

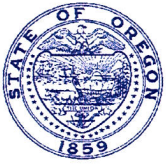


**A HANDBOOK
FOR PHYSICIANS
PRACTICING
MEDICINE IN
O r e g o n**

A Publication of the Oregon Board of Medical Examiners

11th Edition
October 2006
Portland, Oregon

Please see www.oregon.gov/BME for most current edition.



Oregon

Theodore R. Kulongoski, Governor

Board of Medical Examiners
1500 S.W. First Ave., Suite 620
Portland, OR 97201
Voice (971) 673-2700
FAX (971) 673-2670
Web: www.oregon.gov/BME

Dear Oregon Physician:

On behalf of the Oregon Board of Medical Examiners, welcome to the practice of medicine in Oregon.

The Board has the duty to make sure Oregonians receive appropriate medical care from qualified professionals. The licensing process helps us honor that responsibility. We recognize that it can be a lengthy and time-consuming process and appreciate your patience. We know you share our commitment to the people of this state.

This handbook has been designed to answer questions about the Board and how it works, as well as outline the legal requirements under which physicians must practice in Oregon. While the Board is a regulatory agency, it also is responsible for programs such as the Health Professionals Program which assists medical professionals in personal health and education. Description of this activity and other functions of the Board are explained in more detail in the handbook. We hope it will prove to be a useful resource in your practice.

If you have additional questions or concerns, please call the Board office in Portland, (971) 673-2700, or Toll Free in Oregon (877) 254-6263, or visit the Board's website at www.oregon.gov/BME.

We wish you the best in your professional life in Oregon.

Sincerely,

Kathleen Haley
Executive Director

Section I; board of medical examiners - how it works

History.....	1
Structure	1
Licensing of Allied Health Professionals	2
Funding.....	3
Organizational Chart.....	3
Web Site for the Board of Medical Examiners.....	4
DocFinder: Find a Physician	4
Activities & Responsibilities	5
License Classification, Registration & Renewal	6
Address changes.....	6
License Reactivation	6
What can the Board do for you?.....	7
Health Professionals Program	7
Appropriate Prescribing Workshop (APW)	8
Phone Guide to BME Services	9
License Classifications & Fees.....	10
Administrative Services & Fees	10

Section ii: frequently asked questions regarding:

Registration Fees.....	1
License Renewal	1
CME Required for Physicians.....	2
Dispensing Physicians	2
Duplicate/Replacement License/Certificate of Registration/Wallet Card.....	2
Change of Address.....	3
License Eligibility for Out-of-State Physicians.....	3
Requirements for Locum Tenens Physicians	4
Inactive Status Eligibility	4
Access to a Patient's Medical Records	4
Medical Boards outside Oregon.....	5

Section iii: investigation & disciplinary procedures

Investigation Process.....	1
Disciplinary Sanctions	2
Anatomy of a Complaint.....	3

Section iv: regulating medical practice in oregon

Statutory Requirements.....	1
Reporting Requirements.....	2
Administrative Rules.....	3
Oregon Revised Statutes.....	3-21

<u>Medical Practice Act</u>	
General Provisions.....	3
Licensing Requirements.....	6
Enforcement Provisions.....	10
Competency To Practice.....	11
Administration of Controlled Substances for Intractable Pain.....	12
Diversion Program.....	13
Podiatry.....	13
Penalties.....	14
Doctor Title Law.....	14
Action Taken if Licensee Practices After Suspension.....	15
Limits of Fees for Lab Work.....	15
Limitations on Liability of Services without Compensation.....	16
Child Abuse Reporting.....	16
Elderly Abuse Reporting.....	19
Abuse Reporting for Disabled.....	19
Injuries Caused by Weapons.....	20
Injuries Caused by Toys.....	21
Miscellaneous.....	21
Administrative Rules – Chapter 847.....	22-32
Registration.....	22
Reinstatement/Reactivation.....	24
Change of Location or Name.....	25
Reporting Incompetent or Impaired Licensees.....	26
Mandatory Pain Management Education.....	27
Patient Access to Medical Records.....	27
Use of Controlled Substances.....	28
Collaborative Drug Therapy Management.....	30
Podiatrists.....	31
Public Health Reporting.....	Appendix

Section v: statements of philosophy

Advertising.....	1
Appropriate Prescribing of Controlled Substances.....	2
Lasers, Medical use of.....	3
Pain Management.....	4
Physicians with Mental Illness.....	5
Physicians with Substance Abuse Problems.....	6
Physician-Patient Relationship, The.....	8
Professionalism.....	9
Scope of Practice.....	11
Sexual Misconduct.....	12

Section vi: resources

State & Federal Regulatory/Health Agencies.....	1
Professional Medical Organizations.....	1
Oregon Hospitals.....	2
The Foundation for Medical Excellence.....	5

Board of medical examiners

Statement of purpose: *Recognizing that to practice medicine is not a natural right of any person but is a privilege granted by legislative authority, it is necessary in the interests of the health, safety, and welfare of the people of this state to provide for the granting of that privilege and the regulation of its use, to the end that the public is protected from the practice of medicine by unauthorized or unqualified persons and from unprofessional conduct by persons licensed to practice under the Medical Practice Act, ORS 677.*

History

In 1889 Oregon legislators responded to demands from the medical community and passed a bill creating the Board of Medical Examiners (BME).

Charged with regulating the practice of medicine in Oregon, the Board was appointed by the governor and included "three persons from among the most competent physicians in the state."

Licensing requirements were relatively simple. Physicians either had to show a diploma from a medical school, pass an exam given by the Board, or, if already practicing, register within 60 days of the new law's passage.

Over the next 40 years, the Medical Practice Act went through significant changes. In 1895, the legislature added two members to the BME and defined unprofessional conduct for the first time to include "*employment of cappers or steerers (payment for patient testimonials), moral turpitude, betraying professional secrets, and obtaining a fee for the care of an incurable disease.*"

Applicants also were now required to submit their educational credentials and pass an exam on all branches of medicine. An osteopathic physician was added to the Board in 1907

structure

Today the Oregon Board of Medical Examiners (BME) oversees the licensure and professional conduct of more than 13,000 physicians (MD and DO) as well as approximately 170 podiatrists (DPM), 680 physician assistants (PA), and 760 acupuncturists (LAc).

In this capacity, the BME administers the Medical Practice Act (ORS 677), establishes the rules and regulations guiding the practice of medicine in Oregon, and investigates complaints regarding a licensee's professional behavior.

The twelve-member Board is appointed by the Governor and includes seven MD members, two DO members, one DPM member, and two public members:

- Lisa A. Cornelius, DPM, Corvallis
- Clifford W. Deveney, MD, Portland
- Ramiro Gaitán, Portland
- David R. Grube, MD, Philomath
- Nathalie M. Johnson, MD, Portland
- Douglas B. Kirkpatrick, MD, Medford
- Gary LeClair, MD, Eugene
- Patricia L. Smith, Bend
- John C. Stiger, DO, Milwaukie
- Joseph J. Thaler, MD, Salem
- Sheridan A. Thiringer, DO, Forest Grove
- David G. Watt, MD, Portland

Much of the BME's work is done by committee. Each member is assigned to at least one of the following committees:

- *Committee on Investigations* has three physician Board members and two public Board members. It meets monthly to consider all investigative and disciplinary matters. The committee then makes recommendations to the full Board regarding disposition of cases.

when the legislature moved DOs under the Board's supervision.

By 1931 legislation passed that required all new physicians to pass a state-administered basic science test before a medical license would be granted.

By the late 1940s, the BME began to put physicians who violated the Medical Practice Act on probation. These disciplinary efforts, in combination with the basic science exam requirement, made Oregon one of the most difficult states in which to get a medical license.

During the 1973 legislature the basic science exam was repealed after it was determined that other credentialing/licensing exams served the same purpose.

About this time, the Board's activities began to change and expand. After 82 years of regulating the medical practice provided by physicians only, the BME became responsible for the licensing of certain other health-care professionals.

Over the past 30 years, the Board has added several groups and today oversees physician assistants, acupuncturists, and podiatrists.

In 1975 the legislature passed several bills to increase the BME's power in disciplinary matters. The Medical Practice Act was changed to allow a physician's license to be summarily suspended when the physician poses an immediate danger to the public. Additional legislation passed that guarantees confidentiality to anyone filing a complaint against a physician. It also included a requirement for physicians to report colleagues who violate the Medical Practice Act directly to the Board

- *Committee on Administrative Affairs* meets just prior to the quarterly Board meetings to review applicants for licensure, administrative rules and procedures, and includes five Board members.
- *Committee on Legislation & Public Policy* develops and responds to legislative proposals. It is active primarily just before and after a legislative session.

The full Board meets quarterly (January, April, July, and October) to issue licenses and consider the activities of its committees.

allied health professionals

In addition to responsibility for MD's/DO's and podiatrists, the BME licenses and monitors the following health professionals:

- **Physician Assistants**
- **Acupuncturists**

The licensure requirements for the two groups are similar: an individual must graduate from a Board-approved school or training program and pass a national certification exam before a license can be granted.

Each allied health group has a separate advisory committee that includes members from the involved profession as well as a Board representative. They function similarly to other BME committees and are responsible for reviewing credentials of new applicants as well as serving as an investigative and disciplinary body.

Physician assistants were the first allied health group to come under the Board's responsibility in 1971. They are required to work under the supervision of a Board-approved physician and must have an individual scope of practice outlined in a practice description that is approved by the Board.

Since 1973 acupuncturists have been licensed in Oregon to practice acupuncture and other forms of oriental medicine.

The BME also works with the Department of Human Services Emergency Medical Services and Trauma Systems and oversees the Emergency Medical

As a result of these changes, the BME has seen a dramatic increase in the number of complaints it receives

In 2006 a podiatric physician member was added to the Board and the Advisory Council on Podiatry abolished.

Since its modest beginnings more than 115 years ago, the BME has changed markedly. It has gone from three board members to 12, including two public members. In 1900, it was responsible for 627 licensees; by the year 2006 the number had grown to over 15,000 and is still growing.

Despite administrative and regulatory changes, the mission of the Board of Medical Examiners has remained constant since the beginning - to ensure the people of Oregon receive appropriate medical care from qualified professionals.

Technician (EMT) Advisory Committee. The EMT Committee develops the First Responder and EMT Scope of Practice and the qualifications and responsibilities for EMT supervising physicians.

funding

Even though it is a state agency, the BME does not receive any moneys directly from the general fund. It is completely self-supporting with all income generated from data processing requests and the examination, licensing, and registration fees and fines collected from its licensees.

The funds raised are placed into a State Treasury account dedicated for Board expenditures and may be spent only with legislative approval. The Board operates under the state's Department of Administrative Services. Every two years a budget is prepared and sent to the Governor for review, and possible modification, before it goes to the legislature for consideration and approval.

organizational chart

Oregon State Board of Medical Examiners
7 MD members, 2 DO members, 1 DPM member, 2 public members

Committee on Investigations

4 MD/DO Board members
2 Board public members

Committee on Administrative Affairs

5 Board members

Committee on Legislation & Public Policy

3 Board members

EMT Advisory Committee

3 EMTs, 2 MD/DOs

Acupuncture Advisory Committee

3 acupuncturists
2 MD/DOs, 1 Board liaison

Physician Assistant Advisory Committee

2 PAs, 1 MD/DO, 1 pharmacist
1 Board liaison

Web site for the board of medical examiners

The Board's web site address is: www.oregon.gov/BME.

In October 1998 the Board of Medical Examiners released its new web site. The site provides useful information to the public and licensees about the Board and its various functions including a description of the Board's licensing programs, instructions on how to apply for a license, the disciplinary process, and how to file a complaint. There is also a section on links to other health related web sites, as well as links to the administrative rules and statutes through the Secretary of State's office.

Listed below is the current table of contents for the Board's web site:

- About the Board
- BME Newsletters
- Board Actions
- Board Calendar / Meeting Information
- Current Events
- DocFinder: Find a Licensee / Search for a Provider
- Filing a Complaint
- Forms
- Frequently Asked Questions
- Health Professionals Program
- Helpful Phone Numbers
- HIPAA
- Information about Licensees
- Licensure Requirements
- Links
- Malpractice Claims Search
- MD/DO/DPM Application Status
- Mission Statement
- Other Health Site Links
- Rules and Statutes
- Statistics / Performance Measures
- Topics of Interest

The general e-mail address for the Board is bme.info@state.or.us. If you have any comments on the web site or suggestions for future additions of this handbook, please contact us.

OREGON PHYSICIANS ON DOCFINDER

The BME has joined the Administrators in Medicine's (AIM) DocFinder on the Internet. Through the DocFinder web site, Oregon, along with 18 other states, is providing credentialing/licensing information on its licensees to the public via the Internet.

DocFinder is a great tool for hospitals, clinics, health insurance companies, HMOs, the general public, and other licensees of the Board who might want to look up a physician, podiatrist, physician assistant, or acupuncturist and obtain basic credentialing/licensing information.

DocFinder's home page can be found at www.docboard.org/docfinder.html and it is also linked through the Board's web site at www.oregon.gov/BME through "Search for a Provider" or "Find A Licensee."

activities & responsibilities

The Board's services are provided by its professional staff via two separate units. *Operations* handles all Board activities under the administrative, licensing, and investigations departments while the *Health Professionals Program* oversees the treatment and rehabilitation of licensees who suffer from substance abuse disorders.

The *administrative* branch coordinates day-to-day operation and includes:

- financial operations
- business and technical support
- liaison with governor, legislature, and other regulatory agencies/boards
- legal interpretation of laws pertaining to the Board and its licensees
- response to media requests for information on Board licensees
- management of day-to-day operations
- answering public inquiries regarding professionals licensed by the Board

The *licensing* department ensures each individual granted a license meets all state requirements for education, clinical training, examinations, and conduct. To accomplish this task, the following duties are performed:

- review each application for compliance with requirements
- collect verification on all degrees/credentials directly from source of certification
- schedule interviews with Board for applicants with incomplete applications
- administer required licensing exams
- respond to inquiries from applicants and medical groups seeking licensure and credentialing information
- renew licenses
- publish lists of Oregon licensed physicians

All complaints against health professionals licensed by the Board are directed to the *investigative* department.*** Each year approximately 500 written complaints are received from members of the public, other health care professionals, and medical facilities. In response, the department must:

- review complaints to determine if the practitioner violated the Medical Practice Act
- initiate investigation if alleged violation has occurred
- present findings of investigation to Board's Committee on Investigations
- follow-up and monitor action taken by Board regarding disciplined practitioner

*** *A full description of the investigative and disciplinary process is provided in Section III.*

The *Health Professionals Program* allows professionals licensed by the Board to voluntarily seek treatment for substance abuse or dependency problems without risking the loss of their license. In this capacity, the program will:

- initiate interventions with licensee, in cooperation with family and colleagues
- assess licensee and refer to appropriate treatment program
- coordinate continuing care/rehabilitation following treatment
- monitor licensee's return to practice

A detailed explanation of how this program operates is provided on subsequent pages of this section.

License classification, registration & renewal

In late 2005 the Board delegated authority to the Executive Director to approve unlimited licensure to those physician applicants who had no issues associated with their application that would require Committee review, what the Board terms "*express licensing*." Express licensing eliminates the requirement that applicants wait until the quarterly Board meeting to be granted licensure. To date, the Board has express licensed over 700 physicians.

In Oregon physicians are licensed for a two-year period. Those who become licensed during the first 12 months of that period must pay the full registration fee; however, individuals who become licensed during the second 12 months of the two-year period will be charged only a single year registration fee during their first registration period..

MD's and DO's must renew their medical license by December 31 of each odd-numbered year. The vast majority of Oregon's physicians maintain a medical license under one of the following classifications:

ACTIVE - physician practicing in Oregon or within 100 miles of Oregon's border with regular practice in Oregon, practicing in the military or federal public health whose official state of residence is Oregon, or practicing teleradiology or telemedicine

LOCUM TENENS - physician residing out of state who practices intermittently in Oregon

INACTIVE – physician licensed in Oregon who does not practice in Oregon

EMERITUS - retired physician who does volunteer nonremunerative practice only

RETIRED - fully-retired physician who is not practicing medicine in any capacity, paid or volunteer

A "limited" license is granted to physicians who are participating in a training program in a teaching institution (postgraduate, resident, fellow, visiting professor, and medical faculty).

A list of the various licensure categories and their fees is provided later in this section.

address changes

Each time a licensee moves to a new practice location, the new address and phone number must be reported to the Board within 30 days of the move (ORS 677.172). Failure to do so is a violation of Oregon law (ORS 677.228). A copy of these statutes and the corresponding administrative rules are provided in Section IV of the handbook.

License reactivation

Physicians who want to reactivate their Oregon medical license from an inactive / emeritus / retired status must provide the Board with the following information:

- an affidavit describing activities during the inactive/ emeritus / retired period
- affidavit processing fee and any delinquent registration fees
- a "Report for Disciplinary Inquiries" directly from the Federation of State Medical Boards and either the American Medical Association or the American Osteopathic Association Physician Profile
- the results of a self-query to the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank

- verification of current licensure from the states in which the physician was practicing during the inactive / emeritus / retired period
- verification from each hospital, clinic, office or training program where the physician was employed or trained during the inactive / emeritus / retired period
- a new completed application for registration

If an individual applying for reactivation has ceased the practice of medicine for 12 or more consecutive months, the Board may ask this person to take a medical competency examination.

WHAT can the Board do for you ?

Each week the Board handles hundreds of requests about the programs it offers and the individuals it licenses from members of the public, other health care professionals, health insurers, hospitals, the media, and attorneys.

The requests receive a quick and professional response from the Board staff . The following services are provided at **NO CHARGE**:

- copies of the current administrative rules, statutes, regulations pertaining to licensees, as well as proposed rules changes
- list of BME members and members of its various committees
- business address for current licensee
- referral address for patients' medical records when a physician has retired, moved out of state or is deceased
- Certificate of Registration, wall license or wallet card replaced (due to lost document or name change)
- copies of legal orders issued on or after January 1, 2006
- reports on disciplinary actions taken
- quarterly list of disciplinary action taken by Board provided to medical facilities
- application packets for all licensing programs under the Board
- malpractice claims reports (up to three names per month)
- BME newsletter
- response to written and telephone inquiries

In addition, the Board will process the following requests for a fee:

- verification of state licensure
- copies of legal orders prior to 2006
- printed, detailed report on malpractice judgments against licensee
- lists and/or mailing labels of licensees by name, location, specialty
- list of active and locum tenens licensed physicians in Oregon

For a complete listing of the services available and the fees charged, see subsequent pages of this section.

health professionals program

In 1989 the Oregon Legislature passed a bill, sponsored by the Oregon Medical Association, creating a program through which health professionals with substance abuse or dependency problems can voluntarily and confidentially seek help without risking the loss of license or punitive action by the Board.

Under the Diversion Program for Health Professionals, individuals voluntarily seeking treatment through the Health Professionals Program (HPP) are protected from disciplinary action from the Board as long as they participate in a specified treatment and continuing care program. Most of the program's participants are not known to the Board.

However, HPP does work with some chemically dependent health professionals whose problems have brought them to the Board's attention. These individuals generally fall into two categories: first, licensees who indicate a substance abuse problem at the time of licensure and are required to participate in HPP; and second, individuals who have been referred to HPP as a result of some disciplinary action the Board has taken. In the latter case, the individual will be reported to the National Practitioner Data Bank.

HPP's voluntary participants are NOT identified to the Board even though the program comes under its oversight. Maintaining the confidentiality of the participants in the program is paramount to its success. This confidentiality is protected legislatively: *"All records ... are confidential and shall not be subject to public disclosure, nor shall the records be admissible as evidence in any judicial proceeding."* Consequently, HPP does not report voluntary participants to the National Practitioner Data Bank. HPP may, however, refer a participant to the Board for review and possible disciplinary action in the event of noncompliance.

The program operates under the direction of a medical director and a program coordinator. A Board-appointed supervisory council of five members works very closely with HPP staff. Additional consultants are used by HPP to assist with interventions, intervention training, educational programs, assessments, continuing care monitoring, and other supporting roles.

Additional information about the program may be obtained directly from HPP which maintains offices separate from the BME:

6950 SW Hampton St., Suite 130
Tigard, Oregon 97223-8331
(503) 620-9117

www.oregon.gov/BME/healthprog.shtml

appropriate prescribing workshop

Begun in 1989 under the co-sponsorship of the Board of Medical Examiners and Providence Hospital, this two-day seminar is designed to give physicians an update on prescribing controlled drugs and managing patients with complex pain syndromes. The curriculum includes pharmacology, the pathophysiology of pain, the psychology of pain, case studies in managing chronic pain, and a review of the current regulatory and legal climate surrounding prescribing controlled substances.

It is held twice a year at the Board's downtown, Portland office for those who seek a better understanding of current trends in dealing with difficult or drug-seeking patients.

Topics covered include:

- Chronic pain management
- Ethical considerations involved in prescribing controlled substances

- Current legal requirements for controlled substance management and record keeping

The workshop also provides the practitioner with an increased self-awareness of personal strengths and weaknesses that may lead to inappropriate prescribing.

The program is currently sponsored by The Foundation for Medical Excellence (TFME) for Category 1 CME credits, with the number of credit hours determined by TFME for each workshop. Because the curriculum is very interactive, only 14 registrations are accepted for each session. Participants have commented that they consider the program very worthwhile and enjoyable, and one even suggested videotaping it for distribution to hospitals for staff viewing.

The \$450 fee includes registration and books, plus lunches and morning and afternoon snacks for both days. Lodging, other meals, and transportation are not included. The last 6 APW workshops have been full several weeks ahead.

You may find an agenda and a registration form for the most current workshop on the Board's website at www.oregon.gov/BME/apw.shtml.

phone guide to BME services

If you know the name of the staff member you are calling, call 971-672-2701 then use the directory. Otherwise, please call the general information numbers for routing and response, 971-673-2700 or Toll Free in Oregon 877-254-6263, and use the guide below to request the specific service you need.

LICENSING services

Address Changes	Certificates of Registration
Name Changes	Wallet Size License Cards
Registration Renewal	Formal Engrossed License
Active and Locum Tenens Physician List	Reinstate Lapsed Oregon License
Lists/Labels of Licensees	Reactivate Oregon License (Inactive, Emeritus, Retired)
Dispensing Physicians	Physician Assistants Change in Practice Description or Supervising Physician
Retired Physicians	First Responder, and EMT Basic, Intermediate and Paramedic Scope of Practice
Deceased Physicians	
Doctor's Title Law	
Proposed/Adopted Rules Changes	
Administrative Rules & Medical Practice Act (ORS 677)	

INVESTIGATIVE services

Complaints about a Licensee	Malpractice Searches
Triplicate Prescription Program	

Health Professionals Program

Please call (503) 620-9117

License classifications & fees

All LICENSEES:

Reactivation Affidavit Processing Fee \$50.00

MD/DO:

Initial License Application Fee \$375.00
 Active Registration Fee, including Teleradiology, Telemedicine, & Military/Public Health 219.00*
 Inactive Registration Fee 219.00*
 Locum Tenens Registration Fee 219.00*
 Emeritus Registration Fee 50.00*
 Limited License: Postgraduate, Fellow, Visiting Professor, Medical Faculty, SPEX 185.00

Podiatrist:

Initial License Application Fee \$340.00
 Active, Inactive, Locum Tenens Registration Fee 219.00*
 Limited License, Postgraduate 185.00

Physician Assistant:

Initial License Application Fee \$245.00
 Active, Inactive, Locum Tenens Registration Fee 165.00*
 Limited License, Postgraduate 75.00

Acupuncturist:

Initial License Application Fee \$245.00
 Active, Inactive, Locum Tenens Registration Fee 140.00*
 Limited License, Visiting Professor 75.00

** These fees are collected biennially so the amount charged will be twice the amount shown.
 All Active registration fees include annual assessments of \$33 for the Diversion Program
 for Health Professionals and \$10 for the Oregon Health Sciences University Library.*

Late Fees:

MD/DO/DPM Failure to Renew Registration of License \$150.00
 MD/DO/DPM Failure to Register as Dispensing Physician upon Renewal of License 150.00
 PA, AC Failure to Renew Registration of License 75.00

administrative services & fees

Data processing requests:

Standard Data license Order (disk) \$300.00
 Custom Data License Order (disk) 400.00
 Address Label Disk 100.00
 Active & Locum Tenens Physician List: Per Issue 75.00

Miscellaneous Requests:

Verification of license: Individual requests \$ 10.00
 Multiple requests (5 or more names) \$7.50 per licensee
 Photocopying charge \$5.00 + \$.20 per page
 Records search fee Clerical \$20.00/hour**
 Administrative \$30.00/hour**
 Executive \$50.00**
 Medical Consultant \$75.00**

*** Plus photocopying charges if applicable*

Malpractice search fee, per name (4 or more names per month) \$ 10.00

frequently asked questions

WHY DO I HAVE TO PAY BOTH AN APPLICATION AND A REGISTRATION FEE?

