

Chapter 679

1983 REPLACEMENT PART

Dentists

GENERAL PROVISIONS

- 679.010 Definitions
- 679.020 Practice of dentistry or conducting dental office without license prohibited
- 679.025 License required to practice dentistry; exemptions
- 679.027 Enjoining violations
- 679.040 Designation as dentist is prima facie evidence
- 679.050 Nonresident dentists giving or receiving instruction; hospital permits

LICENSING

- 679.060 Application for license; examination fees; grounds for disqualification
- 679.065 Qualifications of applicants
- 679.070 Examination; scope and conduct; results of national standardized examination or regional testing agencies in lieu of examination
- 679.080 Reexamination of applicants; fees
- 679.090 Issuance of license
- 679.120 License fees; renewal; display of licenses
- 679.130 Failure to make annual renewal payment
- 679.140 Discipline of licensee; grounds; methods; fine
- 679.150 Hearing procedure; cancellation of license
- 679.160 Appeal from board decision
- 679.165 Automatic suspension of license in case of mental disease
- 679.170 Prohibited practices
- 679.176 Written work orders required for certain services
- 679.180 Enforcement; jurisdiction

OREGON BOARD OF DENTISTRY

- 679.230 Oregon Board of Dentistry; appointment; qualifications; confirmation; compensation and expenses
- 679.250 Powers and duties of board
- 679.260 Disbursement of receipts
- 679.280 Dental committees or consultants for improving standards of practice; liability; confidentiality of proceedings
- 679.290 Failure to comply with subpoena issued by board
- 679.300 Privileged data; admissibility of data as evidence in judicial proceedings; "data" defined

PENALTIES

- 679.991 Penalties

CROSS REFERENCES

Administrative agencies generally, Ch. 182
Administrative procedures and rules of state agencies, 183.310 to 183.550

Child abuse, reporting of suspected cases, 418.740 to 418.775
Compensation by health insurers for services performed, 743.052
Deaths or injuries, report, Chs. 146, 418
Disclosure of minor patient information without liability, 109.650
Employment of dental hygienists by dentists, 680.150 to 680.170
Handicapped child, duty to report, 343.193
Health certificate, signature by physician licensed by Board of Medical Examiners only, 433.010
Laboratory testing fees, itemized billing, 676.310
Legislative review of need for agency, 182.615
Medical or dental treatment for minors without parental consent, 109.640
Medical services to minors, 109.640
Military or naval service, persons relieved from payment of fees, 408.450
Physicians' assistants law, nonapplicability, 677.505
Professional corporations, Ch. 58

679.027

Injunction against practicing after suspension or revocation of license, 676.220

679.040

Professional designation of licensed dentist, 676.110
Use of professional designation by unlicensed person prohibited, 676.120

679.060

Waiver of educational requirement for admission to examination, 670.010

679.140

Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280
Injunction against practicing after suspension or revocation of license, 676.220

679.230

Assistant Director for Health as ex officio member of board, 184.835
Health Division, 184.830

679.250

Employment of attorneys, under control of Attorney General, 180.220
Licensing dental hygienists, 680.010 to 680.170

679.260

Expenditures without allotment prohibited in certain cases, 291.238
Receipts from licensing dental hygienists, 680.110
Subsistence and mileage allowance for travel, reimbursement, 292.210 to 292.250

679.991

Classification of criminal offenses, penalties, 161.505 to 161.585

GENERAL PROVISIONS

Note: Section 36, chapter 842, Oregon Laws 1977, is operative July 1, 1986, and provides:

Sec. 36. ORS 679.010, 679.020, 679.025, 679.026, 679.027, 679.030, 679.040, 679.050, 679.060, 679.070, 679.080, 679.090, 679.110, 679.120, 679.130, 679.140, 679.150, 679.160, 679.165, 679.170, 679.176, 679.180, 679.230, 679.240, 679.250, 679.260, 679.280 and 679.991 relating to dentists are repealed.

Note: ORS 679.065 is repealed on July 1, 1986. See section 36, chapter 169, Oregon Laws 1983.

679.010 Definitions. As used in this chapter and ORS 680.010 to 680.170, unless the context requires otherwise:

(1) "Board" means the Oregon Board of Dentistry.

