

# Chapter 678

1993 EDITION

## Nurses; Nursing Home Administrators

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**PROFESSIONAL NURSES****(Generally)**

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

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

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

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

(4) "Nurse practitioner" means a registered nurse who has been certified by the board as qualified to practice in an expanded specialty role within the practice of nursing.

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

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

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

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

(9) "Treating" means selection and performance of those therapeutic measures essential to the effective execution and management of the nursing care and exe-

cution of the prescribed medical orders. [Amended by 1957 c.316 §2; 1973 c.584 §1; 1975 c.205 §1; 1975 c.659 §1]

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

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

**678.021 License required to practice nursing.** After July 1, 1973, it shall be unlawful for any person to practice nursing or offer to practice nursing in this state or to use any title or abbreviation, sign, card or device to indicate the person is practicing either practical or registered nursing unless the person is licensed under ORS 678.010 to 678.410 at the level for which the indication of practice is made and the license is valid and in effect. [1957 c.316 §4 (enacted in lieu of 678.020); 1973 c.584 §2]

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

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

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

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

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

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

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

(6) Nonresident nurses licensed and in good standing in another state if they are practicing in Oregon on a single, temporary assignment of not to exceed 30 days, renewable for not to exceed 30 days, for assignments which are for the general public benefit limited to the following:

(a) Transport teams;

(b) Red Cross Blood Services personnel;

(c) Presentation of educational programs;

(d) Disaster teams; or

(e) Staffing a coronary care unit, intensive care unit or emergency department in a hospital which is responding to a temporary

staffing shortage and would be otherwise unable to meet its critical care staffing requirements. [1957 c.316 §8 (enacted in lieu of 678.030); 1973 c.584 §3; 1981 c.369 §1]

**678.034 Hospitals to notify board of nurses employed to meet temporary staffing shortage.** (1) Hospitals employing nurses under ORS 678.031 (6)(e) shall notify the board in writing of the number of nurses so employed, the times of employment, the nature of the staffing shortage and certify that there is no labor dispute affecting nurses at the hospital. In addition, at the request of the board, the hospital shall provide documentation that the nurses so employed are licensed and in good standing in another state or United States territory.

(2) Nurses employed in this state under ORS 678.031 (6)(e), at the time of employment, also must apply for an Oregon license by indorsement. [1981 c.369 §1a]

**678.035** [1975 c.659 §4; 1977 c.309 §3; repealed by 1981 c.369 §16]

**678.036 Liability of nurse supervising nursing assistants; liability when duties delegated.** (1) A nurse who is responsible for supervising nursing assistants shall not be considered to be supervising a nursing assistant who administers noninjectable medication while the nurse is absent from the facility at which the administration occurs unless the nursing assistant is acting pursuant to specific instructions from the nurse or the nurse fails to leave instructions when the nurse should have done so.

(2) A nurse who is responsible for supervising nursing assistants shall not be subject to an action for civil damages for the failure of a nursing assistant who administers noninjectable medication to notify the nurse of any patient reaction to the medication perceived by the assistant.

(3) A nurse who delegates the provision of nursing care to another person pursuant to ORS 678.150 shall not be subject to an action for civil damages for the performance of a person to whom nursing care is delegated unless the person is acting pursuant to specific instructions from the nurse or the nurse fails to leave instructions when the nurse should have done so. [1981 c.431 §2; 1987 c.369 §3]

### (Licensing)

**678.040 Qualifications of applicants for license.** Each applicant for a license under ORS 678.010 to 678.445 shall furnish satisfactory evidence that the applicant's physical and mental health is such that it is safe for the applicant to practice, and that:

(1) The applicant has graduated from a registered nurse or licensed practical nurse

nursing education program accredited by the board;

(2) The applicant has graduated from a nursing program in the United States which program is either accredited by the licensing board for nurses in a particular state or United States territory, or, if the licensing board is not the accrediting agency in that state or United States territory, the program is accredited by the appropriate accrediting agency for that state or United States territory; or

(3) The applicant has graduated in another country and has an education equivalent to that provided by accredited programs in this country. [Amended by 1953 c.254 §16; 1957 c.316 §9; 1973 c.584 §4; 1981 c.369 §2]

**678.045** [Formerly 678.250; repealed by 1981 c.369 §16]

**678.050 Examining applicants; issuing license; license by indorsement; processing license by indorsement application; limited license.** (1) Examinations for the licensing of applicants under ORS 678.010 to 678.445 shall be held at least once a year, and at such times and places as the board may determine. Notice of the examination dates shall be given by mail to all accredited nursing education programs in Oregon. The board shall issue a wallet sized license as evidence of current licensure. The applicant shall be required to pass an examination in such subjects relating to nursing at the practical or registered level as the board may determine necessary to protect the public health and welfare.

(2) All duly qualified applicants who pass the examination shall be issued the license provided for in ORS 678.010 to 678.445 according to the nature of the license for which application is made and examination taken and passed.

(3)(a) The board may issue a license by indorsement to an applicant qualified as provided in ORS 678.040 who has passed the examination used by the Oregon State Board of Nursing. The board may also require evidence of competency to practice nursing at the level for which application is made.

(b) For the purposes of the licensing procedure, the board shall not accept monetary assistance from anyone except the nurse applying for licensure by indorsement.

(c) The board shall process in order applications for licensure by indorsement of qualified applicants and immediately issue licenses or license memoranda when the applications are received and review of supportive documentation is completed. However, this paragraph does not prohibit the board from immediately issuing a license

out of order to applicants appearing in person.

(d) The provisions of paragraphs (b) and (c) of this subsection do not prohibit the board from processing requests to employ nurses to meet temporary staffing shortages, as described in ORS 678.031 or 678.034, in facilities in this state not involved in labor disputes.

