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PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: EXAMINATIONS

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RESPIRATORY THERAPIST LICENSING BOARD LICENSURE; RENEWAL; PRACTICE STANDARDS

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DIVISION 100

**ATHLETIC TRAINER REGISTRATION PROGRAM:
PROCEDURAL RULES**

331-100-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the Health Division shall:

(1) Publish notice of adoption, amendment, or repeal in the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date.

(2) Mail such notice to persons on the State Health Division's mailing list established pursuant to ORS 183.335(7).

(3) Mail or deliver such notice to the Associated Press.

(4) Mail such notice to the following persons, organizations or publications listed according to Division programs, where the Division determines that such persons, organizations, or publications would have an interest in the subject matter of the proposal:

- (a) Oregon Medical Association;
- (b) Oregon Public Health Association;
- (c) Health Services Commission;
- (d) Oregon Athletic Trainers Society;
- (e) National Athletic Trainers Association;
- (f) Emergency Medical Technicians;
- (g) Oregon School Athletics Association.

Stat. Auth.: ORS 183 & ORS 688.700(7)

Stats. Implemented: ORS 183.335(7)

Hist.: HD 8-1994, f. & cert. ef. 3-15-94; HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; Renumbered from 333-315-0000

331-100-0005

Model Rules of Procedure

Pursuant to ORS 183.341, the Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act effective September 9, 1995, are by this reference adopted as the rules of procedures of the Health Division.

Stat. Auth.: ORS 183 & ORS 688.700(7)

Stats. Implemented: ORS 183.335

Hist.: HD 8-1994, f. & cert. ef. 3-15-94; HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; Renumbered from 333-315-0010

DIVISION 105

**ATHLETIC TRAINER REGISTRATION PROGRAM:
GENERAL ADMINISTRATION**

331-105-0000

Information Request Charges for Copies and Documents

(1) The Program Office will provide the following information in response to telephone requests:

(a) The name and registration number of a registered athletic trainer; and

(b) Any information as to the assumed business name, the location, and the telephone number of a registered athletic trainer.

(2) A request for any information other than that listed in section (1) of this rule must be in writing.

(3) The Program Office will charge a fee for copies of its records. Charges shall not exceed the actual costs of locating, compiling, making available for inspection, preparing copy in paper, audio, microfilm or machine readable format, and delivering public records. All charges assessed must be paid before public records are made available. Estimates for processing requests for public records will be given when requested.

(4) Persons wishing to obtain copies of the following records may learn the charge for them by contacting the Program Office:

(a) A list of names, addresses, and places of business for all registered athletic trainers and registrations currently held with the Program Office;

(b) A list of all registered athletic trainers;

(c) One or more photocopies of any Program document or portion thereof;

(d) Information packets and/or materials; or

(e) Copies of the administrative rules and/or statute.

(5) Charges to the general public shall be payable in cash. Charges to state agencies shall be payable in cash unless billing to such agencies is authorized by the Division.

Stat. Auth.: ORS 688.700(7)

Stats. Implemented: ORS 688.700(7)

Hist.: HD 8-1994, f. & cert. ef. 3-15-94; HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; Renumbered from 333-315-0050

331-105-0010

Filing Changes in Business Related Information

It is the responsibility of the registrant to give reasonable written notice to the Division, Program Office by mail or in person of a change in the following information:

(1) Registrant's name, residential or mailing address;

(2) Registrant's area code and telephone number;

(3) Employment or business name, address, or location;

(4) Business area code and telephone number; or

(5) Address change resulting from city or Postal Service action.

Stat. Auth.: ORS 688.700

Stats. Implemented: ORS 688.700

Hist.: HD 8-1994, f. & cert. ef. 3-15-94; HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; Renumbered from 333-315-0040

331-105-0020

Definitions

(1) "Athletic Trainer Registration Program" means a recognized entity within the Health Division designated to register and maintain a list of athletic trainers in Oregon.

(2) "Athletic Trainer, Registered" means a person who meets the minimum qualifications for voluntary registration under Section 253, Chapter 744, Oregon Laws 1993 and is registered by the Athletic Trainer Registration Program to carry out the duties and functions as an athletic trainer.

(3) "Certificate of Registration" means the document issued by the program office authorizing the holder to use the title Athletic Trainer, Registered.

(4) "Division" means the Health Division of the Department of Human Resources of the State of Oregon.