(2) "Dentistry" means the healing art which is concerned with the examination, diagnosis, treatment planning, care, and prevention of conditions, which shall include but not be limited to the cutting, altering, repairing, removing, replacing or repositioning of hard or soft tissues, within the human oral cavity and its adjacent or related tissues and structures.

(3) "Dentist" means a person who may perform any intraoral or extraoral procedure required in the practice of dentistry.

(4) "Dental hygiene" means that portion of dentistry that includes the rendering of educational, preventive and therapeutic dental services in general, but specifically, scaling, root planing, curettage and any related intraoral or extraoral procedure required in the performance of such services.

(5) "Dental hygienist" means a person who, under the supervision of a dentist, practices dental hygiene.

(6) "Dental assistant" means a person who, under the supervision of a dentist, renders assistance to a dentist, dental hygienist, dental technician or another dental assistant.

(7) "Dental technician" means that person who, at the authorization of a dentist, makes, provides, repairs or alters oral prosthetic appliances and other artificial materials and devices which are returned to a dentist and inserted into the human oral cavity or which come in contact with its adjacent structures and tissues.

(8) "Direct supervision" means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

(9) "Indirect supervision" means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed.

(10) "General supervision" means supervision requiring that a dentist authorize the procedures, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist. [Amended by 1983 c.169 §1]

679.020 Practice of dentistry or conducting dental office without license prohibited. (1) No person shall practice dentistry without a license.

(2) Every individual shall, before engaging, conducting, operating or maintaining any dental office, in any way, obtain a license to practice dentistry in this state. [Amended by 1977 c.192 §1]

679.025 License required to practice dentistry; exemptions. (1) It shall be unlawful for any person not otherwise authorized by law to practice dentistry or purport to be a dentist without a valid license to practice dentistry issued by the board.

(2) The requirements of this section shall not apply to:

(a) Dentists licensed in another state making a clinical presentation sponsored by a bona fide dental society or association or an accredited dental educational institution approved by the board.

(b) Bona fide full-time students of dentistry who, during the period of the student's enrollment and as a part of the course of study in an Oregon accredited dental education program, engage in clinical studies on the premises of such institution or in a clinical setting located off the premises of the institution if the facility, the instructional staff, and the course of study to be pursued at the off-premises location meet minimum requirements prescribed by the rules of the board and the clinical study is performed under the direct supervision of a member of the faculty.

(c) Candidates who are preparing for a licensure examination to practice dentistry and whose application has been accepted by the board or its agent, if such clinical preparation is conducted in a clinic located on premises approved for that purpose by the board and if the procedures are limited to examination only. This exception shall exist for a period not to exceed two weeks immediately prior to a regularly scheduled licensure examination.

(d) Dentists practicing in the discharge of official duties as employes of the United States Government and any of its agencies.

(e) Instructors of dentistry, whether full- or part-time, while exclusively engaged in teaching activities and while employed in accredited dental educational institutions.

(f) Dentists employed by public health agencies who are not engaged in the direct delivery of clinical dental services to patients.

(g) Persons licensed to practice medicine in the State of Oregon in the regular discharge of their duties.

(h) Persons qualified to perform services relating to general anesthesia or sedation under the direct supervision of a licensed dentist.

(i) Persons practicing dentistry upon themselves as the patient.

(j) Dental hygienists, dental assistants or dental technicians performing services under the supervision of a licensed dentist in accordance with the rules adopted by the board.

(k) A person certified as a denturist under this section, ORS 680.500 to 680.570 and 743.132 engaged in the practice of denture technology. [1953 c.574 §2; 1955 c.560 §1; 1957 c.552 §4; 1963 c.284 §1; 1971 c.48 §1; 1973 c.390 §1; 1975 c.693 §19; 1979 c.1 §16; 1983 c.169 §2]

679.026 [1971 c.48 §2; 1975 c.693 §20; 1977 c.192 §2; 1981 c.185 §1; repealed by 1983 c.169 §34]

679.027 Enjoining violations. The Attorney General, or the prosecuting attorney of any county, or the board, in its own name, may maintain an action for an injunction against any person violating any provision of ORS 679.020, 679.025, 679.170 or 679.176. 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 any provision of ORS 679.020, 679.025, 679.170 or 679.176 or from any other civil, criminal or disciplinary remedy. [1957 c.552 §2; 1963 c.284 §2; 1979 c.284 §192; 1983 c.169 §3]