The application fee covers just the cost of processing each application for licensure. The registration fee, *which is not paid until you are actually approved for your Oregon license*, is charged to each individual who is granted an Oregon license.

WHAT DO I RECEIVE IN RETURN FOR THE REGISTRATION FEE?

Your registration fee entitles you to hold a medical license and practice medicine in Oregon (active, locum tenens, emeritus status classifications only) for the time specified under that license. In addition, these fees provide for:

- Certificate of Registration, wall license, and wallet card
- maintenance of records on licensees, including addresses, name changes and other updates
- a public information telephone line that responds to inquiries from health professionals, the public, hospitals, insurance/managed care groups, and pharmacies about an individual's licensure, specialty certification, location of practice, and status with the Board
- the Board website that provides extensive information about the Board's functions and services for licensees and the public
- Board newsletter and other informational mailings
- the Diversion Program for Health Professionals, which is available to intervene and help physicians with substance abuse problems
- investigative staff to respond to complaints regarding a licensee's practice
- operational expenses associated with running the Board and its many programs; including staff, office space, equipment and repairs, telephone service, legal consultation, supplies

CAN REGISTRATION FEES BE PRORATED?

The Board receives numerous requests to prorate registration fees for physicians who plan to retire or leave the state during the covered licensing period. Additional requests for reduced fees are also received from physicians working part-time, resident physicians, and physicians who volunteer or are compensated minimally.

The Board can only respond in a very limited manner because its fees are set by the Oregon Legislature. These fees are based upon the costs associated with the Board's operations and programming. Licensees in a qualified training program may register and pay their fees on an annual basis. Also, physicians licensed after January 1 of the second year of the registration period are charged only a single year registration fee.

To accommodate physicians who practice exclusively as volunteers (without any remuneration), the Board offers a significantly reduced registration fee. A complete description of Oregon's license classifications and fees is provided in Section I.

HOW OFTEN MUST I RENEW MY LICENSE?

Physicians' licenses are renewed every two years during the odd-numbered year. To allow adequate time for processing, renewal notices are sent out in mid-September and should be returned to the Board office by December 1st of the of odd-numbered year. A late fee is imposed if a physician fails to renew by December 31.

AM I REQUIRED TO OBTAIN CONTINUING MEDICAL EDUCATION FOR REGISTRATION RENEWAL?

Physicians, on a regular basis, are not required to obtain continuing medical education in order to renew their registration every two years. Please, however, see the CME requirements for pain management below.

Podiatrists (DPM) are required to obtain 50 hours of CME per biennium (ORS 677.837), or 25 hours if granted a license in the second year of the biennium, in order to renew their registration every two years.

WHAT ARE THE CONTINUING MEDICAL EDUCATION REQUIREMENTS FOR PAIN MANAGEMENT?

All of the Board's licensees, including physicians, are required to obtain 6 hours of continuing medical education (CME) on pain management or end-of-life care plus a one-hour pain management course specific to Oregon provided by the Pain Management Commission obtained after January 1, 2000 and before January 2, 2009 (ORS 409.560 - .565, OAR 847-010-0100). For further information see Intractable Pain and Pain Management under Topics of Interest on the Board's website.

WHAT DOES IT MEAN TO BE A DISPENSING PHYSICIAN?

Dispensing physicians purchase pharmaceuticals to give or sell to their patients. Any actively licensed Oregon physician who dispenses drugs must register with the Board as a dispensing physician. See the dispensing registration form at www.oregon.gov/BME/PDFforms/DispensingFillin.pdf. Dispensing does not include distribution of free samples, drugs, vaccines, or other parenterals administered in your office, nor does dispensing include writing prescriptions that will be filled by a pharmacy. Your DEA registration is sufficient to prescribe controlled substances.

WHAT HAPPENS IF I ANSWER "YES" TO ANY OF THE QUESTIONS ON MY PERSONAL BACKGROUND ON THE APPLICATION OR RENEWAL NOTICE?

All "YES" answers are reviewed by Board staff and, in some instances, by the BME's Executive Director or Medical Director. If warranted, Board staff will either contact you for clarification or refer the issue to the investigative department or Board for review. It is imperative to answer truthfully because failure to do so can result in suspension of your license.

WHAT CAN I DO IF I LOSE MY CERTIFICATE OF REGISTRATION?

Just request a reissued certificate from the Board and be sure to indicate where the certificate should be sent. A request form is available on the Board's website at www.oregon.gov/BME/PDFforms/CertForRegFillin.pdf.

I HAVE TWO OFFICES AND OREGON LAW (ORS 677.184) SAYS I MUST DISPLAY MY LICENSE IN A PROMINENT PLACE IN MY OFFICE. WHAT CAN I DO?

You may make a copy of your formal engrossed license for display in your second office. **DO NOT REQUEST A SECOND LICENSE.** The Board can only replace lost, damaged, or destroyed licenses and replacement licenses are marked as such.

WHO DO I CONTACT WHEN I CHANGE MY BUSINESS AND/OR RESIDENCE ADDRESS?

Oregon law (ORS 677.228) requires physicians to notify the Board of all address changes within 30 days of the change. Either fill out and print a copy of this form from the BME's website at www.oregon.gov/BME/PDFforms/addresschange.pdf, phone the Board and ask for an ADDRESS CHANGE FORM, or send a signed letter that includes all new addresses, phone numbers, and the effective date of the move.

If you include more than one address, indicate which is your preferred mailing address (practice, second practice location, or residence). **Please be advised that your mailing address is treated as public information and is available upon request.**

CAN I HAVE AN ACTIVE OREGON LICENSE EVEN IF I DON'T ACTUALLY LIVE OR PRACTICE IN OREGON?

Generally, no. To hold an active Oregon license you must practice in the state. If you live and practice outside Oregon, you may have an inactive license. There are exceptions to this rule:

- You may have an active license if you **practice in a border town** and come into Oregon to practice as well. Border towns are located within 100 miles of Oregon's border. Check with the Board to identify the areas that fall within this category.
- If you reside outside the state, but practice intermittently within the borders, you must have a locum tenens license. This license is automatically activated each time you notify the Board where and how long you'll be practicing in a particular location.
- If you are a physician practicing outside of Oregon whose practice it is to read radiological images transmitted from Oregon to your practice location in another state and you communicate your radiological findings back to the ordering physician in Oregon, you may request Active – **Teleradiology** status.
- If you are a physician practicing outside of Oregon whose practice it is to monitor data collected during surgery in Oregon via a telemedicine link for the purpose of notifying the Oregon operating team of changes that may have a serious effect on the outcome and/or survival of the patient, you may request Active – **Telemonitoring** status.
- If you are a physician practicing outside of Oregon whose practice it is to diagnose or treat patients located in Oregon as a result of the transmission of patient data by electronic or other means, after examining the patients in person and establishing a physician-patient relationship, you may request Active – **Telemedicine** status.

- Most military and federal public health facilities require physicians to have an active license in order to practice within their organizations. If your official residence is in Oregon but you practice outside of the state in a military or federal public health facility, you may apply for Active – **Military/Public Health** status; however, you will be limited to working within that facility. If you are practicing in one of these facilities in Oregon with an out-of-state license, your practice is limited to that facility. To practice outside of that facility, it is necessary to obtain either an active or locum tenens Oregon license.

IS MY OREGON LICENSE VALID IF I DON'T ACTUALLY LIVE IN OREGON?

Yes, your license is valid even if you don't live in Oregon; however, the status of your license is what determines whether or not you're eligible to practice in Oregon.

WHAT ARE THE REQUIREMENTS FOR A LOCUM TENENS PHYSICIAN?

Physicians practicing under locum tenens (LT) status must notify the Board two weeks prior to their arrival in Oregon of the location and length of stay for each Oregon practice. Once this notification is received, the license is automatically activated to LT status for the time noted. Oregon administrative rules limit a locum tenens practice in Oregon to 180 days in the biennium. If a longer practice in Oregon is required, then the physician would need to reactivate to Active status.

Locum Tenens physicians who work through an agency must also give the Board the agency's name, address, phone number and name of a contact person. If you are an LT physician and decide to reside and practice permanently in Oregon, or for more than 180 days in the biennium, you must contact the licensing department to initiate a change to active licensure status.

HOW DO I CHANGE FROM INACTIVE TO ACTIVE STATUS?

First, contact the Board's licensing department to initiate the process. If you were licensed more than three months ago, you will need to fill out an affidavit of reactivation indicating what you have been doing in the interim and include a \$50 affidavit fee.

The status change will take about 30-45 days to complete. The same procedure applies when changing from inactive to locum tenens, since locum tenens is an active status.

WHY DOES AN INACTIVE LICENSE COST SO MUCH WHEN I WON'T BE PRACTICING IN OREGON?

As stated earlier, the Oregon Legislature sets the medical licensure and biennial registration fees based on the amount of money necessary to run the programs administered by the Board. No state funds are used to support the Board; its funding is generated by the fees it charges.

The costs to register and maintain records on an inactive and active physician are identical, because the costs to administer both active and inactive licensees are the same; updating addresses, status and name changes; and the processing involved in registration renewal.

I AM MOVING OUT OF STATE ... I AM RETIRING ... I AM LEAVING A CLINIC ... WHAT DO I DO ABOUT MY PATIENTS' RECORDS?

First, notify all patients of your plans and let them know where their records will be kept and how they may access them. The Board should also be notified as to the disposition of your records because hundreds of requests are received each year from patients looking for their medical records after their physician leaves a practice. This information is entered into the BME license database and provided, upon request, to your former Oregon patients.

WHAT ARE MY OBLIGATIONS WHEN PATIENTS REQUEST A COPY OF THEIR MEDICAL CHART?

Pertinent information in the medical chart must be provided to the patient within 30 days of receiving a written request from that patient for a copy of the medical record.

The information can be provided in a summary format and does not have to include the personal office notes of the physician or communications from a referring/consulting physician regarding the patient. A reasonable charge can be made for the costs incurred in providing this information; however, patients should not be denied summaries/copies even if they are unable to pay.

HOW DO I GET VERIFICATION OF LICENSURE SENT TO ANOTHER STATE?

You can request verification of your Oregon license be sent to another state medical board through VeriDoc, an on-line license verification service at www.oregon.gov/BME/VeriDoc.shtml. The verification will be mailed directly to the other state licensing board. Licensees can also send verification of their Oregon license to other entities such as employers, insurance companies, or educational institutions, by completing the Board's on-line request form at www.oregon.gov/BME/PDFforms/VerDispMalFillin.pdf at and mailing or faxing it (*with fee*) directly to the Board.

WHERE CAN I FIND THE ADDRESS FOR A LICENSING BOARD IN ANOTHER STATE?

You can locate this information on the website of the Federation of State Medical Boards at www.fsmb.org/directory_smb.html. Or you may send a request for a listing of all state licensing boards within the U.S., with a self-addressed, stamped envelope, to the BME, 1500 SW 1st Ave, Suite 620, Portland, OR 97201.

investigative & disciplinary procedures

Each year the Board receives hundreds of inquiries and complaints directed toward the licensees it oversees. They originate from a wide variety of sources, including members of the public, colleagues, other health professionals, health-care institutions, health insurance companies, governmental agencies, and medical associations. The majority of complaints come from patients or their families.

The Board opens between 300-400 formal investigations each year. Many of these investigations are resolved quickly by the Board's professional staff because the preliminary investigation reveals they do not represent a violation of the Medical Practice Act (ORS 677). On average most investigations are completed within 150 days of the complaint.

The Medical Practice Act has 27 separate instances under which the Board may take disciplinary action against licensees. Most are specific and range from alcohol and drug abuse to fraud, gross or repeated acts of negligence, and conviction of a criminal offense. Unprofessional conduct is also included and covers many of the areas not addressed specifically in the Act, such as sexual misconduct involving a patient. The sections of the Oregon Medical Practice Act that regulate licensee behavior and medical practices are reproduced in Section IV.

investigation process

After receiving a complaint, the Chief Investigator and case investigator work together to decide what information is necessary to evaluate the allegations. Information and documentation is collected from the licensee, hospitals, pharmacies and any other person or entity identified as having relevant information. All information is reviewed by the Board's Medical Director and Executive Director and then forwarded to the Investigative Committee for review and direction.

If the Investigative Committee determines the information does not support a violation of the Medical Practice Act, the case is forwarded to the Board for review and a decision regarding case closure. If the Board also does not identify a violation of the Medical Practice Act, the case will be closed with no action and the licensee will be notified by one of two letters:

- No Violation: This letter states that no violation was found and the case is closed.
- Letter of Concern: This letter outlines important concerns identified by the Board during the investigation. This letter closes the case, but may be referred to in the future if additional cases are opened.

If the Investigative Committee determines the information supports a possible violation of the Medical Practice Act, it may request a more detailed evaluation of a licensee's practice. The Committee may also suggest the investigative material be reviewed by an outside consultant who specializes in a medical practice similar to that of the licensee under investigation. The Committee will typically interview the licensee at one of its monthly meetings during this phase of the investigation.

After the Investigative Committee completes its investigation, the case is forwarded to the Board at its next quarterly meeting. During this meeting, the Board reviews all the material

gathered during the investigation and decides whether or not the evidence supports a violation of the Medical Practice Act. If the evidence supports a violation, the Board moves for disciplinary action against the licensee.

If the Board finds a violation of the Medical Practices Act, it will issue a Complaint and Notice of Proposed Disciplinary Action. The Complaint and Notice outlines the specific allegations against the licensee. The Assistant Attorney General assigned to the Board will draft the Complaint and Notice.

Once a Complaint and Notice is issued, the licensee has two options:

- The licensee may enter into a discussion with the Board to find an acceptable resolution; or
- The licensee may request a Contested Case Hearing which is presided over by an Administrative Law Judge. After the hearing, the hearing officer will draft a proposed order. The Board then reviews the proposed order and determines an appropriate final action.

In either case, the Board will adopt a final order, which memorializes the action taken. Except for available appeals, this order concludes the matter.

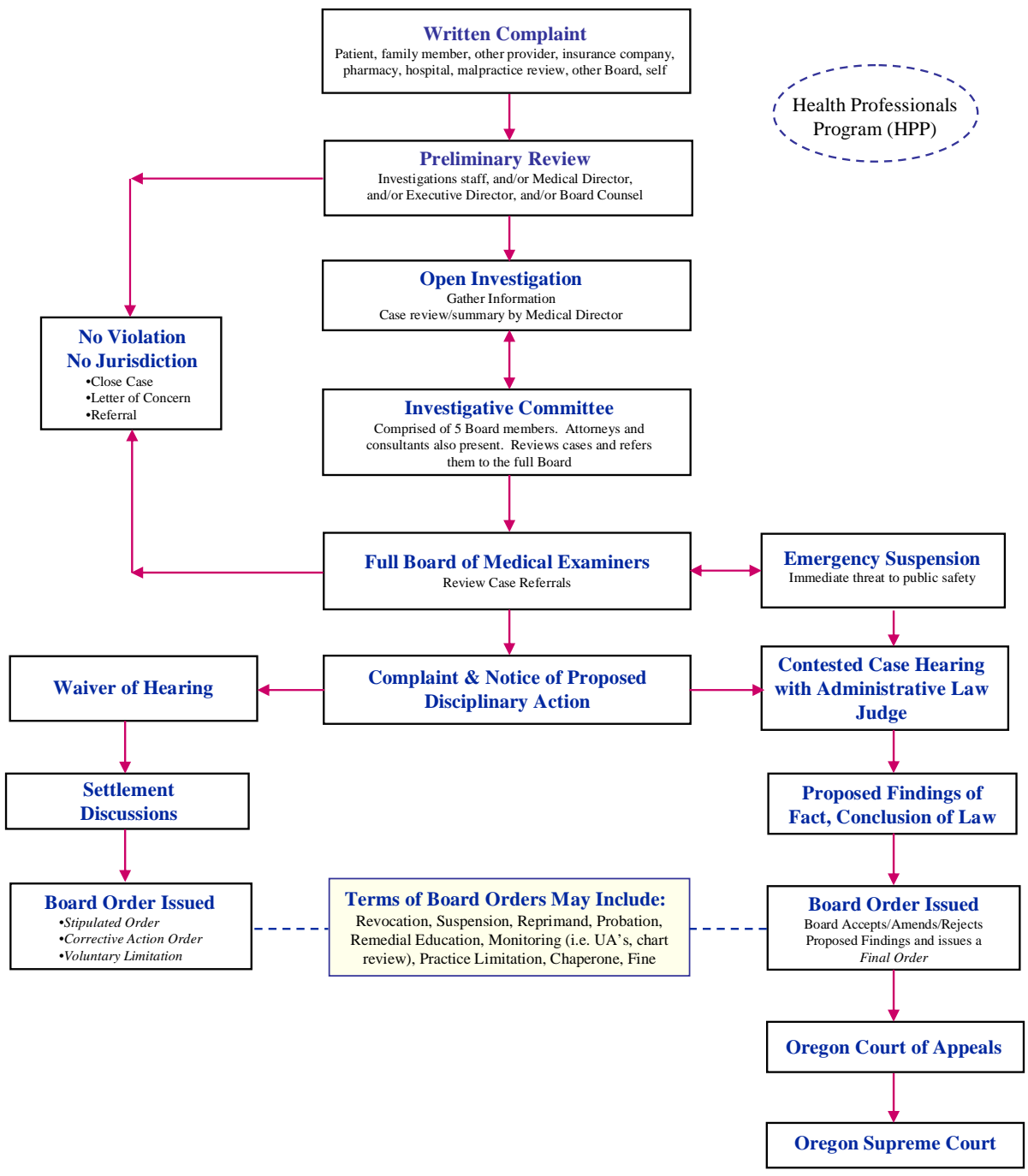
disciplinary sanctions

The severity of the disciplinary actions that the Board may impose in a final order varies a great deal and can include:

- revocation of license (restoration discretionary after two years)
- suspension of license (length of suspension set by Board; restoration automatic once suspension lifted)
- probation (terms may be modified at any time by the Board)
- limitation on license (activities restricted)
- fines (maximum of \$5,000)
- chaperone
- educational program/coursework or practice monitor
- deny renewal or reactivation of medical license
- referral to the Health Professionals Program
- suspension of judgment (no sanctions imposed even though a violation was identified)
- reimbursement to the state for the costs associated with the hearing
- retirement or surrender of license under investigation

If a licensee disagrees with the action taken by the Board, the decision may be appealed to the Oregon Court of Appeals and the Oregon Supreme Court.

ANATOMY OF A COMPLAINT



regulating medical practice in Oregon

Statutory requirements

In Oregon, physicians and other health professionals are governed by statutory law, the Medical Practice Act (Oregon Revised Statutes (ORS) Chapter 677). These laws are enacted by the state legislature, but their enforcement has been delegated to the BME. All Oregon Revised Statutes may be accessed at the Oregon State Legislature's website at www.leg.state.or.us/ors/.

Portions of the Medical Practice Act pertaining to physician licensure and practice are included in this section. The areas included are:

- identification of the professionals covered under the statute
- definition of the what is acceptable and unacceptable in the practice of medicine
- administration of controlled substances for intractable pain
- drug dispensing requirements
- definition of the standard of care
- informed consent requirements
- participation in Medicare
- qualifications for licensure for physicians & podiatrists
- practice of medicine across state lines (telemedicine)
- grounds for suspension or termination of medical license
- disciplinary and investigatory procedures
- operation of the Health Professionals Program

Additional Oregon laws that impact physicians and how they practice are also included.

- The Doctor Title Law (ORS 676.100-.130) specifies how health care practitioners may present themselves to the public.
- ORS 676.210-.220 define what happens to health care professionals who continue to practice following suspension or revocation of license.
- ORS 676.310 sets limitations on the fees physicians may charge for lab work.
- ORS 676.340-.345 define limitations on liability of providing health care services without compensation.

The Board of Radiologic Technology (ORS 688.405-.605) is responsible for the licensing requirements for diagnostic radiologic technologists and limited permit holders who handle x-ray equipment for diagnostic purposes, and radiation therapists who use ionizing radiation for therapeutic purposes; all operate under the supervision of a licensed practitioner, such as an MD, DO, or DPM. 971-673-0215 www.obrt.state.or.us

Radiation Protection Services (ORS 453.605-.807) of the Office of Environmental Public Health of the Department of Human Services (DHS), Oregon Health Services, is responsible for the registration of x-ray machines and licensing of users of radioactive materials. Radiation Protection Services develops radiation protection standards for x-ray equipment, and other radiation devices for use in doctor's offices, hospitals, clinics, etc. 971-673-0490 www.oregon.gov/DHS/ph/rps/index.shtml

reporting requirements

Physicians are required by statute (ORS 419B.005-.050) to report to the local office of Oregon DHS Child Protective Services or a law enforcement agency when they have reasonable cause to believe a child has been abused, or they come in contact with a person they have reasonable cause to believe has abused a child. The reporting law covers physical abuse, neglect, sexual abuse or exploitation, threats of harm, and mental abuse. www.oregon.gov/DHS/children/abuse/cps/main.shtml

Physicians are also required by statute to report to the DHS Office of Seniors and People with Disabilities or a law enforcement agency when they have reasonable cause to believe that a person 65 years old or older (ORS 124.050-.095) or an adult with a disability (ORS 430.735-.765) has suffered abuse, or they come in contact with a person they have reasonable cause to believe has abused a person 65 years old or older or an adult with a disability. Abuse means physical injury that does not appear to be accidental, neglect, abandonment, or willful infliction of physical pain or injury. www.oregon.gov/DHS/abuse/main.shtml

Oregon law (ORS 146.710-.780) also mandates physicians report any injuries caused by a knife, gun or other deadly weapon that does not appear to have been caused by accidental means to the medical examiner.

If a physician suspects an injury or death may be toy related, these findings must be reported to Director of the Department of Human Services (ORS 677.491).

The Medical Practice Act (ORS 677.415) requires a licensee of the Board to report any information they may have which appears to show that the licensee is or may be:

- medically incompetent
- guilty of unprofessional or dishonorable conduct
- an impaired licensee unable to safely practice as a physician, podiatrist, physician assistant, or acupuncturist.

Federal law requires health care providers who administer certain vaccines (*diphtheria, tetanus, pertussis, measles, mumps, rubella & poliomyelitis*) to comply with specific guidelines. The requirements state the provider must review information on the vaccination (*DUTY TO WARN*) with the patient and/or guardian, establish a permanent record of the immunization (including the manufacturer and the lot number), and report any adverse reactions to the Vaccine Adverse Event Reporting System (VAERS). For more information about these regulations and Oregon's immunization activities, contact the Immunization Program of the Office of Family Health in the Portland offices of Oregon Health Services. 971-673-0300 or 800-422-6012
www.oregon.gov/DHS/ph/imm/index.shtml

Physicians must also report patients with communicable diseases to their local health department. A complete list of the diseases involved and reporting processes is provided at the end of this section. Additional information is available through the Office of Disease Prevention & Epidemiology in Portland offices of the Oregon Health Services. 971-673-0982 www.oregon.gov/DHS/ph/odpe/index.shtml

Physicians must report to the Department of Transportation any patient 14 years older or older whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle (ORS 807.710).