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

(a) To a graduate of an accredited nursing education program at the appropriate level upon the applicant's filing for the first examination to be given following the applicant's graduation. The license issued under this paragraph expires when the results of the examinations are received by the applicant. The board may extend the limited license if the applicant shows to the satisfaction of the board that an emergency situation has prevented the applicant from taking or completing the first examination administered following graduation. The extension expires when the results of the next examination are received by the applicant or on the filing date of the next examination if the applicant has not reapplied.

(b) To an applicant whose license has become void by reason of nonpayment of fees at either level and who otherwise meets the requirements of the board. The board may, in issuing a limited license, require the applicant to demonstrate ability to give safe nursing care by undergoing a supervised experience in nursing practice as shall be designated by the board, or by satisfactorily completing a continuing education program as approved by the board. The license issued under this paragraph expires on the date set in the license by the board. Upon satisfactorily completing the board's requirements, and payment of the renewal fee and delinquency fee, the board shall issue to the applicant a license to practice nursing.

(c) To an applicant who has not practiced nursing in any state for a period of five years, but has maintained a current license by the payment of fees. Such applicant shall not practice nursing in Oregon unless an application is made to the board for a limited license and it is issued to the applicant. The board, in issuing such limited license, may require the applicant to demonstrate ability to give safe nursing care by undergoing a supervised experience in nursing practice as shall be designated by the board, or by satisfactorily completing a continuing education program approved or designated by the board. No person shall be issued a license if,

in the judgment of the board, the person's conduct has been such, during absence from practice, that the applicant would be denied a license if applying for an initial license to practice nursing in this state.

(d) To a licensee who has been placed on probation or has been otherwise subjected to disciplinary action by the board. [Amended by 1953 c.254 §16; 1957 c.316 §10; 1969 c.71 §1; 1973 c.584 §5; 1975 c.205 §2; 1981 c.369 §3; 1983 c.221 §1; 1989 c.673 §1]

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

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

**678.070** [Repealed by 1953 c.254 §16]

**678.080 Exhibiting license.** Any person to whom a license is issued under ORS 678.010 to 678.445, whenever requested to do so in relation to employment as a registered or practical nurse or in relation to enforcement of ORS 678.010 to 678.445, shall exhibit the evidence of current licensure described in ORS 678.050 (1). [Amended by 1953 c.254 §16; 1957 c.316 §13; 1973 c.584 §6; 1981 c.369 §4]

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

**678.090** [Repealed by 1953 c.254 §16]

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

**678.101 Renewal of license; certificate and privilege.** Every person licensed to practice nursing shall apply for renewal of the license other than a limited license in every second year before 12:01 a.m. on the anniversary of the birthdate of the person in the odd-numbered year for persons whose birth occurred in an odd-numbered year and in the even-numbered year for persons whose birth occurred in an even-numbered year. Persons whose birthdate anniversary falls on February 29 shall be treated as if the anniversary were March 1. Each application shall be accompanied by a nonrefundable renewal fee payable to the board. Any person not submitting, personally or by appropriately postmarked letter, the application and renewal fee before 12:01 a.m. on the proper date of the appropriate year shall be considered delinquent and shall be subject to the delinquent fee specified in ORS 678.410. A license not renewed within 30 days after its expiration date is void. A registered nurse who has been issued a certificate as a nurse practitioner shall apply, personally or by appropriately postmarked letter, for renewal of the certificate and for renewal of the prescriptive privileges in every second year before 12:01 a.m. on the anniversary of the birthdate, as determined for the person's license to practice nursing. [1957 c.316 §16 (enacted in lieu of 678.100); 1965 c.158 §1; 1969 c.71 §3; 1973 c.584 §7; 1975 c.205 §3; 1981 c.369 §5; 1987 c.79 §5]

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

**(Discipline of Nurses)**

**678.111 Causes for denial, revocation, suspension of license or probation, reprimand or censure of licensee.** In the manner prescribed in ORS 183.310 to 183.550 for a contested case:

(1) Issuance of the license to practice nursing, whether by examination or by indorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the board and subject to such condition as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:

(a) Conviction of the licensee of crime where such crime bears demonstrable relationship to the practice of nursing. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

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

(c) Any willful fraud or misrepresentation in applying for or procuring a license or renewal thereof.

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

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

(f) Conduct derogatory to the standards of nursing.

(g) Violation of any provision of ORS 678.010 to 678.445 or rules adopted thereunder.

(h) Revocation or suspension of a license to practice nursing by any state or territory of the United States, or any foreign jurisdiction authorized to issue nursing credentials whether or not that license or credential was relied upon in issuing that license in this state. A certified copy of the order of revocation or suspension shall be conclusive evidence of such revocation or suspension.

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

(j) Violation of any condition imposed by the board when issuing a limited license.

(2) A certificate of special competence may be denied or suspended or revoked for the reasons stated in subsection (1) of this section. [1957 c.316 §18 (enacted in lieu of 678.110); 1973 c.584 §11; 1975 c.205 §4; 1979 c.744 §51; 1981 c.369 §7; 1983 c.221 §2; 1985 c.23 §7]

**678.112 Voluntary treatment for chemical dependency or emotional or physical problem; effect.** (1) When a person licensed to practice nursing voluntarily seeks treatment for chemical dependency or an emotional or physical problem that otherwise may lead to formal disciplinary action under ORS 678.111, the Oregon State Board of Nursing may abstain from taking such formal disciplinary action if the board finds that the licensee can be treated effectively and that there is no danger to the public health.

(2) If the board abstains from taking such formal disciplinary action, it may require the licensee to be subject to the voluntary monitoring program as established by the board.