679.030 [Amended by 1953 c.574 §5; repealed by 1977 c.192 §13]

679.040 Designation as dentist is prima facie evidence. If any person appends the letters "D.D.S." or "D.M.D." or word "dentist" to his name, in any way, for advertising, or upon any door or sign, or causes either of the same to be done, it is prima facie evidence that such person is engaged in the practice of dentistry and subject to the regulations and convictions

and penalties of this chapter. [Amended by 1963 c.284 §3]

679.050 Nonresident dentists giving or receiving instruction; hospital permits.

(1) If a reputable and duly licensed practitioner in dentistry of another state is asked to appear and demonstrate, receive or give instruction in the practice of dentistry before any qualified dental college or dental organization or dental study group recognized by the board, the secretary of the board shall issue on written request of an authorized officer of such college or dental organization or dental study group, without fee, a permit for such purpose. A permit shall be issued upon such terms as the board shall prescribe.

(2) If a reputable and duly licensed practitioner in dentistry of another state has been granted staff privileges, either limited, special or general, by any duly licensed hospital in this state, the secretary of the board shall issue on written request and verification of an authorized officer of such hospital, a permit for such nonresident practitioner to practice dentistry in said hospital. [Amended by 1963 c.284 §4; 1965 c.122 §3; 1967 c.282 §1; 1973 c.390 §2]

LICENSING

679.060 Application for license; examination fees; grounds for disqualification. (1) Any person desiring to practice dentistry in this state shall file an application for examination with the board at least 45 days before the date set for the beginning of the examination.

(2) At the time of making the application, the applicant shall:

(a) Pay to the board the required examination fee.

(b) Furnish the board with evidence satisfactory to the board of details of any convictions recorded in any police records. Such details are subject to the findings required by ORS 670.280.

(c) Present to the board a diploma or evidence satisfactory to the board of having graduated from an accredited dental education program approved by the board.

(3) If an applicant has been in practice in another state or states the applicant shall furnish an affidavit from the secretary of the board of dental examiners or similar body of such state or states that the applicant has been engaged in the legal practice of dentistry in such state or states for a period of time prescribed by the rules of the board.

(4) The board may refuse to issue a license to an applicant who has been convicted of an offense or disciplined by a dental licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant to practice dentistry in accordance with the provisions of this chapter, or who has falsified an application for licensure.

(5) Maximum examination fees shall be:

(a) \$50 for an examination for the practice of general dentistry.

(b) \$150 for an examination for an applicant who has graduated from a foreign dental school and who has fulfilled all of the requirements established by the rules of the board.

(c) \$250 for a specialty examination providing such applicant has fulfilled all of the requirements established by the rules of the board.

(6) Examination fees paid are not refundable. [Amended by 1963 c.284 §5; 1973 c.390 §3; 1973 c.827 §69; 1973 c.829 §62a; 1977 c.444 §1; 1981 c.232 §1; 1983 c.169 §6]

679.065 Qualifications of applicants.

(1) An applicant for a dental license shall be entitled to take the examination to practice dentistry in Oregon if the applicant:

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

(b) Is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, which must have been approved by the board.

(2) Foreign trained graduates of dental programs may apply for the dental licensure examination, providing the applicant meets the board's requirements, by rule, as will reasonably assure that an applicant's training and education are sufficient for licensure. [1983 c.169 §5]

679.070 Examination; scope and conduct; results of national standardized examination or regional testing agencies in lieu of examination. (1) The board may administer written, laboratory, or clinical examinations to test professional knowledge and skills.

(2) The examination shall be elementary and practical in character but sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on any subjects pertaining to dental science. The written examination may be supplemented by oral examination. Demonstrations of the applicant's skill in operative and prosthetic dentistry also may be required. The examination shall be conducted under oath or affirmation before the board, and any member of

the board may administer the necessary oath or affirmation.