The Medical Practice Act contains references to other statutes that list reporting requirements, the treatment of patients for chemical dependency, completing and filing death certificates, tax deductions for physicians in medically disadvantaged areas, and the Oregon Death with Dignity Act.

You may contact the Board of Medical Examiners for a copy of the complete Medical Practice Act (ORS Chapter 677), or you can access it and other statutes at www.leg.state.or.us/ors/.

administrative rules

To facilitate its role under the Medical Practice Act, the BME establishes administrative rules, OAR Chapter 847, to define and regulate the licensure and practices of health care professionals under its oversight. There are many administrative rules, including ones that outline the application process, set fees, and define administrative policies.

Rather than reprinting all of the Board's administrative rules, this handbook focuses on those that most directly affect a physician's medical practice:

- requirements regarding registration and renewal of medical license, including mandatory pain management education
- rules regarding patient access to medical records
- guidelines for the prescribing of controlled substances

These particular rules will be provided in this section in their entirety following the Oregon Revised Statutes. The administrative rules outlining registration and licensing requirements for podiatrists are reproduced as well. For a complete copy of the administrative rules governing the Board and all the health professionals it licenses, contact the BME in Portland, 971-671-2700. You can also access all the state's administrative rules at http://arcweb.sos.state.or.us/rules/number_index.html.

Oregon revised statutes

PHYSICIANS AND SURGEONS, PODIATRIC PHYSICIANS AND SURGEONS: General Provisions

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

(1) "Approved internship" means the first year of post-graduate training served in a hospital that is approved by the board or by the Accreditation Council of Graduate Medical Education, the American Osteopathic Association or the Royal College of Physicians and Surgeons of Canada.

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

(3) "Diagnose" means to examine another person in any manner to determine the source or nature of a disease or other physical or mental condition, or to hold oneself out or represent that a person is so examining

another person. It is not necessary that the examination be made in the presence of such other person; it may be made on information supplied either directly or indirectly by such other person.

(4) "Dispense" means the preparation and delivery of a prescription drug, pursuant to a lawful order of a practitioner, in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

(5) "Dispensing physician" means a physician or podiatric physician and surgeon who purchases prescription drugs for the purpose of dispensing them to patients or other individuals entitled to receive the prescription drug and who dispenses them accordingly.

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

(7) "Fellow" means an individual who has not

qualified under ORS 677.100 (1) and (2) and who is pursuing some special line of study as part of a supervised program of a school of medicine, a hospital approved for internship or residency training, or an institution for medical research or education that provides for a period of study under the supervision of a responsible member of that hospital or institution, such school, hospital or institution having been approved by the board.

(8) "Impaired physician" means a physician who is unable to practice medicine with reasonable skill and safety by reason of mental illness; physical illness, including, but not limited to, physical deterioration that adversely affects cognition, motor or perceptive skill; or habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability.

(9) "Intern" means an individual who has entered into a hospital or hospitals for the first year of post-graduate training.

(10) "License" means permission to practice, whether by license, registration or certification.

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

(12) "Physician" means any person who holds a degree of Doctor of Medicine or Doctor of Osteopathy.

(13) "Podiatric physician and surgeon" means a podiatric physician and surgeon licensed under ORS 677.805 to 677.855 to treat ailments of the human foot, ankle and tendons directly attached to and governing the function of the foot and ankle.

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

(15) "Resident" means an individual who, after the first year of post-graduate training, in order to qualify for some particular specialty in the field of medicine, pursues a special line of study as part of a supervised program of a hospital approved by the board.

(16) "Approved school of medicine" means a school offering a full-time resident program of study in medicine or osteopathy leading to a degree of Doctor of Medicine or Doctor of Osteopathy, such program having been fully accredited or conditionally approved by the Liaison Committee on Medical Education, or its successor agency, or the American Osteopathic Association, or its successor agency, or having been otherwise determined by the board to meet the association standards as specifically incorporated into board rules.

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

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

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

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

(3) Supervised clinical training by an acupuncture student who is enrolled in a school approved to offer credit for post-secondary clinical education in Oregon or clinical practice of acupuncture by a practitioner licensed to practice acupuncture in another state or foreign country who is enrolled in clinical training approved by the Board of Medical Examiners.

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

(5) The domestic administration of family remedies.

(6) The practice of dentistry, pharmacy, nursing, optometry, psychology, clinical social work, chiropractic, naturopathic medicine or cosmetic therapy, by any person authorized by this state. Nothing in ORS 677.085 (5) prevents the use of the words "Doctor" or "Specialist," or any abbreviation or combination thereof, or any letters or words of similar import by any person duly licensed to practice optometry within Oregon.

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

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

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

(10) The practice of physiotherapy, electrotherapy or hydrotherapy carried on by a duly licensed practitioner of medicine, naturopathic medicine or chiropractic, or by ancillary personnel certified by the State Board of Chiropractic Examiners, pursuant to ORS 684.155 (1)(c)(A), to provide physiotherapy, electrotherapy or hydrotherapy and working under the direction of a chiropractic physician.

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

677.080 Prohibited acts. No person shall:

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

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

(3) Impersonate anyone to whom a license has been granted by the Board of Medical Examiners.

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

677.082 Expression of regret or apology by licensee. (1) For the purposes of any civil action against a person licensed by the Board of Medical Examiners, any expression of regret or apology made by or on behalf of the person, including an expression of regret or apology that is made in writing, orally or by conduct, does not constitute an admission of liability for any purpose.

(2) A person who is licensed by the Board of Medical Examiners, or any other person who makes an expression of regret or apology on behalf of a person who is licensed by the Board of Medical Examiners, may not be examined by 677.030; deposition or otherwise in any civil or administrative proceeding, including any arbitration or mediation proceeding, with respect to an expression of regret or apology made by or on behalf of the person, including expressions of regret or apology that are made

in writing, orally or by conduct.

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

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

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

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

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

(5) Except as provided in ORS 677.060, append the letters "M.D." or "D.O." to the name of the person, or use the words "Doctor," "Physician," "Surgeon," or any abbreviation or combination thereof, or any letters or words of similar import in connection with the name of the person, or any trade name in which the person is interested, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions mentioned in this section.

PHYSICIANS AND SURGEONS; PODIATRIC PHYSICIANS AND SURGEONS (Generally)

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

(2) This section shall not apply when the physician or podiatric physician and surgeon, because of an emergency, cannot personally notify the patient that the physician or podiatric physician and surgeon will not be performing the surgery.

677.089 Physicians dispensing prescription drugs to do so personally; records; required labeling information. (1) Prescription drugs dispensed by a physician or podiatric physician and surgeon shall be personally dispensed by the physician or podiatric physician and surgeon. Nonjudgmental dispensing functions may be delegated to staff assistants when the accuracy and completeness of the prescription is verified by the physician or podiatric physician and surgeon.

(2) The dispensing physician shall maintain records of receipt and distribution of prescription drugs. These records shall be readily accessible and subject to inspection by the Board of Medical Examiners.

(3) The dispensing physician shall label prescription drugs with the following information:

(a) Name of patient;

(b) The name and address of the dispensing physician;

(c) Date of dispensing;

(d) The name of the drug but if the dispensed drug does not have a brand name, the prescription label shall indicate the generic name of the drug dispensed along with the name of the drug distributor or manufacturer, its quantity per unit and the directions for its use stated in the prescription. However, if the drug is a compound, the

quantity per unit need not be stated;

(e) Cautionary statements, if any, as required by law; and

(f) When applicable and as determined by the State Board of Pharmacy, an expiration date after which the patient should not use the drug.

(4) Prescription drugs shall be dispensed in containers complying with the federal Poison Prevention Packaging Act unless the patient requests a noncomplying container.

677.095 Duty of care; legal issues not precluded by investigation or administrative proceeding. (1) A physician or podiatric physician and surgeon licensed to practice medicine or podiatry by the Board of Medical Examiners for the State of Oregon has the duty to use that degree of care, skill and diligence that is used by ordinarily careful physicians or podiatric physicians and surgeons in the same or similar circumstances in the community of the physician or podiatric physician and surgeon or a similar community.

(2) In any suit, action or arbitration seeking damages for professional liability from a health care provider, no issue shall be precluded on the basis of a default, stipulation, agreement or any other outcome at any stage of an investigation or an administrative proceeding, including but not limited to a final order.

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

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

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

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

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

677.099 Notice of participation or nonparticipation in Medicare assignment program. (1) A physician currently a participating physician in the Medicare assignment program under 42 U.S.C. 1395 (b)(3)(B) II shall post a notice reading:

(Physician's name) is participating in the Medicare Assignment Program. The physician will not charge you fees above the Medicare determined annual deductible and the per visit copayment. Ask your physician for more information concerning your fees.

(2) A physician not currently a participating physician in the Medicare assignment program under 42 U.S.C. 1395 (b)(3)(B) II shall post a notice reading:

(Physician's name) is not participating in the Medicare Assignment Program and may legally charge you fees in addition to the Medicare determined annual deductible and per visit copayment. Ask your physician for more information concerning your fees.

(3) The Board of Medical Examiners for the State of Oregon shall establish by rule the dimension and design for the printing and posting of the sign so as to assure that it can be seen and read by Medicare beneficiaries.

(4) If the physician has reasonable cause to believe that the patient cannot read the sign or cannot comprehend its content, the physician shall endeavor to explain the meaning of the notice.

(Licensing)

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

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

(b) Have satisfactorily completed the following post-graduate requirement:

(A) Satisfactory completion of an approved rotating internship if a graduate of an approved school of medicine;

(B) One year of training in an approved program if a graduate of an approved school of medicine; or

(C) Three years of training in an approved program if a graduate of an unapproved school of medicine.

(c) Have complied with each rule of the Board of Medical Examiners for the State of Oregon which applies to all similar applicants for a license to practice medicine in this state.

(d) Have provided evidence sufficient to prove to the satisfaction of the board that the applicant is of good moral character. For purposes of this section, the lack of good moral character may be established by reference to acts or conduct that reflect moral turpitude or to acts or conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others and for the laws of the state and the nation. The acts or conduct in question must be rationally connected to the applicant's fitness to practice medicine.

(2) If an applicant establishes that the applicant is of good moral character and has qualifications which the board determines are the equivalent of the qualifications required by subsection (1)(a) to (c) of this section, the applicant satisfies the requirements of subsection (1) of this section.

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

677.110 Scope and administration of examination; certificate in lieu of examination. (1) Applicants who satisfy the requirements of ORS 677.100 shall be admitted to an examination in subjects covered in schools of medicine that grant degrees of Doctor of Medicine or Doctor of Osteopathy. The examination shall be sufficient to test the applicant's fitness to practice medicine. The examination shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an average score of not less than 75 is required for passing. The Board of Medical Examiners may require the applicant to take and pass the Federation Licensing Examination, also known as FLEX.

(2) The Board of Medical Examiners for the State of Oregon may accept a certificate issued by the National Board of Medical Examiners of the United States or the National Board of Examiners for Osteopathic Physicians and Surgeons or the Medical Council of Canada or successful completion of the United States Medical Licensing Examination in lieu of its own examination.

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

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

677.120 Reciprocity. (1) As used in this section, 'health clinic' means a public health clinic or a health clinic operated by a charitable corporation that mainly provides primary physical health, dental or mental health services to low-income patients without charge or using a sliding fee scale based on the income of the patient.

(2) A physician and surgeon who lawfully has been issued a license to practice in another state or territory of the United States or the District of Columbia, the qualifications and licensing examinations of which are substantially similar to those of the State of Oregon, may be licensed by the Board of Medical Examiners for the State of Oregon to practice medicine in this state without taking an examination, except when an examination is required under subsection (3) or (4) of this section.

(3) A person described in subsection (2) of this section, whose application is based on a license issued in another state or territory or the District of Columbia, certification of the National Board of Medical Examiners of the United States, the National Board of Examiners for Osteopathic Physicians and Surgeons or the Medical Council of Canada or successful completion of the United States Medical Licensing Examination, 10 years or more prior to the filing of an application with the board or who has ceased the practice of medicine for 12 or more consecutive months, may be required by the board to take an examination.

(4) A person described in subsection (2) of this section who volunteers at a health clinic and whose application is based on a license issued in another state or territory or the District of Columbia, certification of the National Board of Medical Examiners of the United States, the National Board of Examiners for Osteopathic Physicians and Surgeons or the Medical Council of Canada or successful completion of the United States Medical Licensing Examination or the Federation Licensing Examination may be required by the board to take a national licensing examination if the person has ceased the practice of medicine for 24 or more consecutive months immediately prior to filing the application.

(5) The board shall make the application under subsection (4) of this section available online. A physician and surgeon applying for a license under subsection (4) of this section shall pay to the board an application fee as determined by the board pursuant to ORS 677.265.

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

677.132 Limited license. (1) When a need exists, the Board of Medical Examiners for the State of Oregon may issue a limited license for a specified period to an applicant who possesses the qualifications prescribed by the rules of the board. The board shall supervise the activities of the holder of a limited license and impose such restrictions as it finds necessary. Each person holding a limited license must obtain an unlimited license at the earliest time possible. After such time the board shall refuse to renew a limited license at the end of a specified period if it determines that the holder thereof is not pursuing diligently an attempt to become qualified for a license.

(2) The board by rule shall prescribe the types of and limitations upon licenses issued under this section.

(3) A person licensed under this section is subject to all the provisions of this chapter and to all the rules of the board, has the same duties and responsibilities and is subject to the same penalties and sanctions as any other person licensed under this chapter.

677.135 Definition of "practice of medicine across state lines." As used in ORS 677.135 to 677.141, "the practice of medicine across state lines" means:

(1) The rendering directly to a person of a written or otherwise documented medical opinion concerning the diagnosis or treatment of that person located within this state for the purpose of patient care by a physician located outside this state as a result of the transmission of individual patient data by electronic or other means from within this state to that physician or the physician's agent; or

(2) The rendering of medical treatment directly to a person located within this state by a physician located outside this state as a result of the outward transmission of individual patient data by electronic or other means from within this state to that physician or the physician's agent.

677.137 License required for practice of medicine across state lines; exceptions. (1) A person may not engage in the practice of medicine across state lines, claim qualification to engage in the practice of medicine across state lines or use any title, word or abbreviation to indicate or to induce another to believe that the person is licensed to engage in the practice of medicine across state lines unless the person is licensed in accordance with ORS 677.139.

(2) ORS 677.135 to 677.141 do not apply to a physician engaging in the practice of medicine across state lines in an emergency, as defined by rule of the Board of Medical Examiners.

(3) ORS 677.135 to 677.141 do not apply to a licensed physician located outside this state who:

(a) Consults with another physician licensed to practice medicine in this state; and

(b) Does not undertake the primary responsibility for diagnosing or rendering treatment to a patient within this state.

(4) ORS 677.135 to 677.141 do not apply to a licensed physician located outside this state who has an established physician-patient relationship with a person who is in Oregon temporarily and who requires the direct medical treatment by that physician.

677.139 License to practice medicine across state lines; application; fees. (1) Upon application, the Board of Medical Examiners may issue to an out-of-state physician a license for the practice of medicine across state lines if the physician holds a full, unrestricted license to practice medicine in any other state of the United States, has not been the recipient of a professional sanction by any other state of the United States and otherwise meets the standards for Oregon licensure under this chapter.

(2) In the event that an out-of-state physician has been the recipient of a professional sanction by any other state of the United States, the board may issue a license for the practice of medicine across state lines if the board finds that the sanction does not indicate that the physician is a potential threat to the public interest, health, welfare and safety.

(3) A physician shall make the application on a form provided by the board, accompanied by nonrefundable fees for the application and the license in amounts determined by rule of the board. The board shall adopt necessary and proper rules to govern the renewal of licenses issued under this section.

(4) A license for the practice of medicine across state lines is not a limited license for purposes of ORS 677.132.

(5) A license for the practice of medicine across state lines does not permit a physician to practice medicine in this state except when engaging in the practice of medicine across state lines.

677.141 Responsibilities; prohibited practices; confidentiality requirements. (1) A physician issued a license under ORS 677.139 is subject to all the provisions of this chapter and to all the rules of the Board of Medical Examiners. A physician issued a license under ORS 677.139 has the same duties and responsibilities and is subject to the same penalties and sanctions as any other physician licensed under this chapter.

(2) A physician issued a license under ORS 677.139 may not:

(a) Act as a dispensing physician as defined in ORS 677.010;

(b) Administer controlled substances for the treatment of intractable pain to a person located within this state;

(c) Employ a physician assistant as defined in ORS 677.495 to treat a person located within this state;

(d) Claim the tax deduction provided by ORS 316.076;

(e) Participate in the Rural Health Services Program under ORS 442.550 to 442.570; or

(f) Assert a lien for services under ORS 87.555.

(3) A physician licensed under ORS 677.139 shall comply with all patient confidentiality requirements of this state, except as those requirements are expressly prohibited by the law of any other state of the United States where a person's medical records are maintained.

677.172 Change of location of practice; effect. (1) Any person licensed to practice under this chapter who changes location during the period between any two registration dates shall notify the Board of Medical Examiners of the change within 30 days after such change.

(2) Any person who is newly licensed by the board to practice under this chapter during the period between any two registration dates shall immediately register and pay the registration fee for that period.

(3)(a) Any person licensed under this chapter who changes location of practice to some other state or country shall be listed by the board as inactive. Absence from the state of a person licensed by the board does not affect the validity of the license if the licensee notifies the board of such absence from the state and pays the inactive registration fee during such absence.

(b) Before resuming practice in the state, the licensee shall notify the board of the intention to resume active practice in the state and obtain a certificate of active registration for the renewal period during which the licensee returns. The fee shall be the active registration fee less any inactive registration fee previously paid for that renewal period.

(c) The licensee shall file an affidavit with the board describing medically related activities during the period of inactive registration. If, in the judgment of the board, the

conduct of the licensee has been, during the period of inactive registration, such that the licensee would have been denied a license if applying for an initial license, the board may deny active registration and may take further action as appropriate.

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

(2) If a person licensed to practice under this chapter ceases to practice for a period of 12 or more consecutive months, the board in its discretion may require the person to prove to its satisfaction that the licensee has maintained competence.

(3) The surrender, retirement or other forfeiture, expiration or cancellation of a license issued by the board shall not deprive the board of its authority to institute or continue a disciplinary action against the licensee upon any ground provided by law.

677.184 License to show degree held; display of license; use of degree on stationery and in displays. (1) On each license issued by it, the Board of Medical Examiners for the State of Oregon shall enter after the name of the person holding the license the degree to which the person is entitled by reason of the diploma of graduation from a school of medicine which, at the time of the graduation of such person, was approved by the board for purposes of ORS 677.100.

(2) The license shall be displayed in a prominent place in the licensee's office.

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

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

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

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

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

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

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

impair a physician's or podiatric physician and surgeon's ability safely and skillfully to practice medicine or podiatry;

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

(c) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic studies; administration of unnecessary treatment; employment of outmoded, unproved or unscientific treatments; failure to obtain consultations when failing to do so is not consistent with the standard of care; or otherwise utilizing medical service for diagnosis or treatment which is or may be considered inappropriate or unnecessary.

677.190 Grounds for suspending, revoking or refusing to grant license, registration or certification; alternative medicine not unprofessional conduct. The Board of Medical Examiners for the State of Oregon may refuse to grant, or may suspend or revoke a license to practice for any of the following reasons:

(1)(a) Unprofessional or dishonorable conduct.

(b) For purposes of this subsection, the use of an alternative medical treatment shall not by itself constitute unprofessional conduct. For purposes of this paragraph:

(A) "Alternative medical treatment" means:

(i) A treatment that the treating physician, based on the physician's professional experience, has an objective basis to believe has a reasonable probability for effectiveness in its intended use even if the treatment is outside recognized scientific guidelines, is unproven, is no longer used as a generally recognized or standard treatment or lacks the approval of the United States Food and Drug Administration;

(ii) A treatment that is supported for specific usages or outcomes by at least one other physician licensed by the Board of Medical Examiners; and

(iii) A treatment that poses no greater risk to a patient than the generally recognized or standard treatment.

(B) "Alternative medical treatment" does not include use by a physician of controlled substances in the treatment of a person for chemical dependency resulting from the use of controlled substances.

(2) Employing any person to solicit patients for the licensee. However, a managed care organization, independent practice association, preferred provider organization or other medical service provider organization may contract for patients on behalf of physicians.

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

(4) Obtaining any fee by fraud or misrepresentation.

(5) Willfully or negligently divulging a professional secret without the written consent of the patient.

(6) Conviction of any offense punishable by incarceration in a Department of Corrections institution or in a federal prison, subject to ORS 670.280. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(7) Habitual or excessive use of intoxicants, drugs or controlled substances.

(8) Fraud or misrepresentation in applying for or procuring a license to practice in this state, or in connection with applying for or procuring registration.

(9) Making statements that the licensee knows, or with the exercise of reasonable care should know, are false or misleading, regarding skill or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee or at the direction of the licensee in the treatment of any disease or other condition of the human body or mind.

(10) Impersonating another licensee licensed under this chapter or permitting or allowing any person to use the license.

(11) Aiding or abetting the practice of medicine or podiatry by a person not licensed by the board, when the licensee knows, or with the exercise of reasonable care should know, that the person is not licensed.

(12) Using the name of the licensee under the designation "doctor," "Dr.," "D.O.," "M.D.," "D.P.M.," "Acupuncturist," "P.A." or any similar designation in any form of advertising that is untruthful or is intended to deceive or mislead the public.

(13) Insanity or mental disease as evidenced by an adjudication or voluntary commitment to an institution for the treatment of a mental disease that affects the ability of the licensee to safely practice medicine, or as determined by an examination conducted by three impartial psychiatrists retained by the board.

(14) Gross negligence or repeated negligence in the practice of medicine or podiatry.

(15) Incapacity to practice medicine or podiatry. If the board has evidence indicating incapacity, the board may order a licensee to submit to a standardized competency examination. The licensee shall have access to the result of the examination and to the criteria used for grading and evaluating the examination. If the examination is given orally, the licensee shall have the right to have the examination recorded.

(16) Disciplinary action by another state of a license to practice, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of the disciplinary action of the state is conclusive evidence thereof.

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

(18) Willfully violating any provision of this chapter or any rule adopted by the board, board order, or failing to comply with a board request pursuant to ORS 677.320.

(19) Failing to report the change of the location of practice of the licensee as required by ORS 677.172.

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

(21) Making a fraudulent claim.

(22)(a) Performing psychosurgery.

(b) For purposes of this subsection and ORS 426.385, "psychosurgery" means any operation designed to produce an irreversible lesion or destroy brain tissue for the primary purpose of altering the thoughts, emotions or behavior of a human being. "Psychosurgery" does not include procedures which may produce an irreversible lesion or destroy brain tissues when undertaken to cure well-defined disease states such as brain tumor, epileptic foci and certain chronic pain syndromes.

(23) Refusing an invitation for an informal interview with the board requested under ORS 677.415.

(24) Violation of the federal Controlled Substances Act.

(25) Prescribing controlled substances without a legitimate medical purpose, or prescribing controlled substances without following accepted procedures for examination of patients, or prescribing controlled substances without following accepted procedures for record keeping or without giving the notice required under ORS 677.485.

(26) Failure by the licensee to report to the board any adverse action taken against the licensee by another licensing jurisdiction or any peer review body, health care institution, professional or medical society or association, governmental agency, law enforcement agency or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in this section.

(27) Failure by the licensee to notify the board of the licensee's voluntary resignation from the staff of a health

care institution or voluntary limitation of a licensee's staff privileges at the institution if that action occurs while the licensee is under investigation by the institution or a committee thereof for any reason related to medical incompetence, unprofessional conduct or mental or physical impairment.