(3) All records of the voluntary monitoring program are confidential and shall not be subject to public disclosure, nor shall the records be admissible as evidence in any judicial proceedings.

(4) A licensee voluntarily participating in the voluntary monitoring program shall not be subject to investigation or disciplinary action by the board for the same offense, if the licensee complies with the terms and conditions of the monitoring program.

(5) The board shall establish by rule criteria for eligibility to participate in the voluntary monitoring program and criteria for successful completion of the program.

(6) Licensees who elect not to participate in the voluntary monitoring program or who fail to comply with the terms of participation shall be reported to the board for formal disciplinary action under ORS 678.111. [1991 c.193 §2]

**678.113 When demonstration of competency or evidence of continuing education may be required.** (1) On its own motion or upon complaint by any person and after hearing as in a contested case under ORS 183.310 to 183.550, the board may require any person licensed under ORS 678.010 to 678.410 to demonstrate competency to practice nursing at the level at which the licensee is licensed by professional references or by evidence of continuing education.

(2) By rule, the board may require evidence of continuing education in an accredited program as a prerequisite for renewal of registered or practical nursing licenses, or both or may require continuing education for persons whose license has lapsed for non-payment of fees, who have not practiced

nursing for five years, or who have their licenses suspended or revoked as a condition to relicensure. [1973 c.584 §9; 1975 c.205 §5]

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

**678.117 Procedure for imposing civil penalty; amount.** (1) The board shall adopt by rule a schedule establishing the amount of civil penalty that may be imposed for any violation of ORS 678.010 to 678.445 or any rule of the board. No civil penalty shall exceed \$1,000.

(2) Prior to imposing a civil penalty, the board shall give five days' advance notice to the person alleged to have violated ORS 678.010 to 678.445 or any rule of the board in writing, specifying the violation and giving notice that a penalty will be imposed.

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

(a) The past history of the person incurring the penalty in observing the provisions of ORS 678.010 to 678.445 and the rules adopted pursuant thereto.

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

(4) Any penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the board considers proper and consistent with the public health and safety.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.090.

(6) All penalties recovered under this section shall be credited to the special account described in ORS 678.170. [1973 c.584 §22; 1981 c.369 §8; 1985 c.23 §3; 1991 c.734 §72]

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

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

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

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

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

(3) To employ unlicensed persons to practice practical or registered nursing. [1973 c.584 §10; 1989 c.800 §4]

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

**678.126 Confidentiality of information supplied to board.** (1) Any information provided to the board pursuant to ORS 678.021, 678.111, 678.113, 678.123 or 678.135 is confidential and shall not be subject to public disclosure.

(2) Any person, facility, licensee or association that reports or provides information to the board under ORS 678.021, 678.111, 678.113, 678.123 or 678.135 in good faith shall not be subject to an action for civil damages as a result thereof. [1981 c.369 §14; 1985 c.23 §6]

**678.128 Liability of complainants, witnesses, investigators, counsel and board members in disciplinary proceedings.** (1) Members of the board, members of its administrative and investigative staff and its attorneys acting as prosecutors or counsel shall have the same privileges 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. [1981 c.369 §13]

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

**678.135 Duty to report violations to board.** Any health care facility licensed as required by ORS 441.015, any person licensed by the board, the Oregon Nurses Association or any other organization representing registered or licensed practical nurses shall, and any other person may, report to the board any suspected violation of ORS 678.010 to 678.410 or any rule adopted pursuant thereto. [1985 c.23 §5]

#### (State Board)

**678.140 Oregon State Board of Nursing; term; appointment; qualifications; confirmation.** (1) There is created an Oregon State Board of Nursing composed of nine members, six of whom must be registered nurses, two of whom must be licensed practical nurses and one of whom shall be a member of the public who is otherwise not eligible for appointment to the board.

(2) In making appointments of registered nurses, the Governor shall consider geographic balance in making the appointments and shall insure that the following areas of practice are represented on the board:

- (a) At least one nursing educator;
  - (b) At least one nursing administrator;
- and

(c) At least two nonsupervisory nurses involved in direct patient care.

(3) The members of the board shall be appointed by the Governor for terms of three years, beginning on January 1. No member shall be eligible to appointment for more than two consecutive terms. An unexpired term of a board member shall be filled in the same manner as an original appointment is made. The appointment shall be for the remainder of the unexpired term. All appointments of members of the board by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution.

(4) Two months before the expiration of the term of office of a nurse member of the board, or when a vacancy occurs in the office of a nurse member, the Oregon Nurses Association or any other organization representing registered nurses, if the vacancy is in a registered nurse position, or the Oregon Licensed Practical Nurses Association or any other organization representing licensed practical nurses, if the vacancy is in a licensed practical nurse position, may submit a list of three names of persons qualified for the appointment. The appointment of nurse members or practical nurse members may be made from the respective lists.

(5) At the time of appointment, each member of the board must be a citizen of the United States and a resident of Oregon. Each nurse member must be currently licensed and not under disciplinary status with the board in the category for which appointed with at least five years' experience therein, three of which were immediately prior to appointment. The public member and any person in the immediate family of the public member shall not be employed as a health professional or in any health-related industry.

(6) The Governor may remove a member of the board for cause. [Amended by 1953 c.254 §16; 1957 c.316 §26; 1971 c.650 §27; 1973 c.584 §12; 1973 c.792 §34; 1981 c.206 §1; 1983 c.113 §1]

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

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

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

(4) The board shall keep a record of all its proceedings and of all persons licensed and schools or programs accredited or approved under ORS 678.010 to 678.445. The records shall at all reasonable times be open to public scrutiny.