(5) "Program Office" means the unit within the Health Division which administers the Athletic Trainer Registration Program.

(6) "Equivalent" means substantially comparable but not identical, covering the same subject matter or requirement.

(7) "Expired registration" means a registration that is not renewed prior to the expiration date and lapses into inactive status.

(8) "Program Office" means the unit within the Health Division which administers the Athletic Trainer Registration Program.

(9) "Reasonable notice" means notification in no less than 30 calendar days.

Stat. Auth.: ORS 688.700(4)
 Stats. Implemented: ORS 688.700(4)
 Hist.: HD 8-1994, f. & cert. ef. 3-15-94; HDLB 2-1996, f. 12-13-96, cert. ef. 2-1-97; Renumbered from 333-315-010

331-105-0030

Fees

(1) Payment of fees to the Health Division shall be made for the exact amount of the transaction. No monetary change will be transacted for payments made at the Program Office.

(2) Payment of fees to the Division which are dishonored by the payor's financial institution is prohibited and shall incur a penalty of \$25 if the Division has performed the service for which the negotiable instrument was submitted.

NOTE: Where the Division proposes to take action against a registrant for issuance of a non-negotiable instrument, opportunity for a hearing shall be accorded as provided in ORS 183.310 to 183.550.

(3) Payment of fees is deemed received by the Division upon receipt in the Program Office during regular business hours.

(4) Pursuant to ORS 688.700(4), the Division shall establish and collect fees as follows:

- (a) Initial Certificate registration: \$50;
- (b) Annual registration renewal: \$50;
- (c) Replacement or duplicate registration: \$25;
- (d) Delinquency (late) fee: \$15.

Stat. Auth.: ORS 688.700(4)
 Stats. Implemented: ORS 688.700(4)
 Hist.: HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97

DIVISION 110

**ATHLETIC TRAINER REGISTRATION PROGRAM:
 REGISTRATION**

331-110-0000

Registration

(1) Pursuant to ORS 688.700(3), individuals who voluntarily submitted application for registration as an athletic trainer with the Oregon Health Division prior to January 1, 1997, who are listed on the Division's Roster of Registered Athletic Trainers, shall be required to reapply for registration and submit an initial registration fee in order to receive and hold a current valid registration as an athletic trainer.

(2) Registration fees paid prior to January 1, 1997, shall be credited towards the initial registration cycle, beginning January 1, 1997, and expiring December 31, 1997.

(3) Failure to reapply and submit an initial registration fee by January 1, 1997, shall result in the individual's name being removed from the Oregon Health Division's Roster of Registered Athletic Trainers.

Stat. Auth.: ORS 688.700(3)
 Stats. Implemented: ORS 688.700(3)
 Hist.: HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97

331-110-0010

Application for Registration

Application for registration shall be made upon forms furnished by the Health Division and obtained from the program office. Application shall be accompanied by:

(1) Documentation verifying that the applicant currently holds a certificate or license issued by the Board of Certification of the National Athletic Trainers Association; or

(2) Documentation verifying that the applicant currently holds a certificate or license issued by an equivalent organization recognized by the Division; or

(3) Documentation verifying that the applicant holds a current license, certificate or registration issued by another state or territory.

Stat. Auth.: ORS 688.700
 Stats. Implemented: ORS 688.700
 Hist.: HD 8-1994, f. & cert. ef. 3-15-94; HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; Renumbered from 333-315-0020

331-110-0020

Certificates of Registration; Issuance and Renewal

(1) A certificate of registration shall be issued upon receipt of an application with satisfactory evidence documenting that applicant meets the criteria of OAR 331-110-0010.

(2) The certificate shall state that registration with the Division and issuance of the certificate indicates that the athletic trainer meets the criteria of OAR 331-110-0010 only. In addition, the certificate shall state that the law establishing the registration of athletic trainers, Section 253, Chapter 744, Oregon Laws 1993, creates a voluntary registration program only and does not grant the Health Division the authority to set mandatory minimum requirements for state licensure or certification.

(3) The certificate of registration shall be issued for a period not to exceed one year, expiring the last day of the month one year from date of issuance.

(4) Renewal shall be for a period of one year. Application for renewal should be made in advance of the registration expiration date. The renewed registration is effective as of the expiration date of the prior registration. Registration fees will not be prorated.

(5) The Division may mail to each registrant notice of the registration certificate expiration, sending the notice to the last address filed with the Program Office. The registrant is responsible for submitting application for renewal whether or not a renewal form was mailed by the Division.