677.200 Disciplinary procedure. Except as provided in ORS 677.202 or 677.205 (1)(a), any proceeding for disciplinary action of a licensee licensed under this chapter shall be substantially in accord with the following procedure:

(1) A written complaint of some person, not excluding members or employees of the Board of Medical Examiners for the State of Oregon, shall be verified and filed with the board.

(2) A hearing shall be given to the accused in accordance with ORS chapter 183 as a contested case.

677.202 When procedure inapplicable. ORS 677.200 does not apply in cases where the license of a person to practice under this chapter has been suspended automatically as provided in ORS 677.225.

677.205 Grounds for discipline; action by board. (1) The Board of Medical Examiners for the State of Oregon may discipline as provided in this section any person licensed, registered or certified under this chapter who has:

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

(b) Been found to be in violation of one or more of the grounds for disciplinary action of a licensee as set forth in this chapter; or

(c) Had an automatic license suspension as provided in ORS 677.225.

(2) In disciplining a licensee as authorized by subsection (1) of this section, the board may use any or all of the following methods:

(a) Suspend judgment.

(b) Place the licensee on probation.

(c) Suspend the license.

(d) Revoke the license.

(e) Place limitations on the license.

(f) Take such other disciplinary action as the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed \$5,000, or both.

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

(4) If the board places any licensee on probation as set forth in subsection (2)(b) 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 or for the purpose of the rehabilitation of the probationer, or both. Upon expiration of the term of probation, further proceedings shall be abated if the licensee has complied with the terms of the probation.

(5) If a license issued under this chapter 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 conditions for which the license was suspended no longer exist.

(6) The board shall enter each case of disciplinary action on its records.

(7) Civil penalties under this section shall be imposed as provided in ORS 183.745.

677.208 Hearing; disqualification of investigating board members; judicial review. (1) Where the Board of Medical Examiners proposes to refuse to issue a license, or refuses to restore an inactive registrant to an active registration, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Following a contested case hearing, the members of the board who participated in the investigation of the licensee, except for one public member, shall not participate in the final decision of the board. A meeting of the board to determine what further action, if any, should be taken regarding the licensee or applicant is not a part of the investigation. The final decision of the board following a contested case hearing shall be based upon the transcript and record, including the exhibits.

(3) Judicial review of orders under subsection (1) of this section shall be in accordance with ORS chapter 183.

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

677.220 Issuance or restoration of license after denial or revocation. Whenever a license issued under this chapter is denied or revoked for any cause, the Board of Medical Examiners for the State of Oregon may, after the lapse of two years from the date of such revocation, upon written application by the person formerly licensed, issue or restore the license.

677.225 Automatic suspension of license for mental illness or imprisonment; termination of suspension. (1) A person's license issued under this chapter is suspended automatically if:

(a) The licensee is adjudged to be mentally ill or is admitted on a voluntary basis to a treatment facility for mental illness that affects the ability of the licensee to safely practice medicine and if the licensee's residence in the hospital exceeds 25 consecutive days; or

(b) The licensee is an inmate in a penal institution.

(2)(a) The clerk of the court ordering commitment or incarceration under subsection (1)(a) or (b) of this section shall cause to be mailed to the Board of Medical Examiners, as soon as possible, a certified copy of the court order. No fees are chargeable by the clerk for performing the duties prescribed by this paragraph.

(b) The administrator of the hospital to which a person with a license issued under this chapter has voluntarily applied for admission shall cause to be mailed to the board as soon as possible, a certified copy of the record of the voluntary admission of such person.

(c) Written evidence received from the supervisory authority of a penal or mental institution that the licensee is an inmate or patient therein is prima facie evidence for the purpose of subsection (1)(a) or (b) of this section.

(3) A suspension under this section may be terminated by the board when:

(a)(A) The board receives evidence satisfactory to the board that the licensee is not mentally ill; or

(B) The board receives evidence satisfactory to the board that the licensee is no longer incarcerated; and

(b) The board is satisfied, with due regard for the public interest, that the licensee's privilege to practice may be restored.

677.228. Automatic lapse of license for failure to pay registration fee or report change of location; reinstatement. (1) A person's license to practice under this chapter automatically lapses if the licensee fails to:

(a) Pay the registration fee as required by rule of the Board of Medical Examiners for the State of Oregon.

(b) Notify the board of a change of location not later than the 30th day after such change.

(c) Complete prior to payment of the registration fee described in paragraph (a) of this subsection, or provide documentation of previous completion of, if required by rule of the board:

(A) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under ORS 409.500; or

(B) An equivalent pain management education program, as determined by the board.

(2) If a license issued automatically lapses under this section, the holder of the license shall not practice until the conditions for which the license automatically lapsed no longer exist.

(3) A person whose license has automatically lapsed under subsection (1)(a) of this section is reinstated automatically when the licensee pays the registration fee plus all late fees then due.

(4) A person whose license has automatically lapsed under subsection (1)(b) of this section is reinstated automatically if the board receives notification of the current and correct address of the licensee not later than the 10th day after such automatic lapse takes effect. Otherwise the lapse continues until terminated by the board.

(5) A person whose license has automatically lapsed under subsection (1)(c) of this section is reinstated automatically when the board receives documentation of the person's completion of a pain management education program if required by subsection (1)(c) of this section.

677.270 Proceedings upon refusal to testify or failure to obey rule, order or subpoena of board. If any licensee fails to comply with any lawful rule or order of the Board of Medical Examiners for the State of Oregon, or fails to obey any subpoena issued by the board, or refuses to testify concerning any matter on which the licensee may lawfully be interrogated by the board, the board may apply to any circuit court of this state, or the judge thereof, to compel obedience. The court or judge, upon such application, shall institute proceedings for contempt. The remedy provided in this section is in addition to, and not exclusive of, the authority of the board to discipline licensees for violations of ORS 677.190 (18) and (23).

(Enforcement)

677.320 Investigation of complaints and suspected violations. (1) Upon the complaint of any citizen of this state, or upon its own initiative, the Board of Medical Examiners for the State of Oregon may investigate any alleged violation of this chapter. If, after the investigation, the board has reason to believe that any person is subject to prosecution criminally for the violation of this chapter, it shall lay the facts before the proper district attorney.

(2) In the conduct of investigations, the board or its designated representative may:

(a) Take evidence;

(b) Take the depositions of witnesses, including the person charged;

(c) Compel the appearance of witnesses, including the person charged;

(d) Require answers to interrogatories; and

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas over the

signature of the executive director and the seal of the board in the name of the State of Oregon.

(4) In any proceeding under this section where the subpoena is addressed to a licensee of this board, it shall not be a defense that the material that is subject to the subpoena is protected under a patient and physician privilege.

(5) If a licensee who is the subject of an investigation or complaint is to appear before members of the board investigating the complaint, the board shall provide the licensee with a current summary of the complaint or the matter being investigated not less than five days prior to the date that the licensee is to appear. At the time the summary of the complaint or the matter being investigated is provided, the board shall provide to the licensee a current summary of documents or alleged facts that the board has acquired as a result of the investigation. The name of the complainant or other information that reasonably may be used to identify the complainant may be withheld from the licensee.

(6) A licensee who is the subject of an investigation and any person authorized to act on behalf of the licensee shall not knowingly contact the complainant until the licensee has requested a contested case hearing and the board has authorized the taking of the complainant's deposition pursuant to ORS 183.425.

(7) Except in an investigation or proceeding conducted by the board or another public entity, or in an action, suit or proceeding where a public entity is a party, a licensee shall not be questioned or examined regarding any communication with the board made in an appearance before the board as part of an investigation. This section shall not prohibit examination or questioning of a licensee regarding records dealing with a patient's care and treatment or affect the admissibility of those records. As used in this section, "public entity" has the meaning given that term in ORS 676.177.

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

677.330 Duty of district attorney and Attorney General; jurisdiction of prosecutions. (1) The district attorney of each county shall prosecute any violation of this chapter occurring in the county. The Board of Medical Examiners shall be represented by the Attorney General acting under ORS 180.140. Each district attorney shall bring to the attention of the grand jury of the county any information independently developed by the district attorney, the Attorney General or other law enforcement agencies pertaining to a violation of this chapter.

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

(3) Justice courts and the circuit courts have concurrent jurisdiction of prosecutions for the violation of this chapter.

677.335 Official actions of board and personnel; privileges and immunities; scope of immunity of complainant. (1) Members of the Board of Medical Examiners for the State of Oregon, members of its administrative and investigative staff, medical consultants, and its attorneys acting as prosecutors or counsel shall have the same privilege and immunities from civil and criminal proceedings arising by reason of

official actions as prosecuting and judicial officers of the state.

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

(Competency to Practice Medicine or Podiatry)

677.410 Voluntary limitation of license; removal of limitation. A licensee may request in writing to the Board of Medical Examiners a limitation of license to practice medicine or podiatry, respectively. The board may grant such request for limitation and shall have authority, if it deems appropriate, to attach conditions to the license of the licensee within the provisions of ORS 677.205 and 677.410 to 677.425. Removal of a voluntary limitation on licensure to practice medicine or podiatry shall be determined by the board.

677.415 Investigation of incompetence; reports to board; informal interview. (1) As used in this section:

(a) "Health care facility" means a facility licensed under ORS 441.015 to 441.087.

(b) "Official action, incident or event" means a restriction, limitation, loss or denial of privileges of a licensee to practice medicine, any formal action taken against a licensee by a government agency or a health care facility based on a finding of medical incompetence, unprofessional conduct or licensee impairment, or the withdrawal by a licensee from the practice of medicine or podiatry.

(2) The Board of Medical Examiners on its own motion may investigate any evidence that appears to show that a licensee licensed by the board is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be an impaired licensee unable safely to engage in the practice of medicine or podiatry.

(3) A licensee licensed by the board, the Oregon Medical Association, Inc., or any component society thereof, the Osteopathic Physicians and Surgeons of Oregon, Inc. or the Oregon Podiatric Medical Association shall report within 10 working days, and any other person may report, to the board any information such licensee, association, society or person may have that appears to show that a licensee is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be an impaired licensee unable safely to engage in the practice of medicine or podiatry. However, a licensee who is treating another licensee for a mental disability has a duty to report within 10 working days the licensee patient unless, in the opinion of the treating licensee, the patient is not impaired.

(4) A licensee shall self-report within 10 working days any official action, incident or event taken against the licensee.

(5) A health care facility shall report to the Board of Medical Examiners any official action, incident or event taken against a licensee within 10 business days of the date of the official action, incident or event.

(6) A licensee's voluntary resignation from the staff of a health care institution or voluntary limitation of the licensee's staff privileges at such an institution shall be promptly reported to the board by the institution and the licensee if that action occurs while the licensee is under investigation by the institution or a committee thereof for any reason related to possible medical incompetence, unprofessional conduct or mental or physical impairment.

(7) If, in the opinion of the board, it appears that information provided to it under this section is or may be

true, the board may order an informal interview with the licensee subject to the notice requirement of ORS 677.320.

(8) A person who reports in good faith to the Board of Medical Examiners as required by this section is immune from civil liability by reason of making the report.

677.417 Medical incompetence, unprofessional conduct, licensee impairment; rules. The Board of Medical Examiners shall determine by rule what constitutes medical incompetence, unprofessional conduct or licensee impairment for the purposes of ORS chapter 677.

677.420 Competency examination; investigation; consent by licensee; assistance. (1) Notwithstanding any other provisions of this chapter, the Board of Medical Examiners for the State of Oregon may at any time direct and order a mental, physical or medical competency examination or any combination thereof, and make such investigation, including the taking of depositions or otherwise in order to fully inform itself with respect to the performance or conduct of a licensee.

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

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

(4) The board may request any medical organization to assist the board in preparing for or conducting any medical competency examination that the board may consider appropriate.

677.425 Confidential information; immunity. (1) Any information that the Board of Medical Examiners for the State of Oregon obtains pursuant to ORS 677.200, 677.205 or 677.410 to 677.425 is confidential as provided under ORS 676.175.

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

677.450 Release of certain information to health care facilities. The Board of Medical Examiners may release information received under ORS 441.820 concerning the revocation or restriction of a physician's or podiatric physician and surgeon's activities at a health care facility to any other health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 at which that physician or podiatric physician and surgeon holds or has applied for staff privileges or other right to practice medicine or podiatry at the facility.

(Administration of Controlled Substances for Intractable Pain)

677.470 Definitions for ORS 677.470 to 677.485. As used in ORS 677.470 to 677.485:

(1) "Controlled substance" has the meaning given that term under ORS 475.005.

(2) "Intractable pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated and for which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain has been found after reasonable efforts, including, but not limited to, evaluation by the attending physician.

677.474 Administration of controlled substances for intractable pain allowed; exceptions. (1) Notwithstanding any other provision of this chapter, a physician licensed under this chapter may prescribe or administer controlled substances to a person in the course of the physician's treatment of that person for a diagnosed condition causing intractable pain.

(2) A physician shall not be subject to disciplinary action by the Board of Medical Examiners for prescribing or administering controlled substances in the course of treatment of a person for intractable pain with the goal of controlling the patient's pain for the duration of the pain.

(3) Subsections (1) and (2) of this section do not apply to:

(a) A physician's treatment of a person for chemical dependency resulting from the use of controlled substances;

(b) The prescription or administration of controlled substances to a person the physician knows to be using the controlled substances for nontherapeutic purposes;

(c) The prescription or administration of controlled substances for the purpose of terminating the life of a person having intractable pain, except as allowed under ORS 127.800 to 127.897; or

(d) The prescription or administration of a substance that is not a controlled substance approved by the United States Food and Drug Administration for pain relief.

(4) Subsection (2) of this section does not exempt the governing body of any hospital or other medical facility from the requirements of ORS 441.055.

677.480 Discipline. ORS 677.474 does not prohibit the Board of Medical Examiners from placing on probation or denying, revoking, limiting or suspending the license of any physician who does any of the following:

(1) Prescribes or administers a controlled substance or treatment that is nontherapeutic in nature or nontherapeutic as administered or prescribed or that is administered or prescribed for a nontherapeutic purpose.

(2) Fails to keep a complete and accurate record of controlled substance purchases, dispensing and disposal as required by the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513), other federal law or ORS 475.005 to 475.285 and 475.940 to 475.999.

(3) Prescribes controlled substances without a legitimate medical purpose.

(4) Prescribes, administers or dispenses controlled substances in a manner detrimental to the best interest of the public.

(5) Prescribes, administers or dispenses a controlled substance in a manner prohibited under ORS 475.005 to 475.285 or 475.940 to 475.999.

(6) Falsifies prescription information, including, but not limited to, the identity of the recipient.

677.485 Written notice required. Prior to commencing the treatment of intractable pain as allowed under ORS 677.474, the physician shall provide to the person and the person shall sign a written notice, provided and approved by the board, disclosing the material risks associated with the prescribed or administered controlled substances to be used in the course of the physician's treatment of that person.

DIVERSION PROGRAM

677.615 Diversion Program Supervisory Council. (1) There is established a Diversion Program Supervisory Council consisting of five members appointed by the Board of Medical Examiners for the purpose of developing and implementing a diversion program for chemically dependent licensees regulated under this chapter. No current board member or staff shall serve on the council.

(2) The term of office of each member is two years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the board shall appoint a successor whose term begins July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.

(3) The members of the council must be citizens of this state who are familiar with the recognition, intervention, assessment and treatment of chemically dependent persons.

(4) A member of the council is entitled to compensation and expenses as provided in ORS 292.495, except that the compensation for the time spent in performance of official duties shall be the same as the compensation received by members of the Board of Medical Examiners.

(5) The council shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the council determines.

(6) A majority of the members of the council constitutes a quorum for the transaction of business.

677.625 Medical director; appointment; duties. (1) Subject to the approval of the Board of Medical Examiners, the Diversion Program Supervisory Council shall appoint a medical director to serve at the pleasure of the council. The medical director shall be an employee of the board.

(2) The medical director shall administer, under the control and supervision of the council, the diversion program for chemically dependent licensees.

(3) The board shall appoint such employees as may be necessary to carry out the duties of the council, as assigned by the medical director.

677.635 Contract for services to chemically dependent licensees. The Board of Medical Examiners may enter into contracts to provide services for chemically dependent licensees and may, in accordance with ORS chapter 183, adopt rules necessary for the administration of a diversion program for chemically dependent licensees.

677.645 Referral in addition to or in lieu of discipline. (1) In addition to or in lieu of any disciplinary action under ORS 677.205, the Board of Medical Examiners may refer a licensee who is chemically dependent to a diversion program administered by the Diversion Program Supervisory Council.

(2) The council shall report to the board and provide all pertinent information concerning any licensee who fails to complete the diversion program or fails to participate in the diversion program in good faith.

677.655 Confidentiality of records and information; effect of successful completion of program. (1) All records of the Diversion Program Supervisory Council are confidential and shall not be subject to public disclosure, nor shall the records be admissible as evidence in any judicial, administrative, arbitration or mediation proceeding except proceedings between the licensee or applicant and the Board of Medical Examiners.

(2) The members, employees, contractors and past or present clients of the council shall not be subject to the

disclosure requirements in ORS 677.415, nor shall they disclose information or be examined regarding any participant in the program.

(3) Any licensee who in good faith voluntarily participates in an approved diversion program and successfully completes the program shall not be subject to disciplinary investigation or sanctions unless the licensee is suspected of a violation of this chapter, other than ORS 677.190 (1)(a), by the manner of obtaining or self-administration of intoxicants, drugs or controlled substances or a violation of ORS 677.190 (7) or (24).

677.677 Rulemaking authority of board; fees and charges. In addition to any other powers granted by ORS 677.615 to 677.677, the Board of Medical Examiners may adopt necessary and proper rules for administration of ORS 677.615 to 677.677 including, but not limited to, establishing fees and charges to carry out its legal responsibilities, subject to prior approval by 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 program of the Diversion Program Supervisory Council, as authorized by the Legislative Assembly within the board's budget, or as the budget may be modified by the Emergency Board, and shall be maintained in an account separate from other funds of the board.

PODIATRY (General Provisions)

677.805 Definitions for ORS 677.805 to 677.855. As used in ORS 677.805 to 677.855:

(1) "Ankle" means the tibial plafond and its posterolateral border or posterior malleolus, the medial malleolus, the distal fibula or lateral malleolus, and the talus.

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

(3) "Podiatric physician and surgeon" means a podiatric physician and surgeon whose practice is limited to treating ailments of the human foot, ankle and tendons directly attached to and governing the function of the foot and ankle.

(4) "Podiatry" means the diagnosis or the medical, physical or surgical treatment of ailments of the human foot, ankle and tendons directly attached to and governing the function of the foot and ankle, except treatment involving the use of a general or spinal anesthetic unless the treatment is performed in a hospital certified in the manner described in ORS 441.055 (2) or in an ambulatory surgical center certified by the Department of Human Services and is under the supervision of or in collaboration with a physician licensed to practice medicine by the Board of Medical Examiners for the State of Oregon. "Podiatry" does not include the administration of general or spinal anesthetics or the amputation of the entire foot.

677.810 License required to practice podiatry. (1) No person shall practice podiatry without first obtaining from the Board of Medical Examiners a license authorizing the practice of podiatry in this state, except as otherwise provided in ORS 677.805 to 677.855.

(2) It shall be deemed prima facie evidence of practicing podiatry within the meaning of ORS 677.805 to 677.855 if any person uses the name or title podiatrist, podiatric physician and surgeon, chiropodist, D.S.C., D.P.M., D.P., foot expert, foot specialist, foot correctionist, or any other word, abbreviation or title indicating that the person was or is qualified and licensed to practice podiatry.

677.812 Surgery on ankle; limitations. Surgery of the ankle as defined in ORS 677.805 must be conducted:

(1) In a hospital certified in the manner described in ORS 441.055 (2) or in an ambulatory surgical center certified by the Department of Human Services; and

(2) By a podiatric physician and surgeon who meets the qualifications for ankle surgery established by rule of the Board of Medical Examiners.

677.815 Application of ORS 677.805 to 677.855. (1) ORS 677.805 to 677.855 does not prevent:

(a) Any person, firm or corporation from manufacturing, selling, fitting or adjusting any shoe or appliance designed and intended to equalize pressure on different parts of the foot.

(b) The sale by licensed druggists of plasters, salves and lotions for the relief and cure of corns, warts, callosities and bunions.

(2) ORS 677.805 to 677.855 shall not be construed to apply to or interfere with:

(a) The practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means, nor with any individual's selection of any such person.

(b) Physicians licensed by the Board of Medical Examiners for the State of Oregon, nor to surgeons of the United States Army, Navy and United States Public Health Service, when in actual performance of their official duties.

677.820 Qualifications of applicants. All applicants for a license to practice podiatry under ORS 677.805 to 677.855 shall:

(1) Have attained the age of 18 years.

(2) Be of good moral character.

(3) Have graduated from an approved podiatry school or college.

(4) Have satisfactorily completed one year of post-graduate training served in a program that is approved by the Board of Medical Examiners pursuant to standards adopted by the board by rule.

(5) As used in this section, "approved podiatry school or college" means any school or college offering a full-time resident program of study in podiatry leading to a degree of Doctor of Podiatric Medicine, such program having been fully accredited or conditionally approved by the American Podiatric Medical Association or its successor agency, or having been otherwise determined by the board to meet the association standards as specifically incorporated into board rules.

677.825 Examination of applicants; issuing license; fees; reexamination. Any person desiring a license to practice podiatry shall be examined by the Board of Medical Examiners in subjects which the board may deem advisable. If the applicant possesses the qualifications required by ORS 677.820 and passes the examination prescribed, the applicant shall be issued a license by the board to practice podiatry in this state. Each applicant shall submit an application for examination and the required examination fee to the board. Any applicant failing in the examination, and being refused a license, is entitled to a reexamination upon the payment of an additional examination fee.

677.830 Reciprocal licensing; use of national board examination. (1) Notwithstanding the provisions of ORS 677.825, the Board of Medical Examiners may issue a license to practice podiatry without a written examination of the applicant if the applicant has a license to practice podiatry issued by a licensing agency of another state or territory of the United States and the applicant complies with the other provisions of ORS 677.805 to 677.855. Such a license shall not be issued unless the requirements, including the examination for such license are

substantially similar to the requirements of this state for a license to practice podiatry. The board shall adopt rules governing the issuance of licenses to persons applying under this section. The license may be evidenced by a certificate of the board indorsed on the license issued by the other state or territory, or by issuance of a license as otherwise provided by ORS 677.805 to 677.855.

(2) The board may accept a certificate of successful examination issued by the National Board of Podiatry Examiners in lieu of a written examination given by the board.

(3) The board may require an applicant under subsection (1) or (2) of this section to take an oral examination conducted by one or more members of the board.

677.837 Continuing podiatric education required; exemption. (1) Except as provided in subsection (2) of this section, all podiatric physicians and surgeons licensed under this chapter shall complete at least 50 hours in an approved program of continuing podiatric education every two calendar years and shall submit satisfactory evidence thereof to the Board of Medical Examiners for the State of Oregon when the license is renewed.

(2) The board may exempt a licensed podiatric physician and surgeon from the requirements of subsection (1) of this section upon a finding by the board that the podiatric physician and surgeon was unable to comply with the requirements because of extenuating circumstances.

677.840 Fees. Every podiatric physician and surgeon shall pay to the Board of Medical Examiners for the State of Oregon nonrefundable fees as determined by the board pursuant to ORS 677.265.

penalties

677.990 Penalties. (1) Violation of any provision of this chapter is a misdemeanor. In any prosecution for such violation, it shall be sufficient to sustain a conviction to show a single act of conduct in violation of any of the provisions of this chapter and it shall not be necessary to show a general course of such conduct.

(2) Any person who practices medicine without being licensed under this chapter as prohibited in ORS 677.080 (4) commits a Class C felony.