(3) The board may accept the results of national standardized examinations in satisfaction of the written examination as authorized by this section, and may accept the results of regional testing agencies in satisfaction of the laboratory or clinical examination authorized by this section. [Amended by 1965 c.122 §4; 1983 c.169 §7]

679.080 Reexamination of applicants; fees. Any person failing to pass the first examination may apply for a second and a third regularly scheduled examination by the board. The applicable fee and application for reexamination shall be submitted to the board at least 45 days before each such examination. If the applicant fails to pass the third examination for the practice of general dentistry the applicant will not be permitted to take any further examination until the applicant has attended and successfully passed a remedial program prescribed by a dental school and approved by the board. [Amended by 1973 c.829 §63; 1977 c.444 §2; 1983 c.169 §8]

679.090 Issuance of license. The board shall, upon the applicant's satisfactory completion of the educational requirements and written, laboratory and clinical examinations authorized under this chapter and upon receipt of the requisite fees, issue or renew the appropriate dental license. [Amended by 1963 c.284 §6; 1971 c.34 §1; 1983 c.169 §9]

679.100 [Repealed by 1963 c.284 §17]

679.110 [Repealed by 1983 c.169 §34]

679.120 License fees; renewal; display of licenses. (1) In addition to the examination fee required of applicants by ORS 679.060, every licensed dentist shall pay each year a license fee to the board. The license fee shall be established by the board and approved by the Executive Department and shall not exceed the maximum amount set forth in the following schedule:

(a) Dentists with an active status, as defined by the rules of the board, an amount not to exceed \$100.

(b) Dentists with an inactive status, as defined by the rules of the board, an amount not to exceed \$50.

(c) Dentists with a special status, as defined by the rules of the board, an amount not to exceed \$100.

(2)(a) The board may waive the payment of the annual license fee in the case of any licensee who furnishes satisfactory evidence that the

licensee has discontinued the actual practice of dentistry because of retirement.

(b) Application to reinstate a license retired under paragraph (a) of this subsection or to convert an inactive status license to an active status license shall be made in accordance with the rules of the board and with the submission of the license fee prescribed for such license; provided, however, that if more than one year has expired since the license was retired or inactivated, satisfactory evidence of operative competence must be submitted to the board.

(3) Payment of the annual license fee shall be made on or before December 31 of each year for the ensuing calendar year. A reasonable charge not to exceed \$10 may be made in the event the annual license fee is more than 10 days delinquent.

(4) Every dentist shall keep the board advised within 30 days of any change of address or status. [Amended by 1963 c.284 §7; 1967 c.19 §2; 1971 c.34 §2; 1973 c.390 §4; 1977 c.192 §3; 1977 c.444 §3a; 1981 c.232 §2]

679.130 Failure to make annual renewal payment. In case of default in payment of the annual fee by any licensee, the license shall be revoked by the board upon 20 days' notice given to the licensee at the time and place of considering such revocation. A certified letter addressed to the last-known address of the licensee failing to comply with the requirements is sufficient notice. Any license so revoked may be reinstated within one year after the date of revocation upon payment to the board of any unpaid fees for such intervening year, plus a penalty of \$100, but no license shall be revoked for nonpayment if the licensee so notified pays, before or at the time of such consideration, the fee required and such penalty, not to exceed \$100, as may be imposed by the board. [Amended by 1973 c.390 §5; 1983 c.169 §10]

679.140 Discipline of licensee; grounds; methods; fine. (1) The board may discipline as provided in this section any person licensed to practice dentistry in this state for any of the following causes:

(a) Conviction of any offense for which the court could impose a punishment of imprisonment in a state or federal penal institution if the board makes the finding required by ORS 670.280. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is entered, is conclusive evidence of the conviction.

(b) Renting or lending a license or diploma of the dentist to be used as the license or diploma of another person.

(c) Unprofessional conduct, or for gross ignorance, incompetence or inefficiency in the profession.

(d) Any violation of ORS 679.170 or 679.176.

(2) Unprofessional conduct as used in this chapter includes but is not limited to the following:

(a) Using what are known as "cappers" or "steerers" to obtain business.

(b) Obtaining any fee by fraud or misrepresentation.

(c) Wilfully betraying confidences involved in the patient-dentist relationship.

(d) Employing, aiding, abetting or permitting any unlicensed personnel to practice dentistry.

(e) Making use of any advertising statements of a character tending to deceive or mislead the public, or which are untruthful.