(6) Payment shall be postmarked or received in the Program Office during regular business hours on or before the expiration date. A registrant whose payment is received in the Program Office or is postmarked after the expiration date will be assessed a late renewal fee.

(7) An individual who allows their registration to remain expired beyond one year from the date of expiration shall be required to reapply for registration and pay the required registration fees to reinstate to active status.

Stat. Auth.: ORS 688.700
 Stats. Implemented: ORS 688.700
 Hist.: HD 8-1994, f. & cert. ef. 3-15-94; HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; Renumbered from 333-315-0030

331-110-0030

Certificate of Registration Form

(1) If for any reason a person is mistakenly issued a registration or if the form contains a material error or is superseded by a corrected form, the Division has the authority to declare the registration certificate null and void without further action.

(2) Upon the demand of return of any registration certificate issued by the Division, the individual shall surrender the certificate requested.

(3) The possession of more than one current, valid registration certificate is prohibited.

(4) The Division shall issue a DUPLICATE registration certificate, provided:

(a) The registrant submits a written request for a reproduction to the Program Office, which contains the registrant's name, registration number, address, telephone number, employment information, and a statement attesting that the original registration certificate has been lost, stolen, disfigured or destroyed;

- (b) The registration is current and valid;
- (c) Payment of the duplicate fee accompanies the request.

Stat. Auth.: ORS 688.700
 Stats. Implemented: ORS 688.700
 Hist.: HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97

DIVISION 115

**ATHLETIC TRAINER REGISTRATION PROGRAM:
 INQUIRIES AND COMPLAINTS**

331-115-0000

Inquiries

(1) Any person is welcome to contact the Program Office to inquire on the registration, status, or employment of registered

athletic trainers, or to comment on any issue concerning athletic trainers.

(2) The Division will prepare an "official roster" of registered athletic trainers in active status on an annual basis. Interested persons may request a copy of the roster. Upon receipt of the prescribed fee for the document pursuant to OAR 331-105-0000, the roster will be mailed to the requestor.

Stat. Auth.: ORS 688.700
 Stats. Implemented: ORS 688.700
 Hist.: HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97

331-115-0010

Complaints

The Division may be contacted for inquiry or to file a written complaint regarding services rendered by a registered athletic trainer. The Division will log complaints received and provide information to the Oregon Athletic Trainers Society in order to seek resolution to any complaint filed with the Program Office.

Stat. Auth.: ORS 688.700
 Stats. Implemented: ORS 688.700
 Hist.: HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97

DIVISION 200

BODY PIERCING LICENSING PROGRAM

331-200-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the State Health Division shall:

(1) Publish notice of the adoption, amendment, or repeal in the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date.

(2) Mail such notice to persons on the State Health Division's mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule.

(3) Mail or deliver such notice to Associated Press.

(4) Mail such notice to the following persons, organizations, or publications listed according to Division programs, where the Division determines that such persons, organizations, or publications would have an interest in the subject matter of the proposal:

- (a) Association for Professional Piercers;
- (b) Oregon Retail Council;
- (c) National Cosmetology Association of Oregon;
- (d) Ear Piercing Manufacturers of the United States;
- (e) Oregon beauty and piercing industry trade papers and newsletters (upon request);
- (f) Capitol Press Room;
- (g) Associated Press.

Stat. Auth.: ORS 690.570 (Ch. 562, OL 1995, effective 9-9-95)
 Stats. Implemented: ORS 183
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-200-0010

Model Rules of Procedure

Pursuant to OAR 183.341, the Oregon Health Division adopts the Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act as amended and effective September 9, 1995.

Stat. Auth.: ORS 690.570 (Ch. 562, OL 1995, effective 9-9-95)
 Stats. Implemented: ORS 183.341
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

DIVISION 205

**BODY PIERCING LICENSING PROGRAM
 LICENSING/ADMINISTRATION: GENERAL**

331-205-0000

Charges for Copies and Documents

(1) All requests for copies of public records pertaining to the Body Piercing Licensing Program shall be in writing.

(2) The Division may charge for copies of its records. Fees shall not exceed actual costs of locating, compiling, making available for inspection, preparing copy in paper, audio, computer disk, microfilm or machine readable format, and delivering public records. All fees assessed must be paid before public records are made available. Estimates for processing requests for public records will be given when requested.