(3) A person who violates the provisions of ORS 677.360 to 677.370 commits a Class C misdemeanor.

doctor title law

676.100 Definitions for ORS 676.100 to 676.130. As used in ORS 676.100 to 676.130, unless the context requires otherwise, "person" means and includes any "clinic," "institute," "specialist" or any group or combination of persons.

676.110 Practitioner to designate particular business or profession. Any person practicing a health care profession who uses the title "doctor," or any contraction thereof, "clinic," "institute," "specialist" or any other assumed or artificial name or title, in connection with the business or profession, on any written or printed matter, or in connection with any advertising, billboards, signs or professional notices, shall add after the name of the person, or after any such assumed or artificial names, one of the following respective designations in letters or print which shall be at least one-fourth the size of the largest letters used in the title or name, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the title or name:

(1) In the case of a person practicing podiatry, the word "podiatrist" or the words "podiatric physician" or "podiatric physician and surgeon."

(2) In the case of a person practicing chiropractic, the word "chiropractor" or the words "chiropractic physician."

(3) In the case of a person practicing dentistry, the word "dentist" or "dentistry."

(4) In the case of a person practicing naturopathic medicine, the word "naturopath" or the words "naturopathic physician."

(5) In the case of a person practicing optometry, the word "optometrist" or the words "doctor of optometry" or "optometric physician."

(6) In the case of a person licensed to practice medicine by the Board of Medical Examiners for the State of Oregon who holds the degree of Doctor of Osteopathy, or the equivalent, the word "osteopath" or the words "osteopathic physician" or "osteopathic physician and surgeon."

(7) In the case of a person licensed to practice medicine by the Board of Medical Examiners for the State of Oregon who holds the degree of Doctor of Medicine, or the equivalent, the word "physician" or the word "surgeon" or the words "physician and surgeon."

(8) In the case of a person practicing veterinary medicine, the word "veterinarian."

(9) In the case of a person practicing acupuncture, the word "acupuncturist."

676.120 Use of business or professional designation by unlicensed person prohibited; use of deceased licensee's name. No person shall use any of the designations stated in ORS 676.110 (1) to (9), in connection with the name, business or profession of the person or in connection with an assumed or artificial name, or "clinic," "institute" or "specialist," unless the person is licensed under the laws of this state to practice the particular health care profession indicated by such designation, as stated in ORS 676.110. However, upon the death of any person duly licensed by any board empowered to license any practitioner of a health care profession, the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent's name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner.

676.130 Enforcement of ORS 676.100 to 676.120. Each board licensing any of the health care professions, within this state, shall notify the appropriate district attorney of any violation of ORS 676.100 to 676.120 which may be brought to the attention of such board. The district attorney of the county in which any violation of those sections takes place shall prosecute the violation upon being informed of the violation by any person or by one of such boards.

action taken when a licensee continues to practice following suspension or revocation Of LICENSE

676.210 Practice of health care profession after suspension or revocation of license prohibited. No person whose license has been revoked or suspended by any board authorized by the statutes of the State of Oregon to issue licenses to practice a health care profession shall continue the practice of this profession after the order or decision of the board suspending or revoking the license of the person has been made. The license shall remain suspended or revoked until a final

determination of an appeal from the decision or order of the board has been made by the court.

676.220 Enjoining health care professional from practicing after suspension or revocation of license. (1) If at any time the board suspending or revoking the license of any licentiate of a health care profession determines that such licentiate is continuing to practice the health care profession notwithstanding, the board shall in its own name bring an action to enjoin such licentiate.

(2) If the court shall find that the licentiate has been or is continuing the practice of the health care profession for which the license has been revoked or suspended it shall issue an injunction restraining the licentiate. The commission of a single act constituting the practice of the respective health care profession shall be prima facie evidence warranting the issuance of such injunction.

LIMITS ON fees for LAB WORK

676.310 Fees for laboratory testing; itemized billing; failure to comply considered unprofessional conduct. (1) Any person authorized by law to order laboratory testing may charge a reasonable fee for all laboratory and other specialized testing performed by the practitioner or by a person in the practitioner's employ. In addition, the practitioner is entitled to charge a reasonable fee for collecting and preparing specimens to be sent to independent persons or laboratories for testing, and for the preparation of the billing to the patient for the test. However, a practitioner shall not mark up, or charge a commission or make a profit on services rendered by an independent person or laboratory.

(2) A practitioner shall prepare an itemized billing, indicating the charges for each service rendered to the patient. Any services rendered to the patient that were performed by persons other than those in the direct employ of the practitioner and the charges therefor shall be indicated separately on the patient's bill.

(3) Failure to comply with the requirements of this section shall be considered to be unprofessional conduct and may be subject to disciplinary action by the appropriate licensing board.

(4) As used in this section, "practitioner" means a person licensed to practice medicine, dentistry, naturopathic medicine or chiropractic or to be a nurse practitioner.

Limitations on liability of providing health care services without compensation

676.340 Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under

this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient's informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

(a) A physician licensed under ORS 677.100 to 677.228;

(b) A nurse licensed under ORS 678.040 to 678.101;

(c) A nurse practitioner licensed under ORS 678.375 to 678.390;

(d) A clinical nurse specialist certified under ORS 678.370 and 678.372;

(e) A physician assistant licensed under ORS 677.505 to 677.525;

(f) A dental hygienist licensed under ORS 680.010 to 680.205; and

(g) A dentist licensed under ORS 679.060 to 679.180.

676.345 Registration program for health care professionals claiming liability limitation; program requirements. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

(a) By a physician or physician assistant, with the Board of Medical Examiners;

(b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of Nursing; and

(c) By a dentist or dental hygienist, with the Oregon Board of Dentistry.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

(a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;

(b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and

(c) A statement that the health practitioner will only provide health care services without compensation that are within the scope of the health practitioner's license.

(3) Registration under this section must be made annually. The health professional regulatory boards listed

in subsection (1) of this section shall charge no fee for registration under this section.

CHILD ABUSE REPORTING

419B.005 Definitions. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163.

(D) Sexual abuse, as defined in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who is under 18 years of age.

(3) "Public or private official" means:

(a) Physician, including any intern or resident.

(b) Dentist.

(c) School employee.

(d) Licensed practical nurse or registered nurse.

(e) Employee of the Department of Human Services, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health and developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Licensed clinical social worker.

(j) Optometrist.

- (k) Chiropractor.
- (L) Certified provider of foster care, or an employee thereof.
- (m) Attorney.
- (n) Naturopathic physician.
- (o) Licensed professional counselor.
- (p) Licensed marriage and family therapist.
- (q) Firefighter or emergency medical technician.
- (r) A court appointed special advocate, as defined in ORS 419A.004.
- (s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- (t) Member of the Legislative Assembly.
- (4) "Law enforcement agency" means:
 - (a) Any city or municipal police department.
 - (b) Any county sheriff's office.
 - (c) The Oregon State Police.
 - (d) A county juvenile department.

419B.010 Duty of officials to report child abuse; exceptions; penalty. (1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense.

419B.015 Report form and content; notice to law enforcement agencies and local office of Department of Human Services. (1)(a) A person making a report of child abuse, whether voluntarily or pursuant to ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law

enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the local office of the department within the county where the report was made.

(2) When a report of child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of this section according to rules adopted by the department under ORS 419B.017.

419B.025 Immunity of person making report in good faith. Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [1993 c.546 §17]

419B.035 Confidentiality of records; when available to others. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, at the request of the physician, regarding any child brought to the physician or coming before the physician for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Child Care Division for certifying, registering or otherwise regulating child care facilities;

(g) The Office of Children's Advocate; and

(h) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.410 to 192.505.

(2)(a) When disclosing reports and records pursuant to subsection (1)(h) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board or physician. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) A person may disclose records made available to the person under subsection (1)(h) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) An officer or employee of the Department of Human Services or of a law enforcement agency or any

person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, "law enforcement agency" has the meaning given that term in ORS 181.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

419B.040 Certain privileges not grounds for excluding evidence in court proceedings on child abuse.

(1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to registered clinical social workers and the husband-wife privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other.

419B.050 Authority of health care provider to disclose information; immunity from liability.

(1) Upon notice by a law enforcement agency, the Department of Human Services, a member agency of a county multidisciplinary child abuse team or a member of a county multidisciplinary child abuse team that a child abuse investigation is being conducted under ORS 419B.020, a health care provider must permit the law enforcement agency, the department, the member agency of the county multidisciplinary child abuse team or the member of the county multidisciplinary child abuse team to inspect and copy medical records, including, but not limited to, prenatal and birth records, of the child involved in the investigation without the consent of the child, or the parent or guardian of the child. A health care provider who in good faith disclosed medical records under this section is not civilly or criminally liable for the disclosure.

(2) As used in this section, "health care provider" has the meaning given that term in ORS 192.519.

ELDERLY ABUSE REPORTING

124.050 Definitions for ORS 124.050 to 124.095. As used in ORS 124.050 to 124.095:

(1) "Abuse" means one or more of the following:

(a) Any physical injury caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(b) Neglect which leads to physical harm through withholding of services necessary to maintain health and well-being.

(c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.

(d) Willful infliction of physical pain or injury.

(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.

(f) Wrongfully taking or appropriating money or property, or knowingly subjecting an elderly person or person with disabilities to alarm by conveying a threat to wrongfully take or appropriate money or property, which threat reasonably would be expected to cause the elderly person or person with disabilities to believe that the threat will be carried out.

(2) "Elderly person" means any person 65 years of age or older who is not subject to the provisions of ORS 441.640 to 441.665.

(3) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) Any district attorney.

(4) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, chiropractor or podiatric physician and surgeon, including any intern or resident.

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service.

(c) Employee of the Department of Human Services, county health department or community mental health and developmental disabilities program.

(d) Peace officer.

(e) Member of the clergy.

(f) Licensed clinical social worker.

(g) Physical, speech or occupational therapists.

(h) Senior center employee.

(i) Information and referral or outreach worker.

(j) Licensed professional counselor or licensed marriage and family therapist.

(k) Any public official who comes in contact with elderly persons in the performance of the official's official duties.

(l) Firefighter or emergency medical technician.

124.060 Duty of officials to report. Any public or private official having reasonable cause to believe that any person 65 years of age or older with whom the official comes in contact, while acting in an official capacity, has suffered abuse, or that any person with whom the official comes in contact while acting in an official capacity has abused a person 65 years of age or older shall report or cause a report to be made in the manner required in ORS 124.065.

124.065 Method of reporting; content; notice to law enforcement agency and to department. (1) When a report is required under ORS 124.060, an oral report shall be made immediately by telephone or otherwise to the local office of the Department of Human Services or to a law enforcement agency within the county where the person making the report is at the time of contact. If known, such reports shall contain the names and addresses of the elderly person and any persons responsible for the care of the elderly person, the nature and the extent of the abuse (including any evidence of previous abuse), the explanation given for the abuse and any other information which the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(2) When a report is received by the department under ORS 124.060, the department may notify the law enforcement agency having jurisdiction within the county where the report was made. If the department is unable to gain access to the allegedly abused elderly person, the department may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the local office of the department in the county where the report was made.

124.075 Immunity of person making report in good faith; identity confidential. (1) Anyone participating in good faith in the making of a report of elder abuse and who has reasonable grounds for making the report shall have immunity from any civil liability that might

otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

(2) The identity of the person making the report shall be treated as confidential information and shall be disclosed only with the consent of that person or by judicial process, or as required to perform the functions under ORS 124.070.

ABUSE REPORTING FOR PERSONS With MENTALLY ILLness or DEVELOPMENTAL DISABILITY

430.735 Definitions for ORS 430.735 to 430.765. As used in ORS 430.735 to 430.765:

(1) "Abuse" means one or more of the following:

(a) Any death caused by other than accidental or natural means.

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(c) Willful infliction of physical pain or injury.

(d) Sexual harassment or exploitation, including but not limited to any sexual contact between an employee of a facility or community program and an adult.

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the state or a community program to provide services due to a lack of funding available to provide the services.

(2) "Adult" means a person who is mentally ill or developmentally disabled, who is 18 years of age or older and receives services from a community program or facility.

(3) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and funds. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(4) "Care provider" means an individual or facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) "Community program" means a community mental health and developmental disabilities program as established in ORS 430.610 to 430.695.

(6) "Department" means the Department of Human Services.

(7) "Facility" means a residential treatment home or facility, residential care facility, adult foster care home, residential training home or facility or crisis respite facility.

(8) "Law enforcement agency" means:

(a) Any city or municipal police department;

(b) Any county sheriff's office;

(c) The Oregon State Police; or

(d) Any district attorney.

(9) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or podiatric physician and surgeon, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service;

(c) Employee of the Department of Human Services, county health department, community mental health and developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

- (d) Peace officer;
- (e) Member of the clergy;
- (f) Licensed clinical social worker;
- (g) Physical, speech or occupational therapist;
- (h) Information and referral, outreach or crisis worker;
- (i) Attorney;
- (j) Licensed professional counselor or licensed marriage and family therapist; or
- (k) Any public official who comes in contact with adults in the performance of the official's duties.

430.743 Abuse report; content; action on report; notice to law enforcement agency and Department of Human Services. (1) When a report is required under ORS 430.765 (1) and (2), an oral report shall be made immediately by telephone or otherwise to the designee of the Department of Human Services or a law enforcement agency within the county where the person making the report is at the time of contact. If known, the report shall include:

- (a) The name, age and present location of the allegedly abused adult;
- (b) The names and addresses of persons responsible for the adult's care;
- (c) The nature and extent of the alleged abuse, including any evidence of previous abuse;
- (d) Any information that led the person making the report to suspect that abuse has occurred plus any other information that the person believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator; and
- (e) The date of the incident.

(2) When a report is received by the department's designee under this section, the designee shall immediately determine whether the reported victim has sustained any serious injury. If so, the designee shall immediately notify the department. If there is reason to believe a crime has been committed, the designee shall notify the law enforcement agency having jurisdiction within the county where the report was made. If the designee is unable to gain access to the allegedly abused adult, the designee may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the department in cases of serious injury or death.

430.753 Immunity of persons making reports in good faith; confidentiality. (1) Anyone participating in good faith in making a report of abuse pursuant to ORS 430.743 and 430.765 (1) and (2) and who has reasonable grounds for making the report, shall have immunity from any civil liability that might otherwise be incurred or imposed with respect to the making or content of the report. The participant shall have the same immunity with respect to participating in any judicial proceeding resulting from the report.

(2) The identity of the person making the report shall be treated as confidential information and shall be disclosed only with the consent of that person, by judicial order or as otherwise permitted by ORS 430.763.

430.763 Confidentiality of records; when record may be made available to agency. Notwithstanding the provisions of ORS 192.410 to 192.505, the names of persons who made reports of abuse, witnesses of alleged abuse and the affected adults and materials under ORS 430.747 maintained under the provisions of ORS 430.757 are confidential and are not accessible for public inspection. However, the Department of Human Services shall make this information and any investigative report

available to any law enforcement agency, to any public agency that licenses or certifies facilities or licenses or certifies the persons practicing therein and to any public agency providing protective services for the adult, if appropriate. The department shall also make this information and any investigative report available to any private agency providing protective services for the adult and to the system described in ORS 192.517 (1). When this information and any investigative report is made available to a private agency, the confidentiality requirements of this section apply to the private agency.

430.765 Duty of officials to report abuse; exceptions for privileged communications; exception for religious practice. (1) Any public or private official who has reasonable cause to believe that any adult with whom the official comes in contact while acting in an official capacity, has suffered abuse, or that any person with whom the official comes in contact while acting in an official capacity has abused an adult shall report or cause a report to be made in the manner required in ORS 430.743.

(2) Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by subsections (1) and (2) of this section, except that a psychiatrist, psychologist, member of the clergy or attorney shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(3) An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for this reason alone not be considered subjected to abuse under ORS 430.735 to 430.765.

Injuries caused by weapons

146.750 Injuries to be reported to medical examiner. (1) Except as required in subsection (3) of this section, any physician, including any intern and resident, having reasonable cause to suspect that a person brought to the physician or coming before the physician for examination, care or treatment has had injury, as defined in ORS 146.710, inflicted upon the person other than by accidental means, shall report or cause reports to be made in accordance with the provisions of subsection (2) of this section.

(2) An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to the appropriate medical examiner.

(3) When either an injury as defined in ORS 146.710 or abuse as defined in ORS 419B.005 occurs to an unmarried person who is under 18 years of age, the provisions of ORS 419B.005 to 419B.050 shall apply.

146.760 Immunity of participant in making of report. Anyone participating in good faith in the making of a report pursuant to ORS 146.750 and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

146.780 Confidentiality of records and reports. Notwithstanding the provisions of ORS 192.410 to 192.505 relating to confidentiality and accessibility for public inspection of public records, records and reports made under the provisions of ORS 146.750 are confidential and are not accessible for public inspection.

Injuries caused by toys

677.491 Reporting toy related injury or death; rules.

(1) Whenever any physician determines or reasonably suspects the injury or death of a person to be toy related, the physician shall, in accordance with rules adopted under subsection (5) of this section, report the physician's findings to the Director of Human Services.

(2) The director of any hospital, health care facility, health maintenance organization, public health center, medical center or emergency medical treatment facility where any physician has made a determination or has a reasonable suspicion under subsection (1) of this section as to whether an injury or death is toy related, shall, in accordance with the rules adopted under subsection (5) of this section, report that physician's findings to the Director of Human Services.

(3) The Director of Human Services shall review, organize and keep a record of the information set forth in the reports of toy related injuries and deaths submitted by physicians under this section. The director, on a regular basis, shall make the information recorded under this section available to the United States Consumer Product Safety Commission for inclusion in its Injury or Potential Injury Incident Data Base. The information so recorded shall also be made available to the public for a fee determined by the director.

(4) If the Director of Human Services determines that a specific toy or item poses an immediate danger or potential threat to the safety of the citizens of this state, the director shall immediately issue a public notice warning the public, retail sellers and distributors of the director's findings and recommendations concerning that toy or item.

(5) The Director of Human Services shall adopt rules to implement this section.

department. Each report shall include the person's name, address, date of birth, sex and a description of how the person's current medical status affects the person's ability to safely operate a motor vehicle. The State Health Officer shall consider this information in determining whether to issue a certificate of eligibility under ORS 807.090.

(5) Except as provided in ORS 802.240, the reports required by the department under this section are confidential and shall be used by the department only to determine the qualifications of persons to operate motor vehicles upon the highways.

MISCELLANEOUS

807.710 Reports of persons with cognitive or functional impairment; rules; forms. (1) For the purposes of this section:

(a) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Board of Medical Examiners for the State of Oregon.

(b) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care.

(2) In consultation with medical experts and experts on cognitive or functional impairments, the Department of Transportation shall adopt rules requiring reporting and:

(a) Designating physicians and health care providers required to report to the department a person whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle. If a designated physician or health care provider makes a report to the department in good faith, that person shall be immune from civil liability that might otherwise result from making the report. If a designated physician or health care provider does not make a report, that person shall be immune from civil liability that might otherwise result from not making the report.

(b) Designating the cognitive or functional impairments that are likely to affect a person's ability to safely operate a motor vehicle.

(3) Determinations regarding a person's ability to safely operate a motor vehicle may not be based solely on the diagnosis of a medical condition or cognitive or functional impairment, but must be based on the actual effect of that condition or impairment on the person's ability to safely operate a motor vehicle.

(4) Reports required by the department under this section shall be upon forms prescribed or provided by the

BME ADMINISTRATIVE RULES - CHAPTER 847

DIVISION 008- REGISTRATION, USE OF NAME, CHANGE OF ADDRESS

847-008-0000

Definitions

As used in OAR Chapter 847, "Licensee" means an individual holding a valid license, or certificate issued by the Board to practice as a Doctor of Medicine, Doctor of Osteopathy, Doctor of Podiatric Medicine, Physician Assistant, or Acupuncturist.

847-008-0005

Registration Periods

Every licensee of the Board shall renew their registration prior to the last day of each renewal period as follows:

(1) The registration renewal form and fee for Doctors of Medicine, Doctors of Osteopathy, Doctors of Podiatric Medicine and Physician Assistants must be received in the Board office during regular business hours on or before December 31 of each odd-numbered year.

(2) The registration renewal form and fee for Licensed Acupuncturists must be received in the Board office during regular business hours on or before June 30 of each even-numbered year.

(3) If the registration renewal form and fee are not received in the Board office during regular business hours on or before the last day of the renewal period the license shall lapse.

847-008-0010

Initial Registration

(1) An applicant for licensure as a physician (MD/DO), podiatrist, physician assistant, or acupuncturist, whose application file is complete, must submit to the Board the initial registration form and fee prior to being granted a license by the Board.

(2) If the initial registration form and fee are not received by the Board within three months from the date mailed to the applicant, the applicant shall update the application for licensure by completing an affidavit and submitting it to the Board with the affidavit fee.

(3) Per OAR 847-020-0110 (2), a person applying for licensure who has not completed the licensure process within a 12 month consecutive period shall file a new application, documents, letters

and pay a full filing fee as if filing for the first time.

(4) An individual who initially becomes licensed, certified or registered by the Board at any time during the first 12 months of a biennial registration period must pay the entire biennial registration fee for that period, except as provided in OAR 847-008-0015, and OAR 847-008-0025.

(5) An individual who initially becomes licensed, certified, or registered by the Board at any time during the second 12 months of the biennial registration period must pay the registration fee for one year.

847-008-0015

Active Registration

(1) Each licensee of the Board who practices within the State of Oregon shall register and pay a biennial active registration fee prior to the last day of the registration period, except where:

(a) The licensee is in a qualified training program and elects to register on an annual basis.

(b) The licensee practices on an intermittent, locum-tenens basis, as defined in OAR 847-008-0020.

(c) The licensee is in the Military or Public Health Service where the licensee's official state of residence is Oregon as documented by a defense Finance and Accounting Service Military Leave and Earnings Statement, an Oregon voter registration card, or an Oregon driver license, then licensee may maintain an active status by request and by paying the active fee. Practice must be limited to the military or public health service. Licensee must file an affidavit before beginning active practice in Oregon.

(d) The licensee practices teleradiology, as defined in OAR 847-008-0022.

(2) Each licensee of the Board whose practice address of record with the Board is within 100 miles of the border of the State of Oregon and who intends to practice within Oregon shall qualify for active registration status. Such licensee shall submit a statement to the Board attesting to practice in Oregon.

847-008-0020

Locum Tenens Registration

(1) Any licensee whose official state of residence is a state other than Oregon who proposes to practice intermittently within the State shall register and pay the biennial locum tenens registration fee.

(2) The licensee practicing in Oregon with a locum tenens registration status may practice for a period not longer than one hundred and eighty consecutive days in the biennium, or a total of one hundred and eighty days on an intermittent basis in the biennium. A licensee practicing in Oregon with a locum tenens registration status who wishes to reactivate to active registration status, may be granted an additional ninety days to complete the reactivation process.

(3) A volunteer camp physician, who provides medical care at a non-profit camp, shall practice with locum tenens registration status. The volunteer camp physician with locum tenens status may practice in Oregon for a period not longer than fourteen days per year.

(4) A licensee who registers as locum tenens and who does not practice in Oregon during the biennium, shall be registered as inactive at the time of registration renewal, and shall be required to reactivate to locum tenens registration status prior to practicing in Oregon.

(5) Requirements, procedures, and fees for a Locum Tenens registration shall be the same as for active registration.

(6) Any licensee registered as locum tenens shall provide the Board with timely notification of the location and duration of each Oregon practice prior to beginning of such practice.

847-008-0022

Teleradiology Registration

(1) Teleradiology is the electronic transmission of radiological images from one location to another for the purposes of interpretation and/or consultation.

(2) A physician whose specialty is radiology or diagnostic radiology who practices in a location outside of Oregon and receives radiological images via teleradiology from an Oregon location for interpretation or consultation and who communicates his/her radiological findings back to the ordering physician may register and pay a biennial active registration fee. Licensee must file an affidavit before beginning active practice in Oregon.