(5) Subject to the State Personnel Relations Law, the board shall hire, define the duties and fix the salary of an executive director who shall hire and define the duties of such other employees as are necessary to carry into effect the provisions of ORS 678.010 to 678.445. The executive director, with approval of the board, may also employ special consultants. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board.

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

(7) The board shall:

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

(b) Prescribe standards and approve curricula for nursing education programs preparing persons for licensing under ORS 678.010 to 678.445.

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

(d) Accredite such nursing education programs as meet the requirements of ORS 678.010 to 678.445 and of the board.

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

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

(g) Issue subpoenas for any records relevant to a board investigation, including patient and other medical records, personnel records applicable to nurses and nursing assistants, records of schools of nursing and nursing assistant training records and any other relevant records; issue subpoenas to persons for personal interviews relating to board investigations; compel the attendance of witnesses; and administer oaths or affirmations to persons giving testimony during an investigation or at hearings.

(h) Enforce the provisions of ORS 678.010 to 678.445, and incur necessary expenses therefor.

(i) Prescribe standards for the delegation of special tasks of patient care to nursing assistants and for the supervision of nursing assistants. The standards shall include rules governing the delegation of administration of noninjectable medication by nursing assistants and shall include rules prescribing the types of noninjectable medication which can be administered by nursing assistants, and the circumstances, if any, and level of supervision under which nursing assistants can administer noninjectable medication. In formulating the rules governing the administration of noninjectable medication by nursing assistants, the board shall consult with nurses, physicians, gerontologists and pharmacologists. Notwithstanding any other provision of this paragraph, however, determination of the appropriateness of the delegation of a special task of patient care shall remain with the registered nurse issuing the order.

(j) Notify licensees at least annually of changes in legislative or board rules that affect the licensees. Notice may be by newsletter or other appropriate means.

(8) The board shall determine the scope of practice as delineated by the knowledge acquired through approved courses of education or through experience.

(9) For local correctional facilities, lockups and juvenile detention facilities, as defined in ORS 169.005, juvenile training schools as defined in ORS 420.005, for facilities operated by a public agency for detoxification of persons who use alcohol excessively, for homes or facilities licensed under ORS 443.705 to 443.825 for adult foster care, and for facilities licensed under ORS 443.400 to 443.455 for residential care, training or treatment, the board shall adopt rules pertaining to the provision of nursing care, and to the various tasks relating to the administration of noninjectable medication including administration of controlled substances. The rules shall provide for delegation of nursing care and tasks relating to the administration of medication to other than licensed nursing personnel by a physician licensed by the Board of Medical Examiners for the State of Oregon or by a registered nurse, designated by the facility. Such delegation must occur under the procedural guidance, initial direction and periodic inspection and evaluation of the physician or registered nurse. However, the provision of nursing care shall only be delegated by a registered nurse.

(10) Pursuant to ORS 183.310 to 183.550, the board shall adopt rules necessary to carry out the provisions of ORS 678.010 to 678.445. [Amended by 1953 c.254 §16; 1957 c.316 §28; subsections (5) to (9) enacted as 1957 c.316 §30; 1973 c.584

§14; 1975 c.659 §2; 1977 c.309 §2; 1979 c.771 §1; 1981 c.369 §9; 1983 c.511 §1; 1983 c.598 §2; 1987 c.369 §1; 1993 c.114 §1]

**Note:** Section 2, chapter 114, Oregon Laws 1993, provides:

**Sec. 2.** The amendment to ORS 678.150 (7)(g) by section 1 of this Act applies to any proceedings pending before the Oregon State Board of Nursing on the effective date of this Act [November 4, 1993]. [1993 c.114 §2]

**678.155 Restrictions on certain standards prescribed by board.** (1) In carrying out its duties under ORS 678.150 (6), (7) and (8), the Oregon State Board of Nursing shall not make changes in entry level nursing education or licensure requirements unless such changes are enacted by the Legislative Assembly.

(2) In carrying out its duties under ORS 678.150 (7)(i), the Oregon State Board of Nursing shall not prescribe any standard that would substantially alter the practices followed prior to July 1, 1979, in long term care facilities relating to the administration of noninjectable medication by nursing assistants, except for the training requirements in ORS 678.440. [1979 c.770 §17; 1985 c.208 §2; 1985 c.565 §92a; 1987 c.158 §141]

**Note:** 678.155 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 678 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**678.157 Limitation on authority of board over nurse delegation of authority.** Nothing in ORS 678.150 and this section affects the limitation on the authority of the board imposed by ORS 678.155 and 678.445 in carrying out its duties under ORS 678.150 (7)(i). [1979 c.771 §4; 1985 c.565 §92b]

**Note:** 678.157 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 678 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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

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

**678.164 Enjoining violations or threatened violations.** (1) Upon suit by the board for which no bond shall be required, the circuit courts have jurisdiction to restrain or enjoin any violation or threatened violation of ORS 678.010 to 678.410. Such suit may be brought against a person who practices nursing without a current license or who practices registered nursing when licensed as a practical nurse or who has failed to become licensed or whose license has been suspended, revoked or declared void.

(2) The remedies provided for in this section are in addition to, and not in lieu of, criminal penalties provided for in ORS 678.990. [1953 c.254 §11; 1957 c.316 §32; 1973 c.584 §15]

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

**678.168 Disposition of fines.** All fines imposed and collected under ORS 678.990 (1) shall be paid into the treasury of the county in which such suits, actions or proceedings were commenced. All moneys thus paid into the treasury, over and above the amount necessary to reimburse the county for any expense incurred by the county in any suit, action or proceeding shall be paid before January 1 of each year into the General Fund in the State Treasury and placed to the credit of the Criminal Fine and Assessment Account. [1953 c.254 §12; 1973 c.584 §16; 1981 c.369 §11; 1991 c.460 §7].