(3) Persons wishing to obtain copies of records may learn the charge for them by contacting the Division office.

(4) Charges to the general public shall be payable in cash. Charges to state agencies shall be payable in cash unless billing to such agencies is authorized by the Program Administrator.

Stat. Auth.: ORS 690.540 (Ch. 562, OL 1995, effective 9-9-95)
 Stats. Implemented: ORS 690.540
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-205-0010

Notification Requirements for Changes to Information

Facility license holders shall notify the Division office by mail or in person within five (5) calendar days of a change in the following information:

- (1) Business name;
- (2) Area code and telephone number;
- (3) General hours of operation;
- (4) Address change resulting from city or Postal Service action;
- (5) License status, whether from active to inactive practice or from inactive to active practice;
- (6) Closure or sale of facility;
- (7) Name and registration number of individuals working in the facility providing body piercing services; or
- (8) Change in employment status of body piercing technicians working in the facility.

Stat. Auth.: ORS 690.540 (Ch. 562, OL 1995, effective 9-9-95)
 Stats. Implemented: ORS 690.540
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-205-0020

Definitions

As used in OAR Chapter 331, Division 200:

- (1) "Acceptable" means satisfactory or adequate; fulfilling the needs or requirements of a specified rule, provision or policy.
- (2) "Antiseptic" means product used to stop or inhibit the growth of bacteria.
- (3) "Approved" means acceptable to the Oregon Health Division.
- (4) "Clean" means the absence of soil and dirt.
- (5) "Communicable disease or condition" means diseases or conditions diagnosed by a licensed physician as being contagious or transmissible which include but are not limited to the following:

- (a) Chickenpox;
- (b) Diphtheria;
- (c) Measles;
- (d) Meningococcal Disease;
- (e) Mumps;
- (f) Pertussis (whooping cough);
- (g) Plague;
- (h) Poison oak;
- (i) Rubella;
- (j) Scabies;
- (k) Staphylococcal skin infection (boils, infected wounds);
- (l) Streptococcal infections (strep throat);
- (m) Tinea (ring worm);
- (n) Tuberculosis.
- (6) "Completed procedure" means a piercing which has been finished.

(7) "Cosmetic" means a preparation designed to beautify the body.

(8) "Easily accessible" means unrestricted use or availability, easy to approach or enter.

(9) "Enclosed storage area" means separate room, closet, cupboard or cabinet.

(10) "Equivalent" means comparable but not identical, covering the same subject matter.

(11) "Facility" means physical place of business and includes all areas used by a body piercing technician and clients, including but not limited to treatment area and waiting/reception area.

(12) "High-level disinfectant" means a chemical agent which has demonstrated tuberculocidal activity.

(13) "Instruments" means body piercing equipment. Such equipment includes but is not limited to piercing needles, forceps, hemostats, tweezers, or other implements used to pierce, puncture, or be inserted into any part of the human body for the intended purpose of making a permanent hole. Such equipment also includes studs, hoops, rings or other decorative jewelry, materials or apparatuses inserted into any part of the human body for the intended purpose of placement in the hole resulting from piercing.

(14) "Linens" means cloths or towels used for such things as draping or protecting table.

(15) "Low-level disinfectant" means a chemical agent which has demonstrated bactericidal, germicidal, fungicidal and limited virucidal activity.

(16) "Needle" means implement used to pierce or puncture a hole in any part of the human body.

(17) "Operatory" means:

(a) A screened or separated area away from public access and viewing, isolated from a reception or waiting area, when piercings are conducted upon the genital, nipple, or any other discretionary part of a person's body; or

(b) A designated area which is segregated from other business activities or services, when ear piercing services are conducted. The designated area may consist solely of a table, work station and/or chair independent of any other retail or merchandise activities.

(18) "Owner" means and includes every person having ownership, control or custody of any place of business or employment.

(19) "Permanent Hole" means a hole produced by piercing or puncturing any part of the human body, with instruments intended to leave an opening in body tissue(s) into which an appropriate device or apparatus may be inserted. Permanent hole would include any body part newly pierced or punctured which is undergoing a healing process; and, any piercing whether or not removal of a device or apparatus from the perforation would result in fusing or healing of the tissue or skin structures.

(20) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons.

(21) "Piercing gun" means a hand-held tool manufactured exclusively for piercing the earlobe, into which studs and clutches are placed and inserted into the earlobe by a hand-squeezed or spring loaded action to create a permanent hole. The tool is made of plastic, stainless steel or other material that is able to be disinfected.