(f) Addiction, dependency upon or self abuse of alcohol or other drugs which endangers the public by impairing a licensee's ability to practice safely.

(g) Obtaining or attempting to obtain a controlled substance in any manner proscribed by the rules of the board.

(h) Prescribing or dispensing drugs outside the scope of the practice of dentistry or in a manner that impairs the health and safety of an individual.

(i) The suspension or revocation by another state of a license to practice dentistry 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.

(3) The proceedings under this section and ORS 679.150 may be taken by the board from the matters within its knowledge, or may be taken upon the information of another, but if the informant is a member of the board, the other members of the board shall constitute the board for the purpose of finding judgment of the accused.

(4) In determining what constitutes "gross ignorance, incompetence or inefficiency in the profession" within the meaning of paragraph (c) of subsection (1) of this section, the board may take into account all relevant factors and practices, including but not limited to the practices generally and currently followed and accepted by

persons licensed to practice dentistry in this state, the current teachings at accredited dental schools, relevant technical reports published in recognized dental journals and the desirability of reasonable experimentation in the furtherance of the dental arts.

(5) 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 a licensee on probation.
- (c) Suspend a license to practice dentistry in this state.
- (d) Revoke a license to practice dentistry in this state.
- (e) Place limitations on a license to practice dentistry in this state.
- (f) Refuse to renew a license to practice dentistry in this state.
- (g) Assess a monetary fine not to exceed \$1,000 for each offense.
- (h) Impose any other disciplinary action the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings.

(6) If the board places any person upon probation as set forth in paragraph (b) of subsection (5) 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 the holder is competent to practice dentistry, and has complied with the terms of probation. If such evidence fails to establish competence to the satisfaction of the board, or if such evidence shows failure to comply with the terms of the probation, the board may revoke or suspend the license.

(7) If a license to practice dentistry 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 the person is competent to practice dentistry, and that the person has not practiced dentistry 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, or if any evidence shows the person has practiced

dentistry in this state during the term of suspension, the board may revoke the license after notice and hearing. [Amended by 1955 c.560 §2; 1961 c.311 §1; 1963 c.284 §8; 1965 c.122 §5; 1971 c.157 §1; 1973 c.554 §1; 1977 c.192 §3a; 1977 c.745 §51; 1979 c.142 §1; 1979 c.744 §53a; 1981 c.185 §2; 1983 c.169 §11]

679.150 Hearing procedure; cancellation of license. (1) All complaints relating to the revocation or suspension of a license must be in writing, verified by some party familiar with the facts charged, and a copy thereof must be filed with the board. Upon receiving the complaint the board shall, if it considers the complaint sufficient, hold a hearing thereon pursuant to ORS 183.310 to 183.550 and rules of procedure adopted by the board pursuant thereto. Such hearing may be before a hearing examiner appointed by the board in which case the provisions of ORS 183.460 shall apply.

(2) Upon the revocation or suspension of or refusal to renew any license the fact shall be noted upon the records of the board and any license revoked shall be marked as canceled upon the date of its revocation. [Amended by 1961 c.311 §2; 1963 c.284 §9; 1965 c.122 §6; 1967 c.282 §2; 1983 c.169 §12]

679.160 Appeal from board decision.

(1) In case of the revocation or suspension or refusal to renew a license by the board, the licensee whose license has been revoked or suspended or renewal thereof refused by the board may obtain judicial review of the decision in the manner prescribed by ORS 183.310 to 183.550.

(2) Pending judicial review by the Court of Appeals or the Supreme Court, the licensee shall not be permitted to practice dentistry if the grounds for action by the board were:

- (a) Mental incompetency;
- (b) Advanced physical disability impairing the licensee's ability to carry out functions; or
- (c) Addiction, dependency upon or self abuse of alcohol or other drugs which endangers the public by impairing a licensee's ability to practice safely. [Amended by 1961 c.311 §3; 1967 c.282 §3; 1973 c.390 §6; 1977 c.192 §4; 1979 c.744 §54; 1983 c.169 §13]

679.165 Automatic suspension of license in case of mental disease. The entry of a decree by any court of competent jurisdiction establishing the mental disease of any person holding a license under this chapter operates as a suspension of such license. Such person may resume his practice only upon a finding by the Oregon Board of Dentistry that the licensee has been declared restored to mental competence by

an order of a court of competent jurisdiction.
[1957 c.552 §3]

679.170 Prohibited practices. No person shall:

(1) Sell or barter, or offer to sell or barter, any diploma or document conferring or purporting to confer any dental degree, or any certificate or transcript made or purporting to be made, pursuant to the laws regulating the license and registration of dentists.

