board to suspend or revoke a certificate issued under ORS 677.610 to 677.670; and

(b) Evidenced by a certified copy of the order of suspension or revocation.

(12) An act which would justify suspension or revocation of an emergency medical technician I certificate under ORS 485.565.

(13) Gross negligence in rendering emergency medical assistance.

(14) Repeated negligence in rendering emergency medical assistance. [1975 c.695 §16; 1979 c.165 §1]

677.690 Hearings. When the board proposes to refuse to issue or renew a certificate, or proposes to revoke or suspend a certificate, opportunity for hearing in a contested case shall be accorded as provided in ORS 183.310 to 183.500. [1975 c.695 §17]

677.700 Prosecutions; jurisdiction. (1) District attorneys shall prosecute all persons charged with violation of any of the provisions of ORS 485.500, 485.550 to 485.560, 485.570, 485.580, 485.585, 677.610 to 677.700 and subsection (2) of 677.990. The executive secretary of the board shall aid district attorneys in enforcement of ORS 485.500, 485.550 to 485.560, 485.570, 485.580, 485.585, 677.610 to 677.700 and subsection (2) of 677.990.

(2) Municipal courts and circuit courts have concurrent jurisdiction for the prosecution of offenses under ORS 485.500, 485.550 to 485.560, 485.570, 485.580, 485.585, 677.610 to 677.700 and subsection (2) of 677.990. [1975 c.695 §18]

PENALTIES

677.990 Penalties. (1) 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.

(2) Violation of any provision of ORS 485.500, 485.550 to 485.560, 485.570, 485.580, 485.585 and 677.610 to 677.700 is a Class A misdemeanor.

(3) A person who violates the provisions of

ORS 677.360 to 677.370 commits a Class C misdemeanor. [Amended by 1967 c.470 §61; (2) enacted as 1975 c.695 §19; (3) enacted as 1977 c.686 §8]

Note: See note under ORS 677.355.

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,
October 1, 1979.

Thomas G Clifford
Legislative Counsel