(22) "Place or places of business" means the name, mailing address, and location where the registrant or person provides piercing services.

(23) "Premises" means the entire building or structure within which services are provided.

(24) "Probation" means continuation of licensure or registration under conditions set by the Division.

(25) "Program" means office and staff designated to carry out the daily functions of the Body Piercing Licensing Program.

(26) "Program Administrator" means the individual who directs the daily functions of the Program as delegated by the Administrator of the Health Division.

(27) "Protective gloves" means gloves made of vinyl, latex or "Nitrile".

(28) "Public view" means open to view and easy for the public to see, located in the waiting or lobby area of place of business.

(29) "Regular address of place or places of business" means a street or location address, not a post office box.

(30) "Renew" means to extend a current license or registration for a year beyond expiration or to bring an inactive license or registration to current, active status.

(31) "Sharps" means any object that can penetrate the skin, including but not limited to needles, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

(32) "Sharps container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal. The container must be red and may be labeled with the "Biohazard" symbol.

(33) "Single Use" means products, instruments or items that are disposed of after each use, including but not limited to cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, piercing needles and protective gloves.

(34) "Sterilization" means destruction of all forms of micro-biotic life, including spores.

(35) "Suspend" as used in ORS 690.560 means disciplinary action taken by the Division.

(36) "Universal Precautions" means a set of guidelines and controls, published by the Center for Disease Control (CDC), which outline certain practices which health workers should employ in order to prevent parenteral, mucous-membrane, and no intact skin exposure to blood-borne pathogens. The method of infection control requires the employer and employee to assume that *all* human blood and specified human body fluids are infectious for HIV, HBV, and other blood borne pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, proper handling and disposal of needles and other sharp instruments and blood and body fluid contaminated products.

Stat. Auth.: ORS 690.540, ORS 690.570 & Ch. 562, OL 1995, effective 9-9-95
 Stats. Implemented: ORS 690.540 & ORS 690.570
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-205-0030

Fees

(1) Payment of fees to the Division shall be made for the exact amount of the transaction. No monetary change will be transacted for payments made at the Program office. Application fees are non-refundable.

(2) Payment of fees to the Division which are dishonored by the payor's financial institution is prohibited and shall incur a civil penalty of \$25 if the division has performed the service for which the negotiable instrument was submitted. Civil penalties imposed under this section shall be imposed as provided in ORS 183.090.

(3) Payment of fees are deemed received by the Division upon receipt in the Program office during regular business hours.

(4) The fee schedule established by statute is:

- (a) Application for facility license: \$100.
- (b) Initial, one-year facility license: \$100.
- (c) Annual renewal of facility license: \$100.
- (d) Technician application: \$10.
- (e) Initial technician registration: \$25.
- (f) Annual renewal of technician registration: \$25.
- (g) Duplicate license or registration: \$10.

Stat. Auth.: ORS 690.550 (Ch. 562, OL 1995, effective 9-9-95)
 Stats. Implemented: ORS 690.550
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

DIVISION 210

**BODY PIERCING LICENSING PROGRAM
 APPLICATION FOR LICENSURE AND REGISTRATION**

331-210-0000

Issuance of Facility Licenses

The Administrator of the Program may issue a facility license providing that the applicant:

- (1) Is at least 18 years of age;

(2) Submits application on a form prescribed by the Division, which indicates the name of owner, corporation or partnership, facility address, mailing address if different from physical location, and area code and telephone number;

(3) Pays the required application and license fees;

(4) Certifies that application information is correct;

(5) Provides a map or directions to the facility if it is located in a rural or isolated area;

(6) Registers with the Corporation Division and received an assumed business name prior to applying for a facility license (unless doing business under the full name of the owner);

(7) Complies with all applicable rules and regulations of the Division and other state, county and local agencies. This includes compliance with specifications for building, fire and plumbing codes, and with exit and fire standards established by the Building Codes Agency, the Office of the State Fire Marshal, and compliance with Oregon Occupational Safety and Health Division, OAR 437, Division 2, General Occupational Safety and Health Rules (29 CFR 1910), Subdivision Z Bloodborne Pathogens.