847-008-0023

Telemonitoring Registration

(1) Telemonitoring is the intraoperative monitoring of data collected during surgery and electronically transmitted to a physician who practices in a location outside of Oregon via a telemedicine link for the purpose of allowing the monitoring physician to notify the operating team of changes that may have a serious effect on the outcome and/or survival of the patient. The monitoring physician is in communication with the operation team through a technician in the operating room.

(2) The facility where the surgery is to be performed must be a licensed hospital or ambulatory surgical center licensed by the Department of Human Services, must grant medical staff membership and/or clinical privileges to the monitoring physician, and must request the Board of Medical Examiners grant Active- Telemonitoring status to the monitoring physician to perform intraoperative telemonitoring on patients during surgery.

(3) Physicians granted Active - Telemonitoring status may register and pay a biennial active registration fee. The licensee must file an Affidavit of Reactivation before beginning active practice in Oregon.

847-008-0025

Inactive Registration

Each licensee of the Board who is licensed, certified or registered but who does not practice within the State of Oregon, shall register and pay a biennial inactive registration fee prior to the last day of the registration period, except where the licensee is a physician in a qualified training program and elects to register on an annual basis.

847-008-0030

Emeritus Registration

A licensee who has retired from active practice, but does only volunteer, non-remunerative practice and receives no direct monetary compensation, may register and pay an annual emeritus registration fee.

847-008-0035

Retired Status

A licensee who is fully retired and not practicing any form of medicine, whether paid, volunteer, or writing prescriptions in any state, may request retirement status and pay no biennial renewal fee. Prior to retirement a licensee shall notify the Board in writing of intent to retire.

847-008-0040

Process of Registration

(1) The application for registration shall be made on a form provided by the Board.

(2) Except as provided in OAR 847-008-0015(1) and (2) and OAR 847-008-0025 the application shall be accompanied by the appropriate fee as listed in OAR 847-005-0005.

(3) The application for registration shall be filed with the Board by the first day of the month in which the license or certification is due to expire.

(4) At its discretion, the Board may waive the fee for good and sufficient reason.

(5) The Board shall mail to all licensees who have complied with this section a certificate of registration which shall remain in effect until the end of the last business day of the registration period.

(6) Such certificate shall be displayed in a prominent place in the holder's primary place of practice.

847-008-0045

Failure to Apply for Registration

(1) A license or certificate shall be considered delinquent if not renewed by the first day of the final month of the registration period.

(2) A license or certification shall lapse if not received in the Board office during regular business hours on or before the final day of the registration period.

(3) A licensee who wishes to officially surrender license must submit the engrossed license and wallet-sized card. This must be done prior to the expiration of registration.

(4) Should a licensee continue to practice while a license or certificate is lapsed, that individual shall be considered practicing without a valid license or certificate, and may be subject to prosecution under ORS 677.205, or may be subject to discipline by the Board.

847-008-0050

Reinstatement of License Lapsed Due to Non-Renewal

(1) A licensee of the Board whose license or certification has lapsed through failure to renew registration may reinstate by paying a late registration fee, paying renewal fees for a maximum of two biennial registration periods during which the license or certification was lapsed, completing and submitting the required forms, and meeting any other requirements defined by Oregon law. The license or certification will be reinstated, effective the date the renewal was processed.

(2) The license of a licensee of the Board shall expire if it is not reinstated within two biennia from the date the license lapsed due to failure to renew registration. A licensee who wishes to be relicensed after their license has expired must apply as a new applicant and submit the license application form and fee, and satisfactorily complete the application process. The applicant must meet all current licensing requirements before being considered for relicensure.

847-008-0051

Reinstatement Following Surrender of Licensure

A licensee who wishes to be relicensed after surrendering licensure, must apply as a new applicant, and submit the license application form and fee. If the license had lapsed prior to surrender, the lapsed registration must be cleared by payment of the back registration fees and late fee. The applicant must meet all current licensing requirements before being considered for relicensure.

847-008-0053

Restoration of License from Revoked Status

(1) A licensee whose license has been revoked may request restoration of licensure two years after the date of revocation of his license, and must apply as a new applicant.

(2) The applicant must meet all current licensing requirements, and pay all applicable fees.

(3) Prior to the Board reviewing the request for restoration of a revoked license the applicant shall provide the Board with:

(a) All relevant disciplinary actions in the applicant's history; and

(b) Professional history since the date of revocation, including continuing medical education, and professional or personal rehabilitation.

847-008-0055

Reactivation from Locum Tenens/Inactive/ Emeritus to Active/Locum Tenens Status

(1) A licensee who wishes to reactivate from an inactive or emeritus status to an active or locum tenens status, or from locum tenens status to active status must provide the Board with the following:

(a) Completed affidavit form provided by the Board, describing activities during the period of locum tenens, inactive or emeritus registration;

(b) Completed application(s) for registration; and

(c) Appropriate fees for processing of affidavit and registration.

(d) A completed "Reports for Disciplinary Inquiries" (MD/DO/DPM) sent to the Board from the Federation of State Medical Boards or Federation of Podiatric Medical Boards, a physician profile sent to the Board from the American Medical Association Physician Profile System, or American Osteopathic Association, and the results of the Practitioner Request for Information Disclosure (Self-Query) from the National Practitioners Data Bank and the Healthcare Integrity and Protection Data Bank, sent to the Board by the applicant;

(e) Verification of current licensure sent directly from each of the State Boards in the United States or Canada where the licensee has been practicing during the past 5 years, or from the date the license to practice in Oregon changed to inactive, locum tenens or emeritus status whichever is the shorter period of time, showing license number, date issued, and status;

(f) An official letter sent directly to the Board from the director, administrator, dean, or other official of each hospital, clinic, office, or training institute where the licensee was employed, practiced, had hospital privileges (MD/DO/DPM), or trained in the United States or foreign countries during the past 5 years, or from the date the license to practice in Oregon changed to locum tenens, inactive or emeritus status, whichever is the shorter period of time. The letter shall include an evaluation of overall performance, and specific beginning and ending dates of practice/employment/training.

(2) A personal appearance before the Board may be required.

(3) If, in the judgment of the Board, the conduct of the licensee has been such, during the period of locum tenens, inactive or emeritus registration, that the licensee would have been denied a license if applying for an initial license to practice medicine, the Board may deny active registration.

(4) If a licensee has ceased the practice of medicine for 12 or more consecutive months, the licensee may be required to take an examination to demonstrate medical competency.

847-008-0056

Reactivation from Retired to Emeritus/Locum Tenens/Active Status

(1) A licensee who wishes to reactivate from a retired status to an emeritus, locum tenens, or active status must provide the Board with the following:

(a) Completed affidavit form provided by the Board, describing activities during the period of retired registration;

(b) Completed application(s) for registration; and

(c) Appropriate fees for processing of affidavit, and registration fees.

(2) If the license had lapsed prior to the change to retired status, the lapsed registration must be cleared by payment of the registration renewal late fee before reactivation can be completed.

(3) A personal appearance before the Board may be required.

(4) If, in the judgment of the Board, the conduct of the licensee has been such, during the period of retired registration, that the licensee would have been denied a license if applying for an initial license to practice medicine, the Board may deny emeritus/locum tenens/active registration.

(5) If a licensee has ceased the practice of medicine for 12 or more consecutive months, the licensee may be required to take an examination to demonstrate medical competency.

847-008-0060

Notification of Change of Location

Each licensee of the Board shall report each change in practice setting and mailing address to the Board no later than 30 days after the change.

847-008-0065

Use of Name

(1) Each licensee of the Board shall be licensed, certified, or registered under licensee's legal

name and shall practice under that legal name.

(2) When a name is changed, all of the following must be submitted so that the Board's records may reflect the new name:

(a) A signed change of name notification affidavit provided by this Board;

(b) A copy of the legal document showing the name change;

(c) The returned original Oregon license and license card, or engrossed certificate whichever is applicable;

(d) The appropriate fees for the issuance of a new license and license card, or engrossed certificate.

Division 010 – general

OAR 847-010-0073

Reporting Incompetent or Impaired Licensees to the Board

(1) ORS 677.415 requires health care facilities and Board licensees to report to the Board of Medical Examiners any official action, incident or event taken against or involving a Board licensee, based on a finding of medical incompetence, unprofessional conduct, or licensee impairment, within ten working days of their occurrence. For the purposes of the statute, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

(a) Medical Incompetence: A licensee who is medically incompetent is one who is unable to practice medicine with reasonable skill or safety due to lack of knowledge, ability, or impairment. Evidence of medical incompetence shall include:

(A) Gross or repeated acts of negligence involving patient care.

(B) Failure to achieve a passing score or satisfactory rating on a competency examination or program of evaluation when the examination or evaluation is ordered or directed by a health care facility.

(C) Failure to complete a course or program of remedial education when ordered or directed to do so by a health care facility.

(b) Unprofessional conduct: Unprofessional conduct includes the behavior described in ORS 677.188 (4) and is conduct which is unbecoming to a person licensed by the Board of Medical Examiners or detrimental to the best interest of the public and includes:

(A) Any conduct or practice contrary to recognized standards of ethics of the medical, podiatric or acupuncture professions or any conduct which does or might constitute a danger to the public, to include a violation of patient boundaries.

(B) Willful performance of any surgical or medical treatment which is contrary to acceptable medical standards.

(C) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic studies, administration of unnecessary treatment, employment of outmoded, unproved, or unscientific treatments, except as allowed in ORS 677.190 (1)(b), failing to obtain consultations when failing to do so is not consistent with the standard of care, or otherwise utilizing medical service for diagnosis or treatment which is or may be considered unnecessary or inappropriate.

(D) Committing fraud in the performance of, or the billing for, medical procedures.

(c) Licensee Impairment: A licensee who is impaired is a licensee who is unable to practice medicine with reasonable skill or safety due to factors which include, but are not limited to:

(A) The use or abuse of alcohol, drugs, or other substances which impair ability.

(B) Mental or emotional illness.

(C) Physical deterioration or long term illness or injury which adversely affects cognition, motor, or perceptive skills.

(2) For the purposes of the reporting requirements of this rule and ORS 677.415, licensees shall be considered to be impaired if they refuse to undergo an evaluation for mental or physical competence or chemical impairment, or if they resign their privileges to avoid such an evaluation, when the evaluation is ordered or directed by a health care facility or by this Board.

(3) A report made by a healthcare facility, organization or individual to the Board of Medical Examiners under ORS 677.415 shall include the following information:

(a) The name and title of the person making the report;

(b) Where an "official action, incident or event," including a voluntary resignation, or voluntary limitation of staff privileges at an institution while under investigation has been taken against a licensee, a statement describing the action and the name, job title and location of the licensee being reported;

(c) A description of the basis for the action, including voluntary resignation or voluntary limitation of staff privileges at an institution while under investigation, not to include information pursuant to ORS 41.675; and

(d) To facilitate the Board investigation, a complete list of patients and the medical record numbers which were reviewed and are relevant to the action.

(4) In addition to the subject matter of a report required under section (3) of this rule, a licensee shall include in his/her written report a summary of the licensee's understanding of the complaint giving rise to the reporting requirement.

(5) All required reports shall be made in writing.

(6) Any person who reports or provides information to the board under ORS 677.205 and 677.410 to 677.425 and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

847-010-0078

Agreement Prohibited between Physician and Patient that Limits a Patient's Rights

Licensees and applicants shall not make an agreement with a patient or person, or any person or entity representing patients, nor provide any form of consideration, that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Board of Medical Examiners, to truthfully and fully answer any questions posed by an agent or representative of the Board, or to participate as a witness in a Board proceeding.

847-010-0081

Physician Assisted Suicide

A licensee's compliance with ORS 127.800 et seq, shall not be considered a violation of ORS 677.190 (1), unprofessional or dishonorable conduct, as defined in ORS 677.188 (4)(a), (b), or (c).

847-010-0100

Mandatory Pain Management Education

(1) All licensees of the Board of Medical Examiners, except the licensees listed in section (2) of this rule, will complete mandatory continuing medical education (CME) in the subjects of pain management and/or the treatment of terminally ill and dying patients as follows:

(a) A one-hour pain management course specific to Oregon provided by the Pain Management Commission of the Department of Human Services; and

(b) A minimum of 6 (six) continuing medical education credit hours in the subjects of pain management and/or the treatment of terminally ill and dying patients. Any combination of CME coursework focusing on pain management and/or treatment of terminally ill and dying patients may be used to fulfill this requirement.

(2) Licensees holding the following types of licenses shall not be required to meet this requirement:

(a) Lapsed license;

(b) Telemedicine license; or

(c) Teleradiology license.

(3) The required CME must be completed after January 1, 2000 and before January 2, 2009.

(4) Licensees must be prepared to provide documentation of CME if requested by the Board.

(5) All applicants granted a license after January 2, 2009, excepting those with a type of license listed in Section (2), must obtain the required CME coursework within twelve months of the date the Board granted licensure.

DIVISION 012 - PATIENT'S ACCESS TO PHYSICIAN MEDICAL RECORDS

847-012-0000

Patient's Access to Physician Medical Records

(1) Licensees of the Board of Medical Examiners shall make protected health information in the medical record available to the patient or the patient's authorized representative upon their request, to inspect and obtain a copy of protected health information about the individual, except as provided by law and this rule. The patient may request all or part of the record. A summary may substitute for the actual record only if the patient agrees to the substitution. Board licensees are encouraged to use the written authorization form provided by ORS 192.522.

(2) For the purpose of this rule, "health information in the medical record" means any oral or written information in any form or medium that is created or received and relates to:

(a) The past, present, or future physical or mental health of the patient.

(b) The provision of health care to the patient.

(c) The past, present, or future payment for the provision of healthcare to the patient.

(3) Upon request, the entire health information record in the possession of the Board licensee will be provided to the patient. This includes records from other healthcare providers. Information which may be withheld includes:

(a) Information which was obtained from someone other than a healthcare provider under a promise of confidentiality and access to the information would likely reveal the source of the information.

(b) Psychotherapy notes.

(c) Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; and

(d) Other reasons specified by federal regulation.

(4) A reasonable cost may be imposed for the costs incurred in complying with the patient's request for health information. These costs may include:

(a) No more than \$25 for copying 10 or fewer pages of written material and no more than 25 cents per page for each additional page.

(b) Postage costs to mail copies of the requested records.

(c) Actual costs of preparing an explanation or summary of the health information, if such information is requested by the patient

(d) Actual costs of reproducing films, x-rays, or other reports maintained in a non written form. However, a patient may not be denied summaries or copies of his/her medical records because of inability to pay.

(5) Requests for medical records shall be complied with within a reasonable amount of time not to exceed thirty (30) days from the receipt of the request.

(6) Violation of this rule may be cause for disciplinary action under ORS 677.190.

DIVISION 015 - GENERAL LICENSING RULES, RELATING TO CONTROLLED SUBSTANCES

847-015-0005

Schedule II Controlled Substances - Bariatrics Practice

(1) A physician shall not utilize a Schedule II controlled substance for purposes of weight reduction or control.

(2) A violation of any provision of this rule, as determined by the Board, shall constitute Unprofessional Conduct as the term is used in ORS 677.188(4)(a),(b), or (c), whether or not actual injury to a patient is established.

847-015-0010

Schedule III or IV Controlled Substances - Bariatrics Practice

(1) A physician shall not utilize a Schedule III or IV controlled substance for purposes of weight reduction, other than in accordance with federal Food and Drug Administration (FDA) product guidelines in effect at the time of utilization and with all the provisions of this rule.

(2) A physician may utilize a Schedule III or IV controlled substance for purposes of weight reduction

in the treatment of Exogenous Obesity in a regimen of weight reduction based on caloric restriction, behavior modification and prescribed exercise, provided that all of the following conditions are met:

(a) Before initiating treatment utilizing a Schedule III or IV controlled substance, the physician determines through review of the physician's own records of prior treatment, or through review of the records of prior treatment which another treating physician or weight-loss program has provided to the physician, that one of the following conditions exist:

(A) Patient's body mass index exceeds 30 Kg/M sq; or

(B) Patient's body mass index exceeds 27 Kg/M sq *and* the excess weight represents a threat to the patient's health (as with hypertension, diabetes, or hypercholesterolemia.)

(b) Before initiating treatment utilizing a Schedule III or IV controlled substance, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized.

(3) Continuation of Schedule III or IV designated as FDA short term use controlled substances beyond three (3) months requires documentation of an average two (2) pound per month weight loss during active weight reduction treatment, or documentation of maintenance of goal weight. Use of Schedule III or IV controlled substances with FDA approval for bariatric therapy and designated for long term use where FDA guidelines are followed may also be used beyond three months.

(4) A violation of any provision of this rule, as determined by the Board, shall constitute Unprofessional Conduct as the term is used in ORS 677.188(4)(a), (b), or (c), whether or not actual

injury to a patient is established.

847-015-0015

Maintenance of Controlled Substances Log by Prescribing Practitioners

Any practitioner dispensing or administering controlled substances from the practitioner's office must have a Drug Enforcement Administration registration indicating the address of that office. The practitioner shall maintain an inventory log showing all controlled substances received, and administered or dispensed. This log shall also list for each controlled substance, the patient's name, amounts used, and date administered or dispensed. This log shall be available for inspection on request by the Board of Medical Examiners or its authorized agents. Controlled substances samples are included in this rule.

847-015-0020

Maintenance of Controlled Substances Log – Ambulance Medical Rescue Services Receiving Controlled Substances from Physicians

Any physician providing controlled substances for use by ambulance and medical rescue services must have a Drug Enforcement Administration registration for the address where the controlled substances and inventory log are stored. The inventory log at the registered address shall be maintained showing all controlled substances received, or dispensed to the emergency vehicle. The administration log shall also show for each controlled substance, the patient's name and amount used, date, and by whom administered or dispensed, and may be maintained in the emergency vehicle. This log should be reviewed on a monthly basis and be readily retrievable for inspection on request by the Board, the ambulance licensing authority as specified in ORS 682.015, or their authorized agents.

847-015-0025

Dispensing Physicians

(1) Any actively licensed physician who dispenses drugs shall register with the Board on the appropriate form before beginning to dispense drugs.

(2) A physician who supervises a physician assistant who is applying for emergency dispensing privileges, or monitors/supervises any other health care provider with emergency dispensing privileges, must be registered with the Board of Medical Examiners as a dispensing physician.

(3) Dispensing of samples, without charge, will not constitute dispensing under this rule.

(4) Administering drugs in the physician's office will not constitute dispensing under this rule.

(5) At the time of biennial medical license reregistration, all actively licensed physicians who dispense shall so indicate on the reregistration form.

(6) Any physician who dispenses drugs after January 1, 1988, without first registering with the Board will be fined \$100, and may be subject to further disciplinary action by the Board.

847-015-0030

Written Notice Disclosing the Material Risks Associated with Prescribed or Administered Controlled Substances for the Treatment of "Intractable Pain."

(1) Controlled substances may be prescribed for long term treatment of "intractable pain", ORS 677.475 (1). The attending physician records must contain the attending physician's examination, diagnosis and any other supporting diagnostic evaluations and other therapeutic trials, including records from previous providers. If there is a consulting physician, written documentation of his/her corroborating findings, diagnosis and recommendations shall be included in the record.

(2) Before initiating treatment of "intractable pain" with controlled substances, the attending physician shall discuss with the patient the material risks associated with the prescribed or administered controlled substances. Following the discussion the patient may request further explanation prior to signing the material risks notice. Following completion of the discussion, the attending physician shall provide to the person and the person shall sign a written notice of the material risks associated with the prescribed or administered controlled substances to be prescribed, ORS 677.485.

(3) The material risk notice should include but not be limited to:

(a) The diagnosis;

(b) The controlled substance and/or group of controlled substances to be used;

(c) Anticipated therapeutic results;

(d) Alternatives to controlled substance therapy; and

(e) Potential side effects (if applicable):

(A) General;

(B) Central Nervous System;

- (C) Gastrointestinal;
- (D) Respiratory;
- (E) Dermatologic, and
- (F) Other.
- (f) Allergy Potential;
- (g) Interaction/Potentiation of other medications;
- (h) Potential for dose escalation/tolerance;
- (i) Withdrawal precautions;
- (j) Potential for dependence and addiction;
- (k) Potential for impairment of judgment and/or motor skills;
- (l) Satisfaction with or desire for more explanation; and
- (m) Patient signature (dated).

(4) The material risk consent form will be maintained as a permanent component of the patient record as shall documentation of long term follow-up to demonstrate the continued need for this form of therapy, ORS 677.480(1)(3). A dispensing record of the amount and dose of the prescribed or administered controlled substances shall be maintained as part of the patient record.

847-015-0035

Attending physicians prescribing medications to physician assisted suicide patients

Attending physicians prescribing medications pursuant to ORS 127.800 – 127.897 shall:

(1) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is registered as a dispensing physician with the Board of Medical Examiners, has a current Drug Enforcement Administration (D.E.A.) certificate, and complies with the provisions of ORS 677.089, OAR 847-015-0015 and OAR 847-015-0025; or

(2) With the patient's written consent:

(a) Contact a pharmacist, and inform the pharmacist of the purpose of the prescription, and

(b) Deliver the written prescription personally or by mail to the pharmacist who will dispense the medications to either the patient, the attending physician, or an expressly identified patient's agent.

847-015-0040

Collaborative Drug Therapy Management

(1) "Collaborative Drug Therapy Management" as used in this section means the participation by a physician and a pharmacist in the management of drug therapy pursuant to a written protocol that includes information specific to the dosage, frequency, duration and route of administration of the drug, authorized by a physician and initiated upon a prescription order for an individual patient and:

(a) Is agreed to by one physician and one pharmacist; or

(b) Is agreed to by one or more physicians in a single organized medical group, such as a hospital medical staff, clinic or group practice, including but not limited to organized medical groups using a pharmacy and therapeutics committee, and one or more pharmacists at a single pharmacy registered by the Board of Pharmacy.

(2) A physician shall engage in collaborative drug therapy management with a pharmacist only under a written arrangement that includes:

(a) The identification, either by name or by description, of the participating pharmacist(s).

(b) The identification, by name, of the participating physician(s).

(c) The name of the physician and principal pharmacist who are responsible for development, training, administration, and quality assurance of the arrangement.

(d) A detailed description of the collaborative role the pharmacist(s) shall play, including but not limited to:

(A) Written protocol for specific drugs pursuant to which the pharmacist will base drug therapy management decisions for an individual patient.

(B) Circumstances which will cause the pharmacist to initiate communication with the physician, including but not limited to the need for new prescription orders and reports of patients' therapeutic responses or adverse effects.

(C) Training requirement for pharmacist participation and ongoing assessment of competency, if necessary;

(D) Quality assurance and periodic review by a panel of the participating physicians(s) and pharmacist(s).

(e) Authorization by the physician(s) for the pharmacist(s) to participate in the collaborative drug therapy.

(f) A provision for the collaborative drug therapy arrangement to be reviewed and updated, or discontinued at least every two years; and

(g) A description of the mechanism for the pharmacist(s) to communicate to the physician(s) and for documentation of the implementation of the collaborative drug therapy.

(3) Collaborative drug therapy management is valid only when initiated upon the prescription order of a participating physician for each individual patient.

(4) Nothing in this rule shall be construed to allow therapeutic substitution.

(5) The collaborative drug therapy protocol must be filed with the Board of Pharmacy, kept on file in the pharmacy and made available to the Board of Pharmacy and the Board of Medical Examiners upon request.

DIVISION 080 - PODIATRISTS

847-080-0019

Registration and Continuing Medical Education Requirements

(1) An application for renewal of registration and statutory registration fee shall be submitted to the Board of Medical Examiners and must be received in the Board office during regular business hours on or before December 31 of each odd-numbered year in order for the doctors of podiatric medicine to be renewed for the next 24 months.

(2) Licensed podiatrists shall at the time of submitting their biennial registration fee and as a condition of registration renewal submit to the Board a signed original renewal application showing satisfactory evidence of having completed a minimum of 50 hours of continuing medical education, or 25 hours if licensed during the second year of the biennium.