(2) Purchase or procure by barter, any such diploma, certificate or transcript, with intent that it be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice.

(3) With fraudulent intent, alter in a material regard any such diploma, certificate or transcript.

(4) Use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist.

(5) In an affidavit, required of an applicant for examination, license or registration, under this chapter, wilfully make a false statement in a material regard.

(6) Within 10 days after demand made by the board, fail to respond to the board's written request for information or fail to furnish to the board the name and address of all persons practicing or assisting in the practice of dentistry in the office of such person at any time within 60 days prior to the notice, together with a sworn statement showing under and by what license or authority such person and employe are and have been practicing dentistry.

(7) Employ or use the services of any unlicensed person, to practice dentistry, except as permitted by ORS 679.025, 679.176 and ORS chapter 680. [Amended by 1963 c.284 §10; 1977 c.192 §5; 1981 c.185 §3; 1983 c.169 §14]

679.175 [1953 c.574 §3; repealed by 1957 c.552 §9]

679.176 Written work orders required for certain services. (1) No dentist may use the services of any person, not licensed to practice dentistry in this state, to construct, alter, repair, relin, reproduce or duplicate any prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, unless the dentist first furnishes to such person a written work order, in substantially the following

form:

(Date) ———, 19—

TO: (Name of dental technician or laboratory with address)

RE: (Name or number of patient)

(Description of the work to be done, including diagrams if necessary, together with specifications of the type of materials to be used.)

(Name of ordering dentist)

(Address) ———

(Current license number) ———

(2) A duplicate copy of each such work order issued by him shall be retained by each dentist for not less than two years. The board or its agents shall be permitted to inspect, upon demand, the duplicate copies of all such work orders retained by each dentist.

(3) No work order shall permit or require the taking of impressions of any part of the human oral cavity by any person not a dentist licensed by the board. [1963 c.284 §15]

679.180 Enforcement; jurisdiction. (1) The district attorney of each county shall attend to the prosecution of all criminal complaints made under this chapter, and may represent the board in any proceeding brought pursuant to ORS 679.027 either upon a complaint, or upon the information or indictment filed against any person under this chapter, or upon request of the board with respect to proceedings under ORS 679.027. However, nothing in this chapter shall be construed to prevent the prosecution of any person for violation of this chapter upon the information of the district attorney directly, or to prevent assistance being rendered to the district attorney by an employe of the board.

(2) Nothing contained in this chapter shall be construed to require the district attorney to prosecute any person who is licensed by the board and who is subject to disciplinary action directly by the board under any provision of this chapter, or of ORS 680.010 to 680.170. [Amended by 1963 c.284 §11; 1967 c.282 §4; 1977 c.192 §6; 1983 c.169 §15]

OREGON BOARD OF DENTISTRY

679.230 Oregon Board of Dentistry; appointment; qualifications; confirmation; compensation and expenses. The Oregon Board of Dentistry in the Health Division shall consist of eight members. A member shall be

appointed to the board by the Governor upon the expiration of the term of office of each of the preceding board members. Appointments to the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Each member shall hold the office for four years and until the member's successor is appointed and qualified. Terms of office begin on the first Monday of April after the time of appointment. No person is eligible to membership on the board who is not a citizen of the United States or a resident of the State of Oregon. Five members shall be Oregon active licensed dentists, one member shall be a public member and two members shall be Oregon active licensed dental hygienists. Appointments of dentists made by the Governor to the Oregon Board of Dentistry may be selected by the Governor from a list of five names for each appointment suggested by the Oregon Dental Association. Appointments of dental hygienists made by the Governor to the Oregon Board of Dentistry may be selected by the Governor from a list of five names suggested by the Oregon Dental Hygienists' Association. Members are entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1963 c.284 §12; 1969 c.314 §82; 1971 c.650 §30; 1973 c.792 §36; 1977 c.747 §1; 1983 c.169 §16]

679.240 [Repealed by 1983 c.169 §34]

679.250 Powers and duties of board.

The powers and duties of the board are as follows:

(1) To, during the month of April of each year, organize and elect from its membership a president who shall hold office for one year, or until the election and qualification of a successor. The board shall appoint an administrative officer who shall discharge such duties as the board shall, from time to time, prescribe.