Stat. Auth.: ORS 690.520 (Ch. 562, OL 1995, effective 9-9-95)

Stats. Implemented: ORS 690.520

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-210-0010

Criteria for Operating a Facility; Inspections

(1) Each facility owner shall:

(a) Require each individual working within the facility premises providing piercing services to be registered with the Division as a body piercing technician;

(b) Be responsible for technicians complying with all applicable health, safety, sanitation and sterilization rules and regulations of the Division and other state agencies;

(c) Be responsible for notifying the Division prior to employment of new registrant(s) within the facility or immediately following termination of any registrant's employment;

(d) Be responsible for maintaining a list of registrants employed at the facility for review by the Division upon request;

(e) Post risk factor notice in public view on the facility premises when open for business;

(f) Post name, address and telephone number of Oregon Health Division, Program office for clients to contact regarding services, licensing issues or complaints;

(g) Provide disclosure statement to all clients on risks involved in body piercing services, and aftercare instructions;

(h) Allow a Division inspector to inspect the facility when it is open for business;

(i) Be prohibited from exhibiting, or failing to prevent employees or technicians from exhibiting behavior which impedes the normal progress of the inspection; and

(j) Contact the Division and negotiate for an inspection if after two years the Division has been unable to perform an inspection because the facility was closed;

(2) Facility licenses are not transferable from person to person, business to business, or to a new location.

(3) Persons purchasing an existing body piercing facility shall:

(a) Meet the requirements of a new facility (refer to OAR 331-210-0000);

(b) Submit a new facility application, pay the application and license fees, and be issued a new facility license prior to assuming operation of the business; and

(c) Comply with all the administrative rules of the Division concerning health, safety, sanitation and sterilization requirements.

(4) Owners of body piercing facilities being moved to a new physical location shall:

(a) Meet the requirements of a new facility (refer to OAR 331-210-0000);

(b) Submit an application, pay the application and license fees, and be issued a new facility license prior to opening for business at the new location; and

(c) Comply with all the administrative rules of the Division concerning health, safety, sanitation and sterilization requirements.

(5) Facility owners closing their facilities shall inform the Division office in writing by mail or in person within 5 calendar days of closure of the facility; if the same owner reopens the facility while the license is still current, inform the Division office prior to resuming business.

Stat. Auth.: ORS 690.520 (Ch. 562, OL 1995, effective 9-9-95)

Stats. Implemented: ORS 690.520

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-210-0020

Body Piercing Technician Registration; Criteria

Facility owners are responsible for ensuring that individuals working in the facility register with the Division and comply with all applicable health, safety, sanitation and sterilization rules and regulations of the Division and other state agencies. Application for registration as a body piercing technician shall:

(1) Be made on a form prescribed by the Division and shall be accompanied by payment of the application and registration fees and required documentation. Required documentation includes the completed application form and documentation which contains the following:

(a) Applicant's name (registrant's address, area code and telephone number are optional);

(b) Applicant's date of birth;

(c) Facility name and license number, business address where services are provided, area code and telephone number; and

(d) Signed copy of the written statement affirming receipt of administrative rules, client notification brochure outlining risk factors and possible consequences of piercing.

(2) The Division may also request that applicants provide their Social Security Numbers.

(3) Technicians are prohibited from providing body piercing services outside of a licensed body piercing facility. Registration is not transferable from person to person.

(4) Notice shall be submitted to the Division prior to any change of employment at a new facility location.

Stat. Auth.: ORS 690.510 (Ch. 562, OL 1995, effective 9-9-95)

Stats. Implemented: ORS 690.510

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

DIVISION 215

BODY PIERCING LICENSING PROGRAM LICENSURE AND REGISTRATION ISSUANCE; RENEWAL CRITERIA

331-215-0000

Issuance and Renewal of Facility Licenses

(1) Facility licenses shall be issued for one-year and shall expire the last day of the month in which the license was issued.

(2) The Division may mail a renewal notice to license holder's last-known address on file with the Division. The license holder is responsible for submitting application for renewal whether or not a renewal form was mailed by the Division.

(3) Application for renewal shall be made in advance of the license expiration date. An expired license may be reactivated by payment of a renewal fee.

(4) Failure to renew or reactivate a license within one year from the expiration date will require reapplication and payment of the application and one year license fees.

(5) License holders of facilities where sterilization is conducted shall conduct routine test of the effectiveness of sterilization at least monthly of biological monitoring (commercial preparation of spores) and submit the results to the Division at the time of license renewal or reactivation. Facilities who contract for use of sterilization equipment shall make copies of the test results available to the Division upon request.