(3) Upon failure to comply with section (1) and (2) of this rule, the registration shall lapse.

(4) Continuing medical education is acceptable if provided by:

(a) The American Podiatric Medical Association, American Medical Association, or American Osteopathic Association; or

(b) The American Hospital Association; and

(c) Any of the accredited colleges or schools of podiatric medicine within the United States; or

(d) Programs sponsored by any affiliated group to the above organizations, or associations.

(5) The Board shall audit a random sample of podiatrists for compliance with the continuing medical education.

(6) If documentation of the continuing education is improper or inadequate, the podiatrist shall correct the deficiency. Failure to correct the continuing education documentation within 90 days shall constitute grounds for disciplinary action.

(7) Misrepresentation of compliance shall constitute grounds for disciplinary action.

(8) Documentation supporting compliance with continuing medical education requirements shall be available to the Board upon request during the renewal period and the two year period following the renewal period.

847-080-0020

Use of Title

(1) Every Podiatrist licensed by the Board must pursue the practice of podiatry under the licensee's name only as it appears on the license issued by the Board. If a name change occurs after license is issued, the licensee may pursue the practice of podiatry under the new name only after the licensee files proof of the name to the Board.

(2) Any Podiatrist licensed by the Board who uses the title "Doctor" or any contraction thereof in connection with the practice of podiatry shall comply with ORS 676.100 through 676.990.

OAR 847-080-0022

Qualifications to Perform Ankle Surgery

Ankle surgery must be conducted in a certified hospital or in an ambulatory surgical center certified by the Health Division. To be eligible to perform ankle surgery in the state of Oregon, the licensed podiatrist shall meet the qualifications from one of the following sections prior to being approved by the Board to perform ankle surgery:

(1) Completion of a CPME (Council on Podiatric Medical Education) approved surgical residency; Board Certification by the American Board of Podiatric Surgery in Foot and Ankle Surgery; documented clinical experience as approved by the Board; and current clinical privileges to perform reconstructive/rearfoot ankle surgery in a JCAHO (The Joint Commission on the Accreditation of Health Care Organizations) approved hospital; or

(2) Completion of a CPME (Council on Podiatric Medical Education) approved surgical residency; and Board Qualified by the American Board of Podiatric Surgery in Reconstructive Rearfoot/Ankle Surgery progressing to Board Certification in Reconstructive Rearfoot/Ankle Surgery within seven years.

847-080-0025

Change of Address and Multiple Offices

Every licensee must notify the board in writing of their change or addition of business or residence address within 30 days of any change.

847-080-0030

Denial or Revocation of License

No applicant shall be entitled to a podiatry license who:

- (1) Has failed in an examination for licensure in the State of Oregon;
- (2) Has had a license revoked or suspended in this or any other state unless the said license has been restored or reinstated and the applicant's license is in good standing in the state which had revoked the same;
- (3) Has been refused a license or certificate in any other state or country on any grounds other than failure in a podiatric licensure examination;
- (4) Has been guilty of conduct similar to that which would be prohibited by or to which ORS 677.190 would apply; or
- (5) Has been guilty of cheating or subverting the podiatric licensing examination process. Podiatric licensing examination means any examination given by the Board, other states, or national testing organization, to an applicant for registration, certification or licensure under this act. Evidence of cheating or subverting includes, but is not limited to:
 - (a) Copying answers from another examinee or permitting one's answers to be copied by another examinee during the examination;
 - (b) Having in one's possession during the examination any books, notes, written or printed materials or data of any kind, other than examination materials distributed by Board staff, which could facilitate the applicant in completing the examination;
 - (c) Communicating with any other examinee during the administration of the examination;
 - (d) Removing from the examining room any examination materials;
 - (e) Photographing or otherwise reproducing examination materials.
- (6) In addition to the grounds for denial, revocation, or suspension set be the basis of denial or revocation of any license authorized or issued under the provisions of ORS Chapter 677 and laws mandatory thereof.

847-080-0035

Approved Podiatry Colleges

Podiatry colleges approved by the Board are only those approved by the American Podiatric Medical Association Council on Podiatry Education.

Public Health Reporting. . . *for clinicians*

By law,¹ Oregon clinicians must report diagnoses (confirmed or suspected) of the infections, diseases, microorganisms and conditions listed below. Both clinical and lab-confirmed cases are reportable. The parallel system of lab reporting does not obviate the clinician's obligation to report. Some conditions (e.g., Uncommon Illnesses of Potential Public Health Significance, animal bites, HUS, PID, pesticide poisoning, disease outbreaks) are rarely if ever identified by labs. In short, we depend upon clinicians to report.

Reports should be made to the patient's local health department² and should include at least the patient's name, home address, phone number, date of birth, sex, the diagnosis, and the date of symptom onset. Most reports should be made within one (health department) working day of the diagnosis, but there are a number of exceptions (noted with asterisks, *infra*).

Disease reporting enables appropriate public health follow-up for your patients, helps identify outbreaks, provides a better understanding of morbidity patterns, and may even save lives. If local health department staff are unavailable, a state epidemiologist is always on call: 971-673-1111; after hours 503-731-4030.

The following are listed by the time frame within which they must be reported:

IMMEDIATELY-DAY OR NIGHT

Anthrax	Any Uncommon illness of public health significance ⁴	Diphtheria
Any Outbreak of disease ³		Marine intoxications ⁵
	Botulism	Plague
		SARS

WITHIN 24 HOURS (including weekends/holidays)

Haemophilus influenzae	Pesticide poisoning	Rubella
Measles (rubeola)	Polio	Vibrio infection
Meningococcal disease	Rabies	

WITHIN ONE HEALTH DEPARTMENT BUSINESS DAY

Animal bites	Hantavirus	PID (acute, non-gonococcal)
Any Arthropod-borne infection ⁶	Hepatitis A	Q fever
Brucellosis	Hepatitis B (acute or chronic)	Rickettsia
Campylobacteriosis	Hepatitis C (new infections) ⁹	Salmonella (including typhoid)
CD4 cell count <200/ml or CD4/total <14%	Hepatitis D (delta)	Shigellosis
Chancroid	HIV infection and AIDS	Syphilis
Chlamydia ⁷	HUS	Taenia solium/Cysticercosis
Creutzfeldt-Jakob disease	Legionellosis	Tetanus
Cryptosporidiosis	Leptospirosis	Trichinosis
Cyclosporidiosis	Listeriosis	Tuberculosis
Escherichia coli (Shiga-toxigenic) ⁸	Lyme disease	Tularemia
Giardiasis	Malaria	Yersiniosis
Gonorrhea	Mumps	
	Pertussis	

WITHIN 1 WEEK

Lead poisoning

FOOTNOTES

- 1 ORS 433.004; OAR 333-018-0000 to -0015.
- 2 Refer to www.oregon.gov/DHS/ph/acd/reporting/counties.shtml for a list of local health departments and more details about what to report.
- 3 Outbreaks are 2 cases from separate households associated with a suspected common source.
- 4 Ask yourself "Might there be public health implications from a case of possible Ebola, smallpox, melioidosis, or whatever?" If the answer is "yes"— or even "maybe"— then pick up the phone. There are no penalties for over-reporting.
- 5 Paralytic shellfish poisoning, scombroid, domoic acid intoxication, ciguatera, etc.
- 6 Including any of the scores of viral, bacterial, and parasitic infections typically spread by ticks, mosquitoes, fleas, and their ilk (e.g., Lyme disease, malaria, ehrlichiosis, relapsing fever, typhus, babesiosis, dengue, yellow fever, Oroya fever, Colorado tick fever, West Nile fever, RMSF, SLE, WEE, EEE, Iarisis, tsutsugamushi, Congo-Crimean hemorrhagic fever,...).
- 7 STDs, trachoma, TWAR, psittacosis—all of them—even if they are renamed Chlamydophila.
- 8 E. coli O157:H7 is the exemplar of this group.
- 9 Report only diagnoses of probable recent infection (e.g., post-transplant infections, persons with conversion of paired sera). Most cases are old or indeterminate; these are not reportable.

Acute and Communicable Disease Prevention
Oregon Department of Human Services
800 NE Oregon St, Suite 772
Portland, OR 97232
Ph: 971-673-1111 Fax: 971-673-1100
www.oregon.gov/DHS/ph/odpe/index.shtml

STATEMENTS OF PHILOSOPHY

Statements of Philosophy are adopted by the Board to express its philosophy and intentions regarding the practice of medicine in the state of Oregon. Statements of Philosophy reflect the diversity of issues discussed by the Board, issues of national as well as state concern. In discussing these matters, Board members review the work of medical experts, consider the policy statements of national medical associations, and request input from other state licensing boards and state professional associations. The Board also consults existing Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR).

New Statements of Philosophy are discussed and drafted as the particular topics of interest arise. When adopted, Statements of Philosophy are published in the quarterly *BME Report* newsletter, and added to the BME Web site at www.oregon.gov/BME under "Topics of Interest."

Table of Contents	1
Advertising	1
Appropriate Prescribing of Controlled Substances	2
Lasers, Medical Use of	3
Pain Management	4
Physicians with Mental Illness	5
Physicians with Substance Abuse Problems	6
Physician-Patient Relationship, The	8
Professionalism	9
Scope of Practice	11
Sexual Misconduct	12

Advertising

In 1975 the Federal Trade Commission (FTC), through a court decision, established that professional associations were subject to antitrust scrutiny in their attempts at regulating advertising. This has also pertained to any attempts by medical boards to establish rules governing advertising.

The FTC has stated that honest and fair advertising promotes safe and fair competition. Restraints on legitimate advertising are restraints against legitimate competition.

However, it is accepted that any false or deceptive representation or statement a physician makes to mislead consumers as perceived by the consumer, to the consumer's detriment, will be considered unacceptable. There must be a reasonable basis for any claims made as to safety and quality of care. All statements must be true and confirmable. Although testimonials are not prohibited, they must not be fraudulent or misleading. Photographs may not be used so as to distort actual results. Claims of medical supervision must represent actual physician involvement in the care provided.

If a physician represents him/herself as a specialist, he/she must be prepared to demonstrate training or expertise in a legitimate specialty. Successful completion of training recognized as a prerequisite for Board certification in a medical specialty or subspecialty by either the American Board of Medical Specialists (ABMS) or the Advisory Board for Osteopathic Specialists (ABOS) shall be considered adequate. Anything less shall put the burden of proof upon the physician to legitimize the claim.

If a physician advertises him/herself as being "Board Certified," he/she must indicate the full name of the certifying board. This statement must contain the term "Not recognized" if the certifying

board is not recognized by the ABMS or by the Advisory Board of the American Osteopathic Association (AOA).

Appropriate Prescribing of Controlled Substances

Inappropriate prescribing of controlled substances can be an investigatory and disciplinary problem for the Board. Under the Medical Practice Act (ORS 677.190), inappropriate prescribing is regulated as follows: (1) Unprofessional conduct, (24) Violation of the U.S. Controlled Substances Act and (25) Prescribing controlled substances without a legitimate medical purpose and without following accepted procedures for examination of patients and recordkeeping.

ORS 677.188 defines "unprofessional conduct" as including any conduct or practice which does, or might constitute, a danger to the patient's or the public's safety. It also includes willful performance of any surgical or medical treatment that is contrary to acceptable medical standards and administration of unnecessary treatments.

Controlled substances offer important health benefits to patients and should be prescribed as medically indicated. A balance must be achieved between appropriate prescribing, and adequate safeguards against diversion and abuse of such medications. Underprescribing of controlled substances, i.e., in management of cancer pain, can impair optimal patient care. However, when controlled substances are diverted and abused, public health is damaged.

It used to be generally accepted that it was inappropriate to treat chronic, intractable, non-malignant pain with opioids on a routine basis. This is clearly no longer true. Other than fear of addiction and abuse, one reason formerly given for not using opioids was that use of these medications for this type of pain was thought to decrease the availability of endogenous opioid mechanisms and therefore their use might actually decrease pain thresholds. Opioids may also produce sedation and thus decrease the patient's willingness to become actively involved in his/her rehabilitation efforts. Currently, appropriately prescribed opioids are felt to control the pain and make the patient more interested and capable of participating in not only his/her rehabilitation effort, but also in the activities of daily living. The improved ability to be more active and to better perform the tasks of life is one of the most important measures that is used to determine whether the plan for treating the patient's chronic, intractable, non-malignant pain is succeeding.

Not every patient with chronic non-malignant pain necessarily requires opioid medications. It is accepted, however, that there are many patients who will be properly served by the chronic administration of opioid substances for non-malignant pain.

Please read the Oregon Board of Medical Examiners philosophy on Pain Management in this section of this Handbook. It may also be found on the web at: http://egov.oregon.gov/BME/topics.shtml#INTRACTABLE_PAIN_AND_PAIN_MANAGEMENT.

It should also be noted that the U.S. Drug Enforcement Administration (DEA) rules forbid a physician to prescribe controlled substances to patient who is addicted to substances, for the purpose of maintenance or of detoxification, except in a DEA-approved program (Methadone Clinic). Recent changes in the Federal Law allow the use of Schedule III-IV drugs (two special formulations of buprenorphine for sublingual use) for this purpose providing the prescribing physician has eight hours of specific CME, is certified by the Secretary of HHS, and receives a special DEA number.

In response to its duty to protect the public, the Board investigates all possible cases involving inappropriate prescribing. Investigations may include review of physician records, review by a Board consultant and possibly a personal interview with the Board's Investigative Committee. Following the investigation the Board has a variety of administrative options to respond to

inappropriate prescribing should that be determined to be a problem. The Board attempts to avoid disciplinary measures in its effort to rehabilitate physicians, but that is not always possible.

All physicians are encouraged to become knowledgeable about methods of pain treatment and to participate in the management of their patients who develop chronic non-malignant pain.

*Adopted May 2004
Amended January 2006*

Medical Use of Lasers

The U.S. Food and Drug Administration (FDA) regulates the sale of lasers under the Centers for Devices and Radiological Health. A laser is a device that only a licensed practitioner can purchase.

Destruction, incision, ablation or the revision of human tissue by use of a laser is surgery.

Complications from the medical use of lasers can include visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation.

The Oregon Board of Medical Examiners adopts the position that the medical use of lasers is the practice of medicine as defined by ORS 677.085:

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

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

Physicians using lasers should be trained appropriately in the physics, safety and surgical techniques using lasers and intense pulsed light devices, as well as pre- and post-operative care. Any physician who delegates a procedure using lasers or intense pulsed light devices to a non-physician should also be qualified to do the procedure themselves by virtue of having received appropriate training in physics, safety and surgical techniques using lasers and intense pulsed light devices, as well as pre- and post-operative care.

Any allied health professional employed by a physician to perform a laser or intense pulsed light procedure should have received documented training and education in the safe and effective use of each system, and may carry out specifically designed laser procedures only under direct physician supervision, and following written guidelines and/or policies established by the specific site at which the laser procedure is performed.

The ultimate responsibility for performing any procedure lies with the physician. The supervising physician should be on-site, immediately available, and able to respond promptly to any questions or problems that may occur while the procedure is being performed.

The guiding principle for all physicians is to practice ethical medicine with the highest possible standards to ensure the best interest and welfare of the patients.

Adopted January 18, 2002

Pain Management

The BME urges the use of effective pain control for all patients, irrespective of the etiology of their pain. This includes, but is not limited to, postoperative pain, chronic pain of diverse etiology, and pain derived from malignancies. Physicians are encouraged to treat pain within the scope of their practice.

Studies have shown that as many as one-half of patients in pain are not given sufficient pain medication to control their pain in an optimal manner. There are three reasons for this failure to achieve adequate pain relief: 1) concern about causing addiction; 2) lack of knowledge about pain management techniques and pain medication pharmacology; and 3) fear of scrutiny and discipline by regulatory agencies. None of these factors, however, should preclude the physician from assuring that the patient has adequate pain control.

The treatment of post-operative pain requires aggressive management and frequent feedback from the patient regarding the adequacy of the pain control prescribed. The potential for addiction is very low when short courses of narcotics are used to treat post-operative pain.

Skillful pain management techniques, including oral, parenteral and, when available, regional pain management techniques can achieve maximum patient comfort and may reduce the total amount of narcotics required.

The BME encourages physicians to become well informed in acute post-operative pain management and to hone their skills in the latest techniques for control of these acute, self-limited episodes of pain caused by surgical procedures.

Management of the patient with chronic nonmalignant pain requires different techniques but a similar degree of skill. In 1995, the Oregon Legislative Assembly passed ORS 677.470 – .485, commonly referred to as the Intractable Pain Act. This act allows a physician to prescribe or administer controlled substances to a patient diagnosed with a condition causing intractable pain without fear of sanction from the Board of Medical Examiners, so long as that physician complies with the provisions of this statute.

Both this statute and its facilitating Oregon Administrative Rule (847-030-0015) assure that the patient with chronic nonmalignant intractable pain: (1), receives careful assessment, documentation, and management of the pain; (2), receives the assessment and recommendations of a physician specializing in the body area, system or organ perceived as the source of the pain; and (3), executes a signed material risk notice acknowledging receipt of information disclosing the material risks associated with the prescription or administration of controlled substances used in the course of his or her treatment.

Finally, physicians occasionally prescribe narcotics too sparingly for their terminally ill patients. The BME believes that physicians should make every effort to relieve the pain and suffering of their dying patients. This may require either intermittent or continued administration of large doses of narcotics, often well above those dosages that are considered usual in such references as the PDR.

Since the goal of treatment is to relieve pain and suffering, dying patients should receive sufficient narcotic dosages to produce the maximal possible comfort. The physician should acknowledge that the natural dying process usually involves declining blood pressures, decreasing respirations and altered levels of consciousness. Narcotics should not be withheld on the basis of physiologic parameters when patients continue to experience pain.

Some physicians frequently express concerns that the use of narcotics in dying patients may hasten death through pneumonia or respiratory depression. For these reasons, at times physicians

may have limited the use of narcotics in dying patients out of fear that they may be investigated for inappropriate prescribing or allegations of euthanasia.

The BME is concerned that such fear on the part of physicians may result in inadequate pain control and unnecessary suffering in terminally ill patients. The BME encourages physicians to employ skillful and compassionate pain control for dying patients and believes that relief from suffering remains the physician's primary obligation to dying patients.

Appropriate management of all of these types of pain is the treating physician's responsibility. The standard of care allows neither overtreatment nor undertreatment. As such, the Board will consider clearly documented undertreatment of pain to be a violation equal to overtreatment, and will investigate allegations in the same manner.

*Adopted April 16, 1999
Amended July 9, 2004*

Physicians with Mental Illness

A responsibility and obligation of the Board is the licensing and regulation of physicians and other health care professionals, in order to uphold the standards of the medical profession and to protect the public from the practice of medicine or acupuncture by an impaired licensee.

The Board recognizes that a licensee, like any other member of society, is susceptible to illnesses, including mental illness. It is also known that a licensee can have a mental illness or seek counseling and not be occupationally impaired. For example, this can occur with some depression and anxiety disorders, or with marital and family problems.

However, just as with a physical illness, a licensee's ability to practice medicine or acupuncture may be compromised by his or her mental illness. This can occur with organic mental disorders, some mood and psychotic disorders and various types of character problems. Under ORS 677.190, the Board is required to refuse to grant or renew licenses, or to suspend or revoke licenses to practice medicine or acupuncture, under certain conditions. One such condition is any mental illness affecting a licensee's ability to safely practice medicine or acupuncture.

In such cases, the Board takes appropriate licensing action based on such evidence as civil adjudication or voluntary commitment to an institution for treatment of mental diseases. Supporting evidence may also include findings from an examination conducted by three impartial psychiatrists retained by the Board.

Furthermore, ORS 677.225 requires automatic license suspension when the Board learns that a licensee has been committed by civil action or admitted on a voluntary basis to a treatment facility for longer than 25 consecutive days, for a mental illness that affects the ability of the licensee to safely practice medicine or acupuncture.

The Board supports the de-stigmatization of mental illnesses in licensees. This is exemplified by the questions on the initial application and registration (renewal) forms that ask about current disabilities from mental illness rather than focusing only on the presence of a mental diagnosis and treatment. Specifically, the questions focus on the presence of serious physical or mental illnesses or hospitalizations for either illness (physical or mental) within the past five years which impairs (or impaired) the licensee's ability to practice medicine safely and competently.

If the Board has reasonable cause to believe that any licensee is or may be unable to practice medicine with reasonable skill and safety to patients, the Board may direct and order an

investigation. This may include a mental, physical or medical competency examination for the purpose of determining the fitness of the licensee to practice medicine with reasonable skill and safety to patients, as outlined by ORS 677.420.

No restrictions are placed upon a licensee if the licensee is not found to be impaired by his or her mental illness.

However, if the mental illness is found to impair the licensee's ability to practice medicine or acupuncture, then the Board may take disciplinary action as outlined by ORS 677.205. This may include license limitation, probation, suspension, revocation or denial of license. All of these Board actions are reportable to the National Practitioner Data Bank (NPDB).

The Board recognizes the adverse consequences of stigmatizing mental illness, including interference with the licensee seeking treatment. The presence of current impairment from a mental illness is investigated rather than focusing on a potential mental disability. As a result, the Board can protect the public and ensure that a licensee who has a mental illness can practice safely, professionally and competently.

Revised July 15, 2005

Physicians with Substance Abuse Problems

In the interest of the health, safety and welfare of the people of Oregon, the Board of Medical Examiners is charged with protecting the public from the practice of medicine by unqualified, incompetent or impaired physicians. With this principle foremost in mind, the Board has adopted a policy of rehabilitating impaired physicians whenever possible.

A Health Professionals Program (HPP) Supervisory Council has been established pursuant to ORS 677.615 for the purpose of developing and implementing a diversion program for chemically dependent licensees regulated under this chapter. The Council consists of five members who are appointed and serve at the pleasure of the Board. The term of office is two years, and Council members are eligible for reappointment.

The HPP Medical Director is appointed by the Supervisory Council, and administers the program under the control and supervision of the Council. The Medical Director serves at the pleasure of the Supervisory Council and is an employee of the Board, and as such, reports to the Executive Director of the Board.

The HPP, also referred to as the Diversion Program, was established as a confidential referral resource for rehabilitation. To maintain the confidentiality of its participants, the HPP office is located in Tigard, separate from the Board's office in Portland. Its services consist of case finding, interventions, referral for an acute treatment phase, and continuing care recovery monitoring.

Licensees experiencing substance abuse problems who have participated in HPP have experienced a rehabilitation rate of approximately 90 percent. Experience indicates that anything short of this standard of comprehensive treatment and monitoring leads to a markedly increased failure rate.

Within health care delivery systems, there is acute awareness of the need to identify substance abusers. Nearly all hospitals and other delivery systems (HMOs, IPAs, PPOs, etc.) require licensees to answer personal substance use and treatment questions. State law requires that all impaired licensees be reported to the Board.

Licenses with substance abuse problems are encouraged by the Board to seek comprehensive treatment before becoming impaired.

The Board has adopted the following policy in the handling of licenses with substance abuse problems:

Self-referral: Licenses will be considered "true volunteers" when they have sought affiliation with HPP on their own or through an intervention of others without prior Board knowledge. The responsibility of individuals and organizations required by law to report impaired physicians may be discharged if the impaired physician enters HPP. Voluntary HPP participants require no further action relative to licensure, and they will not be reported to the Board so long as they successfully participate.

The Board will not be notified of the identity of voluntary participants in Diversion but will be kept informed of program information and statistics on an on-going basis. HPP participants will not be reported to the National Practitioners Data Bank as disciplinary cases. There will be, however, a formal agreement between HPP and the licensee. This agreement is legally binding. The terms of this agreement will include standardized language acceptable to the Board as recommended by the Diversion Program Supervisory Council (see attachment for the currently accepted Agreement).