**678.170 Disposition of receipts.** (1) All money received by the board under ORS 678.010 to 678.445 shall be paid into the General Fund in the State Treasury and placed to the credit of the Oregon State Board of Nursing Account. Such moneys are appropriated continuously and shall be used only for the administration and enforcement of ORS 678.010 to 678.445.

(2) The board shall keep a record of all moneys deposited in the Oregon State Board of Nursing Account. This record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) The board may maintain a petty cash fund in compliance with ORS 293.180 in the amount of \$1,000. [Amended by 1973 c.584 §16a; 1981 c.101 §1]

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

**678.220** [Repealed by 1973 c.584 §24]

**678.230** [Repealed by 1973 c.584 §24]

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

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

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

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

**678.260** [Repealed by 1973 c.584 §24]

**678.270** [Repealed by 1973 c.584 §24]

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

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

**678.300** [Repealed by 1973 c.584 §24]

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

**678.320** [Repealed by 1971 c.734 §21]

**678.325** [1985 c.208 §1; repealed by 1993 c.18 §147]

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

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

**678.340 Requirements for institutions desiring to establish nursing education programs.** (1) Any institution desiring to

establish a nursing education program leading to licensing or a continuing education program that may be recognized or required by the board to supplement such program shall apply to the board and submit satisfactory evidence that it is prepared to meet the curricula and standards prescribed by the board.

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

(3) No institution or program shall represent itself as qualified or accredited to prepare nurses for licensing unless it is accredited by the board. [Amended by 1973 c.584 §18]

**678.350** [Repealed by 1973 c.584 §24]

**678.360 Survey to evaluate facilities; insuring compliance with requirements.**

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

(2) The board shall withdraw accreditation from an institution which fails to correct the defect reported to it under subsection (1) of this section within the period of time prescribed in the report. The institution may request and if requested shall be granted a hearing before the board in the manner required for contested cases under ORS 183.310 to 183.550. [Amended by 1973 c.584 §19]

#### (Nurse Practitioners)

**678.375 Nurse practitioners; certificates; prohibitions; drug prescriptions.** (1) The board is authorized to issue certificates of special competency to licensed registered nurses to practice as nurse practitioners if they meet the requirements of the board pursuant to ORS 678.380.

(2) No person shall practice as a nurse practitioner or hold oneself out to the public or to an employer, or use the initials, name, title, designation or abbreviation as a nurse practitioner until and unless such person is certified by the board.

(3) A registered nurse, certified as a nurse practitioner, is authorized to prescribe drugs for the use of and administration to other persons if approval has been given under ORS 678.390. The drugs which the nurse practitioner is authorized to prescribe shall be included within the certified nurse practitioner's scope of practice as defined by rules of the board subject to ORS 678.385.

(4) The dispensing of certain limited medications prescribed by a nurse practitioner in accordance with the formulary established under ORS 678.385 and dispensed by a licensed pharmacist or an employee thereof may be filled by a pharmacist according to the terms of the prescription. 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.

(5) As used in this section:

(a) "Drug" means medicines and preparations for internal or external use of human beings which are recognized in the formulary adopted pursuant to ORS 678.385.

(b) "Prescribe" means to direct, order or designate the preparation, use of or manner of using by spoken or written words. [1975 c.205 §8; 1979 c.785 §1; 1993 c.469 §9; 1993 c.571 §28]

**678.380 Rules for nurse practitioners; scope.** The board may adopt rules applicable to nurse practitioners:

(1) Which establish their education, training and qualifications necessary for certification.

(2) Which limit or restrict practice.

(3) Which establish categories of nurse practitioner practice and define the scope of such practice.

(4) Which establish procedures for maintaining certification, including continuing education and procedures for the reinstatement of certificates rendered void by reason of nonpayment of fees. [1975 c.205 §9]

**678.385 Prescription formulary.** The Oregon State Board of Nursing by rule shall determine the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner acting under ORS 678.375, including controlled substances listed in schedules III, III N, IV and V. The board shall revise the formulary periodically. [1979 c.785 §16; 1987 c.79 §1; 1989 c.1006 §4; 1991 c.295 §1; 1993 c.742 §4]

**678.390 Authority of nurse practitioner to write prescriptions or dispense drugs; revocation.** (1) The Oregon State Board of Nursing may grant to a certified nurse practitioner the privilege of writing prescriptions described in the formulary.

(2) The board shall establish by rule criteria for emergency drug dispensing authority. A certified nurse practitioner may make application to the Oregon State Board of Nursing for emergency drug dispensing authority, if the certified nurse practitioner's practice is located in an area of the state where geographic conditions severely limit the ability of the certified nurse practitioner to meet emergency patient needs. Criteria to be used in reviewing the application shall include but not be limited to the proximity in road miles of the nearest community pharmacy, general road conditions and weather conditions. Such emergency dispensing shall be from prepackaged drugs, from the formulary authorized under ORS 678.385, prepared by a licensed pharmacist.

(3) The Oregon State Board of Nursing shall renew the privilege of writing and dispensing drugs for a nurse practitioner who reapplies for the privilege and satisfies the requirements of this section and applicable rules and statutes.

(4) The privilege of writing prescriptions and dispensing drugs may be denied, suspended or revoked by the Oregon State Board of Nursing upon proof that the privilege has been abused. The procedure shall be a contested case under ORS 183.310 to 183.550. Disciplinary action under this subsection is grounds for discipline of the nurse practitioner in the same manner as a licensee may be disciplined under ORS 678.111. [1979 c.785 §17; 1981 c.693 §29; 1983 c.486 §58; 1985 c.747 §53; 1987 c.79 §2; 1993 c.742 §5]

#### (Fees)

**678.410 Fees; how determined.** (1) The board may impose fees for the following:

- (a) License renewal.
- (b) Examination.
- (c) License by indorsement.
- (d) Limited license.
- (e) Examination proctor service.
- (f) Duplicate license.
- (g) Extension of limited license.
- (h) Nurse practitioner certificate.
- (i) Reexamination for licensure.
- (j) Delinquent fee.
- (k) Renewal fee nurse practitioner.