(2) To authorize all necessary disbursements to carry out the provisions of this chapter, including but not limited to, payment for necessary supplies, office equipment, books and expenses for the conduct of examinations, payment for legal and investigative services rendered to the board, and such other expenditures as are provided for in this chapter.

(3) To employ such inspectors, examiners, special agents, investigators, clerical assistants, assistants and accountants as are necessary for the investigation and prosecution of alleged violations and the enforcement of this chapter and for such other purposes as the board may require. Nothing in this chapter shall be construed to prevent assistance being rendered by an employe of the board in any hearing called by

it. However, all obligations for salaries and expenses incurred under this chapter shall be paid from the fees accruing to the board under this chapter and not otherwise.

(4)(a) To conduct examinations of applicants for license to practice dentistry and dental hygiene at least twice in each year.

(b) In conducting examinations for licensure, the board may enter into a compact with other states for conducting regional examinations with other board of dental examiners concerned, or by a testing service recognized by such boards.

(5) To meet for the transaction of other business at the call of the president. A majority of board members shall constitute a quorum. A majority vote of those present shall be a decision of the entire board. The board's proceedings shall be open to public inspection in all matters affecting public interest.

(6) To keep an accurate record of all proceedings of the board and of all its meetings, of all receipts and disbursements, of all prosecutions for violation of this chapter, of all examinations for license to practice dentistry, with the names and qualifications for examination of any person examined, together with the addresses of those licensed and the results of such examinations, a record of the names of all persons licensed to practice dentistry in Oregon together with the addresses of all such persons having paid the annual license fee prescribed in ORS 679.120 and the names of all persons whose license to practice has been revoked or suspended.

(7) To make and enforce rules necessary for the procedure of the board, for the conduct of examinations, for regulating the practice of dentistry, and for regulating the services of dental hygienists and dental auxiliary personnel not inconsistent with the provisions of this chapter. In adopting rules, the board shall take into account all relevant factors germane to an orderly and fair administration of this chapter and of ORS 680.010 to 680.170, the practices and materials generally and currently used and accepted by persons licensed to practice dentistry in this state, dental techniques commonly in use, relevant technical reports published in recognized dental journals, the curriculum at accredited dental schools, the desirability of reasonable experimentation in the furtherance of the dental arts, and the desirability of providing the highest standard of dental care to the public consistent with the lowest economic cost.

(8) Upon its own motion or upon any complaint, to initiate and conduct investigations of

and hearings on all matters relating to the practice of dentistry, the discipline of licensees, or pertaining to the enforcement of any provision of this chapter. In the conduct of investigations or upon the hearing of any matter of which the board may have jurisdiction, the board may take evidence, administer oaths, take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases, and compel their appearance before it in person the same as in civil cases, by subpoena issued over the signature of an employe of the board and in the name of the people of the State of Oregon, require answers to interrogatories, and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation or to the hearing. In all investigations and hearings, the board and any person affected thereby may have the benefit of counsel, and all hearings shall be held in compliance with ORS 183.310 to 183.550.

(9) To require evidence as determined by rule of continuing education or to require satisfactory evidence of operative competency before reissuing or renewing licenses for the practice of dentistry or dental hygiene. [Amended by 1953 c.8 §2; 1957 c.552 §8; 1963 c.284 §13; 1965 c.122 §7; 1973 c.390 §7; 1973 c.829 §64; 1977 c.192 §7; 1983 c.169 §17]

679.260 Disbursement of receipts. (1)

All moneys received by the Health Division under this chapter shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 680.010 to 680.170 and this chapter.

(2) All fines imposed and collected under this chapter shall be paid into the treasury of the county in which the suits, actions or proceedings were commenced. All money thus paid into the treasury, over and above the amount necessary to reimburse the county for any expense incurred by the county, in any suit, action or proceeding brought under this chapter, shall be paid before January 1 of each year, into the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are continuously appropriated and shall be used only for the administration and enforcement of ORS 680.010 to 680.170 and this chapter.