Board referral: At the discretion of the Chief Investigator or the Board's Medical Director in consultation with the Executive Director, licenses reported to the BME for investigation and believed to have a substance related disorder may be offered an opportunity to participate in HPP. Disciplinary action may be utilized for licenses determined as inappropriate for HPP or requiring discipline in addition to HPP monitoring.

The Board accepts the Diversion Program Supervisory Council protocol for continuing care treatment and monitoring as its standard of the minimum required elements for monitoring:

- A. At least one weekly counseling meeting (individual or group) for the first two years of participation.
- B. A minimum of quarterly meetings with an assigned HPP monitoring consultant.
- C. A minimum of 25-30 random urine drug screens per year for the first two years.
- D. Individual counseling if recommended by the primary treatment provider or the therapy team.
- E. Treatment plan changes will be made in consultation with all therapy providers and the Diversion Program Supervisory Council when necessary.
- F. The Diversion Program keeps the Board apprised of its policies, procedures and protocols.
- G. HPP participants will be reported to the Board in accordance with the Diversion Council protocol for Relapse Management or upon failure to successfully complete the HPP Program.

Not all licenses with a chemical dependency problem will avail themselves of HPP; those who choose not to participate or do not comply with the terms of the agreement with HPP are subject to denial of license or discipline pursuant to ORS 677.190.

Chemical dependency does not have to be a condition that destroys a professional's career, personal life and professional standing. When in remission, chemical dependency does not adversely affect a physician's ability to practice medicine. With proper treatment and follow-up, chemically dependent licenses can continue their practice, often virtually uninterrupted.

In situations where a disciplinary action is necessary, it is often appropriate to reinstate a licensee as soon as their condition warrants it. The BME has found that with proper in-patient treatment and good monitoring, a rehabilitation rate of approximately 90 percent is possible.

As the above policy indicates, self-referral is vastly superior to disciplinary action. By whatever method necessary, the Board strives to assure that licensees with chemical dependency problems receive appropriate treatment. In its effort to both protect the public and rehabilitate physicians, the Board encourages all licensees and their organizations to promote early intervention.

The Physician-Patient Relationship

An Oregon physician has medical, legal and ethical obligations to his or her patients. In light of these obligations, it is the policy of the Oregon Board of Medical Examiners that:

1. Regardless of whether an act or failure to act is determined entirely by a physician, or is the result of a contractual or other relationship with a health care entity, the relationship between a physician and a patient must be based on trust, and must be considered inviolable. Included among the elements of such a relationship of trust are:
 - Open and honest communication between the physician and patient, including disclosure of all information necessary for the patient to be an informed participant in his or her care.
 - Commitment of the physician to be an advocate for the patient and for what is best for the patient, without regard to the physician's personal interests or the interests of any other healthcare entity.
 - Provision by the physician of that care which is necessary and appropriate for the condition of the patient, and neither more nor less.
 - Avoidance of any conflict of interest or inappropriate relationships outside of the therapeutic relationship.
 - Respect for, and careful guardianship of, any intimate details of the patient's life which may be shared with the physician.
 - A career-spanning dedication by the physician to continually maintain professional knowledge and skills.
 - Respect for the autonomy of the patient.
 - Respect for the privacy and dignity of the patient.
 - Compassion for the patient and his or her family.
2. The relationship between a physician and a patient is fundamental, and is not to be constrained or adversely affected by any considerations other than what is best for that patient. The existences of other considerations, including financial or contractual concerns are and must be secondary to the fundamental relationship.
3. Any act or failure to act by a physician that violates the trust upon which the relationship is based jeopardizes the relationship and may place the physician at risk of being found in violation of the Medical Practice Act.

4. The policies expressed herein apply to all physicians in Oregon, as well as those who make decisions which affect Oregon consumers, including health plan medical directors and other physicians employed by or contracting with such plans.

Adopted 1998

professionalism

The mission of the Oregon Board of Medical Examiners is to protect the health, safety, and well being of Oregon citizens by regulating the practice of medicine in a manner that promotes quality care. It fulfills its mission by, among other activities, investigating and, if necessary, imposing disciplinary action upon physicians who do not uphold the standards of professionalism.

Professionalism comprises those attributes and behaviors that serve to maintain patients' interests above the physician's self-interest.

Professionalism means the continuing pursuit of excellence (*see definition below*), and includes the following qualities:

- Altruism is the essence of professionalism. Altruism refers to unselfish regard for and devotion to the welfare of others and is a key element of professionalism. Self-interest or the interests of other parties should not interfere with the care of one's patients and their families.

- Accountability and Responsibility are required at many levels –individual patients, society and the profession. First, there must be accountability to one's patients and to their families. There must also be accountability to society for addressing the health needs of the public and to ensure that the public's needs are addressed.

One must also be accountable to the profession to ensure that the ethical precepts of practice are upheld. Inherent in responsibility is reliability in completing assigned duties or fulfilling commitments. There must also be a willingness to accept responsibility for errors.

- Duty: Acceptance of a Commitment to Service. This commitment entails being available and responsive when "on call," accepting personal inconvenience in order to meet the needs of one's patients, enduring unavoidable risks to oneself when a patient's welfare is at stake, and advocating the best possible care regardless of the patient's ability to pay.

- Excellence entails a conscientious effort to exceed ordinary expectations and to make a commitment to life-long learning. Commitment to excellence is an acknowledged goal for all physicians. A key to excellence is the pursuit of, and commitment to, providing the highest quality of health care through lifelong learning and education. One must seek to learn from errors and aspire to excellence through self-evaluation and acceptance of the critiques of others.

- Honesty and Integrity are the consistent regard for the highest standards of behavior and the refusal to violate one's personal and professional codes. Honesty and integrity imply being fair, being truthful, keeping one's word, meeting commitments, and being forthright in interactions with patients, peers and in all professional work, whether through documentation, personal communication, presentations, research, or other aspects of interaction. Honesty and integrity require awareness of situations that may result in conflict of interest or that result in personal gain at the expense of the best interest of the patient.

- Respect for Others is central to professionalism. This respect extends to all spheres of contact, including but not limited to patients, families, other physicians and professional colleagues.

One must treat all persons with respect and regard for their individual worth and dignity. One must listen attentively and respond humanely to the concerns of patients and family members.

Appropriate empathy for and relief of pain, discomfort, and anxiety should be part of the daily practice of medicine. One must be fair and nondiscriminatory and be aware of emotional, personal, family, and cultural influences on patient well-being and patients' rights and choices of medical care. It is also a professional obligation to respect appropriate patient confidentiality.

Signs of Unprofessionalism

It is sometimes by looking at what is unprofessional behavior, that the physician can obtain greater understanding of the meaning of professionalism. The Board has seen these signs of unprofessionalism:

- Abuse of Power: Physicians are generally accorded great respect by their patients. When used well, this power can accomplish enormous good. When abused, it causes the opposite. Examples of abuse of power are:

- Crossing sexual boundaries.
- Breaching confidentiality.
- Proselytizing a point of view in order to change a patient's mind.

- Arrogance: For a physician, arrogance is an offensive display of superiority and self-importance, which prevents the establishment of empathetic relationships. Examples of arrogance are:

- Failing to listen to others.
- Abusing the social position of physicians.
- Failing to make appropriate referrals.
- Safeguarding physician interests above the patient.

- Greed: When money rather than patient care becomes the guiding force in a physician's practice. Examples of greed are:

- Doing procedures that have no medical indication.
- Billing fraud.
- Not providing medical documentation for services.

- Misrepresentation: In the context of unprofessional behavior misrepresentation consists of lying (consciously telling an untruth) and fraud (conscious misrepresentation of material facts with the intent to mislead). Examples of misrepresentation are:

- Misrepresenting educational history.
- Not filling out licensing and other applications for renewal truthfully.
- Faking research.
- Inflating credentials.
- Altering charts.
- Giving expert testimony that is not truthful.

- Impairment: This occurs when a physician is no longer able to give the patient the needed proper care. Examples are:

- Being under the influence of alcohol and/or drugs while on duty.
- Having untreated physical or mental health problems.
- Overworking, which may lead to the inability to concentrate.

- Lack of Conscientiousness: This occurs when a physician does not fulfill his/her responsibilities to patients, colleagues and society. Examples are:

- Charting poorly.
- Abandoning patients.

- Not returning phone calls or pages.
- Not responding appropriately or refusing referrals without a good reason.
- Not providing patient records in a timely manner.
- Supervising trainees inadequately.
- Self-medicating without documentation.
- Not keeping up with the skills and knowledge advances in the scope of practice.

• Conflict of Interest: When the physician puts his/her interests above that of the patient and society, it is a conflict of interest. Here are a few examples:

- Ordering diagnostic procedures or treatment from businesses where the physician has an interest.
- Receiving expensive gifts and/or money from drug dispensing companies, which causes undue influence.

Adopted May 5, 2005

Scope of Practice

The Oregon Legislature has given the Board of Medical Examiners the power to exercise general supervision over the practice of medicine and podiatry within the state. Increasingly, health professionals, some licensed by this Board and some by other agencies, are seeking to extend the scope of their practice and authority. While the ultimate decision on scope of practice issues generally rests with the legislature, the Board assists lawmakers by providing complete and accurate information upon which to base decisions.

The following factors are considered when the Board reviews scope of practice questions:

- Public safety must be the primary focus;
- The patient should receive the same level of care and informed consent regardless of who provides the care;
- Fully qualified providers must perform procedures, whether those providers are physicians or other health care professionals. With extensive years of medical training, physicians have broad authority and considerable latitude in the scope of their medical practice. Health care providers with less formal education need a clearly defined scope of practice in keeping with Oregon statutes.

When considering scope of practice changes for professions or individuals under its own jurisdiction, the Board considers the following:

- 1) **Education**: Has the provider received education from an approved institution with national standards? What is the provider's core education in terms of residency, post-graduate education and continuing education courses?
- 2) **Experience**: What experience has the practitioner had recently relative to the proposed expansion in scope of practice?
- 3) **Level of supervision**: When health care professionals work under supervision, the Board expects the supervisor to be identified in advance and to be skilled in the procedure being supervised. The supervisor must also assume responsibility for delegation of duties.

- 4) **Back-up assistance available:** Before undertaking a scope of practice change, a functional back-up system must be identified in advance, with the availability of review similar to hospital peer review.
- 5) **Demonstration of skill level:** In assessing ability, the Board looks for proficiency demonstrated under supervision, documented by an unbiased third party. There needs to be verified outcomes following an appropriate number of procedures over a given period of time.

Prior to the addition of a diagnostic or therapeutic technique to a health practitioner's scope of practice under any jurisdiction, the Board believes that the following questions should be answered in addition to the above outlined standards:

- What is the current standard of practice, and is the skill being added appropriate to the professional background?
- What background is sufficient to prepare the professional to perform a given procedure safely?
- Does the individual have adequate experience to understand appropriate indications and handling of complications?

The citizens of Oregon expect and deserve the same high quality care for the same medical service rendered irrespective of the background, training, skill and knowledge of the health care provider. It is on this basis that the Board of Medical Examiners carefully reviews questions of expanded scope of practice for health care providers.

Adopted July 1999

Sexual Misconduct

The Oregon Board of Medical Examiners recognizes that the practice of medicine entails a unique relationship between physician and patient. The patient's trust and confidence in a physician's professional status grants power and influence to the physician.

Licensees are expected to maintain a professional manner and to avoid behaviors that may be misunderstood by or considered offensive by the patient. Sexual contact or suggestion of any sort within a current professional relationship, or any such contact outside the physician-patient relationship that exploits the patient's trust and confidence, is unethical.

Adopted 1995

resources

state & federal regulatory & health agencies

Board of Medical Examiners
1500 S.W. First Avenue, #620
Portland, Oregon 97201-5847
(971) 673-2700
www.oregon.gov/BME
Executive Director: Kathleen Haley, JD

Federal Drug Enforcement Agency
DEA Field Office
400 2nd Ave W
Seattle, Washington 98119
(888) 219-4261
www.usdoj.gov/dea

**Department of Human Services,
Health Services, Public Health**
800 N.E. Oregon Street #21
Portland, Oregon 97232
(503) 731-4000
www.oregon.gov/DHS/ph/index.shtml
Director: Susan Allan, MD, JD, MPH

professional medical organizations

Oregon Medical Association*
5210 SW Corbett Ave
Portland, Oregon 97239
(503) 226-1555
www.theoma.org
Executive Director: Jo Bryson

Oregon Acupuncture Association
PO Box 14615
Portland, Oregon 97293-0615
(503) 236-4383
www.oregonacupuncture.org
President: David Tara, LAc

**A list of Oregon's county and specialty medical societies is available through the OMA.*

**Osteopathic Physicians & Surgeons
of Oregon**
2121 SW Broadway, Suite 120
Portland, Oregon 97201
(503) 222-2779
www.opsso.com
Executive Director: Jeff Heatherington

**Acupuncture & Oriental Medicine
Society of Oregon**
1245 NW Galveston Ave
Bend, Oregon 97701
(541) 383-3424
President: Evelyn Brust, LAc

Oregon Podiatric Medical Association
12658 SE Stark St
Portland, Oregon 97233
(503) 256-4018
www.oregonpodiatry.org
President: Lyndon G. Johansen, DPM

Oregon Society of Physician Assistants
PO Box 514
Oregon City, Oregon 97045-0029
(503) 650-5864
www.oregonpa.org
Executive Secretary: Kristi Beyer

OREGON HOSPITALS

Adventist Medical Center
(Adventist Health Northwest)
10123 SE Market, Portland 97216
(503) 251-6150

Ashland Community Hospital
280 Maple St, Ashland 97520
(541) 482-2441

Bay Area Hospital
1775 Thompson Rd, Coos Bay 97420
(541) 269-8111

Blue Mountain Hospital
170 Ford Rd, John Day 97845
(541) 575-1311

Casey Eye Institute (OHSU)
33375 SW Terwilliger Blvd, Portland 97201
(503) 494-3000

Central Oregon Community Hospital
1253 N. Canal Blvd, Redmond 97756
(541) 548-8131

Columbia Douglas Medical Center
738 W. Harvard Blvd, Roseburg 97470
(541) 673-6641

Columbia Memorial Hospital
2111 Exchange St, Astoria 97103
(503) 325-4321

Coquille Valley Hospital
940 E. 5th St, Coquille 97423
(541) 396-3101

Cottage Grove Community Hospital
(PeaceHealth, Oregon Region)
1515 Village Dr, Cottage Grove 97424
(541) 942-0511

Curry General Hospital
94220 E. 4th, Gold Beach 97444
(541) 247-6621

Doernbecher Children's Hospital
(Oregon Health and Science University)
3181 S.W. Sam Jackson Park Rd, Portland 97201
(503) 494-8311

Genesis Recovery Center
(Asante Health System)
600 South 2nd, Central Point 97520
(541) 608-4000

Good Samaritan Hospital Foundation
(Samaritan Health Services)
3600 NW Samaritan Dr, Corvallis 97330
(541) 766-5172

Good Samaritan Regional Medical Center
(Samaritan Health Services)
P.O. Box 1068, Corvallis 97339
(541) 768-5009

Good Shepherd Medical Center
(Samaritan Health Services)
610 N.W. 11th, Hermiston 97838
(541) 667-3400

Grande Ronde Hospital
P.O. Box 3290, La Grande 97850
(541) 963-8421

Harney District Hospital
557 W. Washington, Burns 97720
(541) 573-7281

Hearthstone (Asante Health System)
2901 E. Barnett Rd, Medford 97504
(541) 779-4221

Holy Rosary Medical Center
351 S.W. 9th, Ontario 97914
(541) 881-7000

Kaiser Foundation Northwest Health Plan/Kaiser Foundation Hospital
(Kaiser Permanente Northwest)
500 NE Multnomah, Ste 100, Portland 97232
(503) 813-2800

Kaiser Sunnyside Medical Center (Kaiser Permanente Northeast)
10180 S.E. Sunnyside Dr, Clackamas 97015
(503) 652-2880

Lake District Hospital
700 S. J St, Lakeview 97630
(541) 947-2114

Lane County Psychiatric Hospital
151 W. Fifth Ave, Eugene 97401
(541) 342-1697

Legacy Emanuel Hospital & Health Center
(Legacy Health System)
2801 N. Gantenbein, Portland 97227
(503) 413-200

Legacy Emanuel Children's Hospital (Legacy Health System)
2801 N. Gantenbein, Portland 97227
(503) 413-4008

Legacy Good Samaritan Hospital & Medical Center
(Legacy Health System)
1015 N.W. 22nd Ave, Portland 97210
(503) 413-7711

Legacy Meridian Park Hospital
(Legacy Health System)
19300 S.W. 65th, Tualatin 97062
(503) 692-1212

Legacy Mount Hood Medical Center
(Legacy Health System)
24800 S.E. Stark, Gresham 97030
(503) 674-1191

Lower Umpqua Hospital
600 Ranch Road, Reedsport 97467
(541) 271-2171

McKenzie-Willamette Medical Center
1460 G St, Springfield 97477
(541) 726-4400

Mercy Medical Center
2700 Stewart Pkwy, Roseburg 97470
(541) 673-0611

Merle West Medical Center
2865 Daggett, Klamath Falls 97601
(541) 882-6311

Mid-Columbia Medical Center
1700 E. 19th St., The Dalles 97058
(541) 296-1111

Mountain View Hospital
470 N.E. A St, Madras 97741
(541) 475-3882

Northwest Permanente Medical Group
500 NE Multnomah, Ste 100, Portland, OR 97232
(503) 813-3882

Oregon Health & Science University Hospital
3181 SW Sam Jackson Park Rd, Portland 97201
(503) 494-8311

Oregon State Hospital
2600 Center St, N.E., Salem 97310
(503) 9454-2800

Peace Harbor Hospital
(PeaceHealth – Siuslaw Region)
400 Ninth St, Florence 97439
(541) 997-8412

Pioneer Memorial Hospital, Heppner
P.O. Box 9, Heppner 97836
(541) 676-9133

Pioneer Memorial Hospital, Prineville
1201 N. Elm, Prineville 97754
(541) 447-6254

Providence Hood River Memorial Hospital
(Providence Health Systems)
P.O. Box 149, Hood River 97031
(541) 386-3911

Providence Medford Medical Center
(Providence Health Systems)
1111 Crater Lake Ave, Medford 97504
(541) 732-5000

Providence Medical Group
(Providence Health Systems)
1235 NE 47th, #209, Portland 97213
(503) 574-5000

Providence Milwaukie Hospital
(Providence Health Systems)
10150 S.E. 32nd, Milwaukie 97222
(503) 513-8300

Providence Newberg Hospital
(Providence Health Systems)
501 Villa Rd, Newberg 97132
(503) 537-1555

Providence Portland Medical Center
(Providence Health Systems)
4805 N.E. Glisan, Portland 97213
(503) 215-1111

Providence Seaside Hospital
(Providence Health Systems)
725 S. Wahanna Rd., Seaside 97138
(503) 717-7000

Providence St. Vincent Medical Center
9205 S.W. Barnes Road, Portland 97225
(503) 216-1234

Rogue Valley Medical Center
2825 Barnett Rd, Medford 97504
(541) 608-4900

Sacred Heart Medical Center
P.O. Box 10905, Eugene 97440
(541) 686-7300

Salem Hospital
P.O. Box 14001, Salem 97309
(503) 561-5200

Samaritan Albany General Hospital
1040 W. 6th St, Albany 97321
(503) 812-4000

Samaritan Lebanon Community Hospital
(*Samaritan Health Services*)
PO Box 739, Lebanon 97355
(541) 451-7107

Samaritan North Lincoln Hospital
(*Samaritan Health Services*)
PO Box 767, Lincoln City, 97367
(541) 994-3661

Samaritan Pacific Communities Hospital
(*Samaritan Health Services*)
PO Box 945, Newport 97365
(541) 265-2244

Santiam Memorial Hospital
1401 N. 10th Ave., Stayton 97383
(503) 769-2175

Serenity Lane
616 E. 16th, Eugene 97401
(541) 687-1110

Shriners Hospital for Children
3101 S.W. Sam Jackson Park Rd, Portland 97201
(503) 241-5090

Silverton Hospital
342 Fairview, Silverton 97381
(503) 873-1500

Southern Coos Hospital & Health Center
900 11th St. SE, Bandon 97411
(541) 347-2426

St. Anthony Hospital
1601 S.E. Court Ave., Pendleton 97801
(541) 276-5121

St. Charles Medical Center – Bend
(*Cascade Healthcare Community*)
2500 N.E. Neff Rd, Bend 97701
(541) 382-4321

St. Charles Medical Center – Redmond
(*Cascade Healthcare Community*)
1253 N. Canal Blvd., Redmond 97756
(541) 548-8131

St. Elizabeth Health Services
3325 Pocahontas Rd, Baker City 97814
(541) 523-6461

Three Rivers Community Hospital & Health Center
(*Asante Health*)
500 SW Ramsey, Grants Pass 97527
(541) 476-6831

Tillamook County General Hospital
(*Adventist Health Northwest*)
1000 Third, Tillamook 97141
(503) 842-4444

Tuality Healthcare
P.O. Box 309, Hillsboro 97123
(503) 681-1111

University Hospital - OHSU
3181 S.W. Sam Jackson Park Rd, Portland 97201
(503) 494-8311

Veterans Affairs Medical Center
P.O. Box 1034, Portland 97207
(503) 220-8262

VA Roseburg Healthcare Systems
913 NW Garden Valley Blvd, Roseburg 97470
(541) 440-1000

Wallowa Memorial Hospital
401 NE 1st St., Enterprise 97828
(541) 426-3111

West Valley Hospital
PO Box 378, Dallas 97338
(503) 623-8301

Willamette Falls Hospital
1500 Division, Oregon City 97045
(503) 656-1631

Willamette Valley Medical Center
2700 SE Stratus Ave., McMinnville 97125
(503) 472-6131

the FOUNDATION FOR MEDICAL EXCELLENCE

The Foundation for Medical Excellence (TFME) is a public, not-for-profit foundation established in 1984. Its mission is to assure that health care in the Pacific Northwest is of the highest quality. The Foundation focuses its energy and resources on problem areas identified by state medical boards, seeking solutions through education and research. The Foundation develops and presents a wide range of educational programs, provides consultative services, and sponsors in-depth research projects.

Programs sponsored by TFME include:

- **On-site educational programs** provided at no cost to hospitals. Most programs last no more than an hour and can be scheduled at the medical staff's convenience. The presenters are experts in their subject areas. These very effective programs are made possible by generous contributions from hospitals, medical staffs, organizations, and individuals.
- **Seminars and conferences** focusing on topics of broad concern and featuring nationally recognized speakers. These intensive one-day and two-day day programs are at central locations and benefit physicians from throughout the Pacific Northwest.
- **Quarterly luncheons and special events** spotlighting noted speakers on issues of special interest.
- **Research projects** that probe areas of current concern, such as malpractice, physician-patient communication, and chemical substance abuse. These projects produce vital information for problem-solving.
- **Northwest Center for Physician-Patient Communication**, established in 1994 to pursue research, develop educational programs, and serve as a resource center to help physicians and their patients communicate more effectively. The development of this new Center was prompted by a study confirming that the benefits of improved communication include more accurate diagnoses, greater willingness by patients to follow physician instructions, better patient outcomes, and increased satisfaction for both patients and physicians.
- **Northwest Center for Physician Well-Being**, dedicated to providing physicians with the skills to manage change in both their personal and professional lives. Its mission is to create healthy physicians through leadership, education and support.

The Center is very active and works closely with the American Academy on Physician and Patient, medical schools, state medical Boards and a variety of physician organizations.

The Foundation's mission is guided by a 16 member Board made up of community leaders and health professionals from throughout Oregon. For additional information, contact the foundation office at:

The Foundation for Medical Excellence
1 SW Columbia St, Suite 860
Portland, Oregon 97258
Phone: (503) 222-1960
FAX: (503) 796-0699
www.tfme.org
President: John Ulwelling