(L) Verification of a license of a nurse applying for license by indorsement in another state.

(m) Certified nurse practitioner's initial application and registration for writing prescriptions.

(n) Renewal of certified nurse practitioner's application for writing prescriptions.

(o) Approval of training program for nursing assistants.

(p) Issuance, renewal and delinquency of a nursing assistant certificate.

(q) Voluntary monitoring program for chemical dependency or an emotional or physical problem.

(2) Fees are nonrefundable.

(3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the board's budget, as the budget may be modified by the Emergency Board. If federal or other funds are available to offset costs of administering the program, fees shall be established based on net costs to the state but not to exceed \$20 per biennium for the certification fee under subsection (1)(p) of this section. [1969 c.71 §7; 1973 c.584 §20; 1975 c.205 §6; 1983 c.221 §4; 1987 c.79 §3; 1989 c.800 §5; 1991 c.193 §3; 1991 c.536 §2; 1991 c.703 §24]

#### (Nursing Assistants)

##### **678.440 Nursing assistants; training; effect of employing untrained assistant.**

(1) It is the intent of the Legislative Assembly to require that nursing assistants be adequately trained.

(2) The Oregon State Board of Nursing shall prepare curricula and standards for training programs for nursing assistants. Such curricula and standards shall provide for additional training for nursing assistants to administer noninjectable medications.

(3) The Health Division may impose civil penalties or revoke the license of any health care facility that employs any untrained nursing assistant for a period of more than eight weeks without providing for the training prescribed by the board. Any license which is revoked shall be revoked as provided in ORS 441.030.

(4) As used in this section, "nursing assistant" means a person who assists licensed nursing personnel in the provision of nursing care. [1977 c.309 §1]

**678.442 Certification of nursing assistants.** (1) The Oregon State Board of Nursing shall establish standards for certifying and shall certify as a nursing assistant any person who applies therefor, shows completion of an approved training program for nursing assistants and passes a board approved examination.

(2) In the manner prescribed in ORS 183.310 to 183.550, the board may revoke or suspend a certificate issued under this section or may reprimand a nursing assistant for the following reasons:

(a) Conviction of the certificate holder of a crime where such crime bears demonstrable relationship to the duties of a nursing assistant. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(b) Any willful fraud or misrepresentation in applying for or procuring a certificate or renewal thereof.

(c) Use of any controlled substance or intoxicating liquor to an extent or in a manner dangerous or injurious to the certificate holder or others or to an extent that such use impairs the ability to conduct safely the duties of a nursing assistant.

(d) Violation of any provisions of ORS 678.010 to 678.445 or rules adopted thereunder.

(e) Physical or mental condition that makes the certificate holder unable to perform safely the duties of a nursing assistant.

(f) Conduct unbecoming of a nursing assistant in the performance of duties.

(3) The board shall establish by rule a procedure for the biennial renewal of nursing assistant certificates. The certificate renewal procedure shall be substantially like the procedure established for the licensing of nurses under ORS 678.101. [1989 c.800 §3; 1991 c.536 §1]

**678.444 Standards for training programs for nursing assistants.** The Oregon State Board of Nursing shall establish standards for training programs for nursing assistants. Upon application therefor, the board shall review and approve programs that meet board standards. The board by means of a contested case proceeding under ORS 183.310 to 183.550 may revoke approval of any training program that ceases to meet board standards. [1989 c.800 §2]

##### **678.445 Authority of nursing assistants to administer noninjectable medication; authority of nurse to report questions about continuation of medication.**

(1) It is the intent of the Legislative Assembly that the Oregon State Board of Nursing not adopt any standard the practical effect of which is to prohibit a nursing assistant in a long term care facility from administering noninjectable medication except under direct supervision of a registered nurse.

(2) Where a nurse employed by the long term care facility questions the efficacy, need or safety of continuation of medications be-

ing dispensed by that nurse or by another employee of the facility to a patient therein, the nurse shall report that question to the physician or a nurse practitioner, if authorized to do so, ordering or authorizing the medication and shall seek further instructions concerning the continuation of the medication. [1979 c.770 §18]

**678.505** [1977 c.635 §2; 1981 c.469 §2; renumbered 342.455]

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

**678.515** [1977 c.635 §§3, 4; 1981 c.469 §3; renumbered 342.475]

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

**678.525** [1977 c.635 §5; 1981 c.469 §4; renumbered 342.465]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## LICENSED NURSING HOME ADMINISTRATORS

### (Generally)

**678.710 Definitions for ORS 678.710 to 678.840.** As used in ORS 678.710 to 678.840, unless the context requires otherwise:

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

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

(3) "Dual facility" means a facility that operates both a hospital and a long term care facility on the same campus.

(4) "Nursing home administrator" means an individual responsible for planning, or-

ganizing, directing and controlling the operation of a nursing home, whether or not such individual has an ownership interest in such home and whether or not such functions are shared by one or more other individuals, if:

(a) Final responsibility and authority are retained in the nursing home administrator; and

(b) In the case of a dual facility, the nursing home administrator may be subject to the authority of the administrator of the dual facility or the dual facility administrator may administer the nursing home if the administrator is licensed or otherwise qualified by statute to administer a nursing home.