(3) Ten percent of the annual license fee to be paid by each licensee of the board shall be used by the board to insure the continued professional competence of licensees. Such activities shall include the development of performance standards and professional peer review. [Amended

by 1957 c.552 §5; 1967 c.19 §3; 1967 c.282 §5; 1969 c.314 §103; 1973 c.427 §21; 1977 c.192 §8; 1977 c.747 §2]

679.270 [Repealed by 1973 c.829 §71]

679.280 Dental committees or consultants for improving standards of practice; liability; confidentiality of proceedings.

(1) The board may appoint a consultant or a committee or committees, each consisting of one or more licensed dentists in this state, to study and report to the board the condition of and dental treatment rendered to any person or persons by any licensed dentist or dentists in this state, or by any person purporting to practice dentistry in this state. Any person, hospital, sanatorium, professional grievance committee, nursing or rest home or other organization may, subject to the laws governing privileged or confidential communications, provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person, to any such consultant, committee or the board, to be used in the course of any study for the purpose of improving the standards of dental practice, or to enable the board to assess the desirability of disciplinary action relating thereto; and no liability of any kind or character for damages or other relief shall arise or be enforced against any such person or organization by reason of having provided such information or material, or arise or be enforced against any consultant or member of such committee by reason of having released or published the findings and conclusions of such consultants or committees to advance dental science and dental education, or by reason of having released or published generally a summary of such studies. Testimony given to and the proceedings, reports, statements, opinions, findings and conclusions of such consultants and committees and the board shall be confidential but this shall not preclude the use of the subpoena power with respect to the actual records of dentists, patients, hospitals, sanatoria, nursing or rest homes.

(2) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any consultant or member of a duly appointed committee for any act or proceeding undertaken or performed within the scope of the functions of any such consultant or committee, if such consultant or committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he acts, and acts in a reasonable belief that the action taken by him is warranted by the facts known to him after such reasonable effort to obtain the facts. [1965 c.122 §2; 1977 c.192 §9]

679.290 Failure to comply with subpoena issued by board. (1) If a person fails to comply with any subpoena issued under ORS 679.250 (8), a judge of the circuit court of any county, on application of the administrative officer of the board, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

(2) In any proceeding under subsection (1) of this section and where the subpoena is addressed to a licensee of the board it shall not be a defense that:

(a) No witness or mileage fee was paid; or

(b) The material that is subject to the subpoena is protected under a patient and dentist privilege. [1983 c.169 §31]

679.300 Privileged data; admissibility of data as evidence in judicial proceedings; "data" defined. (1) All data shall be privileged and shall not be admissible in evidence in any judicial proceeding, but this section shall not affect the admissibility in evidence of a party's records dealing with a party's care and treatment.

(2) A person serving on or communicating information to a committee described in subsection (4) of this section shall not be examined as to any communication to that committee or the findings thereof.

(3) A person serving on or communicating to a committee described in subsection (4) of this section shall not be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(4) As used in subsection (1) of this section, "data" means written reports, notes or records of peer review committees or other committees and

similar committees of professional societies in connection with training, supervision or discipline of dentists. The term also includes written reports, notes or records of utilization review and professional standards review organization.

[1983 c.169 §33]

Note: 679.300 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PENALTIES

679.990 [Repealed by 1957 c.552 §6 (679.991 enacted in lieu of 679.990)]

679.991 Penalties. (1) Violation of any provision of ORS 679.020 (1) or 679.025 (1), is a Class A misdemeanor.

(2) Violation of ORS 679.170 or 679.176 is a Class B misdemeanor.

(3) In the event of a second or subsequent conviction under subsection (1) of this section, it is mandatory upon the part of the court to sentence the convicted person to imprisonment in the county jail for not less than 10 days in addition to the maximum fine or imprisonment permitted.

(4) In any prosecution for violation of subsection (1) or (2) of this section 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. [1957 c.552 §7 (enacted in lieu of 679.990); 1963 c.284 §16; 1971 c.743 §407; 1973 c.390 §8; 1977 c.192 §10]