(5) "Nursing home" means any institution or facility defined as a long term care facility for licensing purposes under state statute or the rules of the division, including a long term care facility operated as part of a dual facility.

(6) "Provisional license" means a temporary license issued to a provisional nursing home administrator under the rules of the board. [1971 c.663 §1; 1973 c.829 §57; 1989 c.495 §1]

**678.720 Prohibited acts relating to administration of nursing homes.** (1) On and after July 1, 1971, unless an individual holds a valid license issued under the provisions of ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2), an individual shall not:

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

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

(2) On and after July 1, 1971, no nursing home shall be conducted or operated unless it is under the supervision of a nursing home administrator who holds a valid license issued under the provisions of ORS 678.710 to 678.780, 678.800 to 678.840 and ORS 678.990 (2). [1971 c.663 §2]

**678.725 Reporting unlawful or unsatisfactory nursing home conditions; confidentiality of information; limitation of liability.** (1) Any health care facility licensed under ORS 441.015, any licensee licensed by the board, any physician licensed by the Board of Medical Examiners for the State of Oregon, any licensed professional nurse and any licensed pharmacist shall, and any other person may, report to the board suspected violations of ORS 678.710 to 678.840 and insanitary or other unsatisfactory conditions in a nursing home.

(2) Information acquired by the board pursuant to subsection (1) of this section is

confidential and shall not be subject to public disclosure.

(3) Any person who reports or provides information to the board under subsection (2) of this section and who provides information in good faith shall not be subject to an action for civil damages as a result thereof. [1985 c.47 §7]

#### (Licensing)

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

(a) Meets training or experience and other standards as are established by rules of the board. However, the board shall accept one year of experience as an administrator serving a dual facility in lieu of any residency or intern requirement established pursuant to this paragraph; and

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

(2) Each license as a nursing home administrator may be renewed by the board upon compliance by the licensee with the requirements of ORS 678.760 and by presenting evidence of the completion of the continuing education work required by the board. The board may require up to 50 hours of continuing education in any one-year period.

(3) In establishing educational standards pursuant to paragraph (a) of subsection (1) of this section, the board shall require a baccalaureate degree from an accredited school of higher education. However, the educational requirement does not apply to any person who:

(a) Was a licensed administrator in any jurisdiction of the United States prior to January 1, 1983; or

(b) Was an administrator of a dual facility meeting the experience requirements pursuant to paragraph (a) of subsection (1) of this section. [1971 c.663 §6; 1973 c.827 §68; 1973 c.829 §58a; 1985 c.47 §3; 1987 c.544 §1; 1989 c.495 §2]

**678.740 Examination for license.** (1) Examinations for licensure as a nursing home administrator shall be conducted at such times and places as the Board of Examiners of Nursing Home Administrators of the State of Oregon shall designate, but not less than once a year. The fee for examination or reexamination shall be determined by the board under ORS 678.775.

(2) The board shall, consistent with the purposes for which the examination is given, determine the subjects, scope, content and the minimum passing grade for examinations. [1971 c.663 §7; 1973 c.829 §59; 1979 c.127 §1; 1993 c.572 §1]

**678.750 Applicability of licensing requirements to administrators certified by religious organizations.** Nothing in ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2) or the rules adopted thereunder shall be construed to require an individual, who is certified by a recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions. Any license issued under ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2) to such an individual shall indicate the limited extent of the authority of the individual to act as an administrator. [1971 c.663 §8]

**678.760 License; application; renewal; provisional licenses.** (1) Upon compliance with the requirements of ORS 678.730 and the payment of a fee as determined by the Board of Examiners of Nursing Home Administrators of the State of Oregon under ORS 678.775, an individual shall upon application be granted a nursing home administrator's original license. All such licenses shall expire on June 30 of the second year following date of issue.

(2) Upon application within one year following expiration of an original or a renewal license, and the payment of a fee as determined by the board under ORS 678.775, the board shall issue a renewal license, provided the continuing education requirements and all other requirements set by the board have been met. All renewal licenses shall expire on June 30 of the second year following date of issue.

(3) The fee for a provisional license shall be determined by the board under ORS 678.775. [1971 c.663 §9; 1973 c.829 §60; 1979 c.127 §2; 1979 c.696 §17; 1993 c.572 §2]

Note: Section 2a, chapter 572, Oregon Laws 1993, provides:

Sec. 2a. The provisions of ORS 678.760 as amended by section 2 of this Act shall apply to all licenses initially issued or renewed on and after July 1, 1995. [1993 c.572 §2a]

**678.770 Licensing reciprocity.** (1) The Board of Examiners of Nursing Home Administrators of the State of Oregon may license by indorsement, without examination, any individual who applies therefor, meets the requirements as established by the board and on the date of making application is a nursing home administrator licensed under the laws of any other state or territory of the

United States if the requirements for licensing of nursing home administrators in the state or territory in which the applicant is licensed are not less than those required in ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2).

(2) Each applicant under this section shall pay to the board at the time of filing the application a fee determined by the board under ORS 678.775. [1971 c.663 §11; 1973 c.829 §61; 1993 c.572 §3]

**678.775 Fees; prior approval required; limits; report.** The fees and charges determined by the Board of Examiners of Nursing Home Administrators of the State of Oregon under ORS 678.740, 678.760 and 678.770 are subject to the prior approval of the Oregon Department of Administrative Services and, if their adoption occurs between regular sessions of the Legislative Assembly, a report to the Emergency Board. The fees and charges shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the board's budget, as that budget may be modified by the Emergency Board. [1993 c.572 §4]

Note: 678.775 was added to and made a part of 678.710 to 678.840 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

#### (Discipline of Administrators)

**678.780 Grounds for discipline; authorized sanctions; hearings.** (1) The sanctions authorized by subsection (2) of this section may be imposed upon the following grounds:

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

(b) The conviction of a crime involving moral turpitude, the conviction of a felony or the conviction of a crime involving mistreatment of patients or involving violation of any laws relating to controlled substances. A record of conviction or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is entered is conclusive evidence of the conviction.

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

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

(e) Gross negligence, fraud, dishonesty, malfeasance or cheating in the course of acting as a nursing home administrator.

(f) A finding of addiction to controlled substances by a panel of three qualified per-

sons appointed by the Assistant Director for Health, after hearing and in the manner governing contested cases under ORS 183.310 to 183.550.

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

(h) Violation of or noncompliance with any applicable provisions of ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2), or any lawful rule or order of the board, or continuous or substantial violations of the rules of the Health Division promulgated under ORS 441.055.

(2) Subject to ORS 183.310 to 183.550, the board may impose any or all of the following sanctions:

(a) Suspend, revoke or refuse to renew any license required by ORS 678.720.

(b) A civil penalty not to exceed \$1,000.

(c) Probation, with authority to limit or restrict a license.

(3) Hearings may be before the board or may be before a member, members or a representative of the board designated by the chairman or vice chairman to take testimony and conduct the hearing. Any member of the board or representative designated to conduct hearings may administer oaths. [1971 c.663 §14; 1973 c.58 §1; 1979 c.744 §52; 1985 c.47 §4]

#### **678.790 Procedure; review of orders.**

(1) Where the board proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

(2) Judicial review of orders under subsection (1) of this section shall be in accordance with ORS 183.310 to 183.550.

(3) If the final order of the court on review reverses the board's order of suspension, revocation or refusal to renew, the board shall issue the license and reinstate the appellant not later than the 30th day after the decision of the court. [1971 c.734 §124]

#### (Board)

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

(2) The board shall be composed of nine individuals concerned with the care and treatment of the chronically ill or infirm elderly patients and shall be appointed by the Governor after consultation with the associ-

ations and societies appropriate to the professions and institutions:

(a) Three members shall be nursing home administrators licensed under ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2);

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

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

(d) Three members representative of the public at large, at least one of whom shall be at least 62 years of age;

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

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

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

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

(5) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

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

(7) No public members of the board shall hold any pecuniary interest in, or have any employment contract with, a long term care facility. [1971 c.663 §3; 1973 c.58 §2; 1973 c.792 §35; 1975 c.234 §1; 1979 c.500 §1]

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

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

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

(4) At the direction of the board, all other ministerial functions associated with carrying on the duties, functions and powers of the board, including, but not limited to, secretarial, clerical, investigative and fiscal shall be performed by the secretary or under the direction of the secretary by employees of the Health Division. [1971 c.663 §4]

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

(1) Develop, impose and enforce standards which shall be met by individuals in order to receive and retain a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are qualified by training or experience in the field of long-term health care administration to serve as nursing home administrator.

(2) Develop and apply appropriate techniques, including examinations and investigations for determining whether an individual meets such standards, if examinations are reviewed periodically to insure validity.

(3) Issue licenses to individuals determined after application of such techniques, to meet such standards, and subject to ORS 183.310 to 183.550 impose any of the sanctions set out in ORS 678.780 where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards.

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

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

(6) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the state with a view to the improvement of standards imposed for the licensing of such administra-

tors and the procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(7) Encourage qualified educational institutions and other qualified organizations to establish, provide, conduct and continue such training and instruction courses and programs as will enable all otherwise qualified individuals to meet requirements established under ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2).

(8) Approve courses and programs conducted within or without the state as sufficient to meet education and training requirements established pursuant to ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2) and advise the appropriate state agencies regarding receipt and administration of such federal funds as are made available for such purposes.

(9) In accordance with ORS 183.300, adopt, amend and repeal rules which are necessary to carry out the provisions of ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2).

(10) Maintain a register of all licensed nursing home administrators. [1971 c.663 §5; 1985 c.47 §5]

**678.825 Investigations; employment of investigator; coordination with Health Division.** Subject to availability of funds therefor, the board may employ an investigator to investigate complaints and to conduct board-initiated investigations pursuant to its authority under ORS 678.820 to develop, impose and enforce standards. In the absence of such funding, investigations shall be coordinated with the Health Division. [1985 c.47 §9]

**678.830 Disposition of fees; refund of fee if license denied.** (1) All moneys received by the division under ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2) shall be paid into the General Fund in the

State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration of ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2) and the rules of the board adopted thereunder and the provisions of ORS 441.015 to 441.063 and the rules for nursing homes adopted by the division thereunder.

(2) If a license is denied under ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2), 50 percent of the fee for the license shall be refunded to the applicant. No portion of an examination fee is refundable. [1971 c.663 §12; 1973 c.427 §20]

#### (Enforcement)

**678.840 Prevention of violations of ORS 678.710 to 678.840.** Notwithstanding the existence and pursuit of any other remedy, the board may maintain an action in the name of the state for injunction or other process or proceedings against any person, firm, corporation or governmental unit to restrain or prevent the illegal conduct or operation of a nursing home in violation of ORS 678.710 to 678.780, 678.800 to 678.840 and 678.990 (2). [1971 c.663 §15]

#### PENALTIES

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

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

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

(b) Violate any of the provisions of ORS 678.720. [Amended by 1953 c.254 §16; subsections (1) and (2) enacted as 1953 c.254 §15; subsection (3) enacted as 1955 c.489 §12; 1957 c.316 §33; 1971 c.663 §16; subsection (3) enacted as 1971 c.663 §13; 1973 c.584 §21]

## OCCUPATIONS AND PROFESSIONS

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