(6) Application for renewal shall include the following information:

(a) Facility license number and expiration date;

(b) Name and place of business, or business mailing address; and

(c) Area code and telephone number.

Stat. Auth.: ORS 690.520 (Ch. 562, OL 1995, effective 9-9-95)

Stats. Implemented: ORS 690.520

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-215-0010

Issuance and Renewal of Technician Registrations

(1) Issuance of a technician registration authorizes the registrant to provide body piercing services in a licensed facility.

(2) Registrations shall be issued for one-year and shall expire on the last day of the month in which the registration was issued.

(3) The Division may mail initial registration and annual renewal notices to the last known address of the facility on file with the Division where the technician is employed to provide body piercing services.

(4) Failure to renew or reactivate a registration within one year from the date of expiration will require reapplication and payment of the application and registration fees.

(5) Application for renewal shall include the following information:

(a) Name (current residential or mailing address is optional);

(b) Registration number and expiration date; and

(c) The facility name and license number, business address where services are being provided and business area code and telephone number.

Stat. Auth.: ORS 690.510 (Ch. 562, OL 1995, effective 9-9-95)

Stats. Implemented: ORS 690.510

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-215-0020

License and Registration Form

(1) Applicants who satisfactorily complete the application requirements shall be issued a license or registration by the Division authorizing the holder to operate a facility or provide body piercing services according to ORS 690.510 or 690.520.

(2) If for any reason a person is mistakenly issued a license or registration, or if the form contains a material error or is superseded, the Division has the authority to declare the license or registration null and void without further action.

(3) Upon the demand of return of any license or registration issued by the Division, the individual shall surrender the license or registration requested.

Stat. Auth.: ORS 690.510, ORS 690.520 & Ch. 562, OL 1995, effective 9-9-95

Stats. Implemented: ORS 690.510 & ORS 690.520

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-215-0030

Posting of Licenses, Registrations, Inspection Certificates, Disclosure Statement and Notice; Duplicate Licenses and Registrations

(1) Facility license holders shall post the following in public view within the premises:

(a) All facility licenses and technician registrations;

(b) A copy of the most recent inspection certificate with the full length and width of the page visible;

(c) A disclosure statement prescribed by the Division, advising of the risks and possible consequences of body piercing services; and

(d) A notice containing the address of the Program office and the procedure for filing a complaint.

(2) The possession of more than one current valid license or registration is prohibited.

(3) The posting of a pocket identification card in lieu of a license or registration is prohibited.

(4) The posting of a reproduction of any license or registration is prohibited unless the Division issued and marked it "Duplicate".

(5) Duplicate registrations are not issued for multiple work locations.

(6) The Division shall issue a duplicate license or registration to the facility provided:

(a) The license or registration is current and valid and the holder submits a written request for a reproduction and includes payment of a duplicate fee; and

(b) The holder includes with the request a statement attesting that the original license or registration has been lost, stolen, disfigured or destroyed.

Stat. Auth.: ORS 690.540 (Ch. 562, OL 1995, effective 9-9-95)

Stats. Implemented: ORS 690.540

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-215-0040

Piercing Services at Location Other Than Named Place(s) of Business

(1) Body piercing services shall not be provided outside of a licensed facility.

(2) Body piercing technicians shall not provide services at any locations other than at the licensed body piercing facilities where registered with the Division.

(3) Upon submission of a written request to the Division, body piercing services may be conducted at locations other than the physical site of a licensed facility for the purposes of product demonstration, industry trade shows or for educational reasons. Written authorization from the Division shall be required prior to providing piercing services.

Stat. Auth.: ORS 690.570 (Ch. 562, OL 1995, effective 9-9-95)

Stats. Implemented: ORS 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

DIVISION 220

BODY PIERCING LICENSING PROGRAM SAFETY AND STERILIZATION STANDARDS

331-220-0000

Compliance With All Applicable Regulations; Facility Standards

(1) Facility license holders shall observe and be subject to all Health Division and other state regulations pertaining to public health and safety. Compliance with building, state fire, plumbing, and electrical regulations is required.

(2) In addition, when an employee/employer relationship exists, facility license holders shall comply with ORS 654 and the Oregon Safe Employment Act.

(3) The cleanliness and sanitation of any common area of separately licensed facilities in one premise is the responsibility of each license holder on that premises and any violation found in the common area will be cited against all facility licenses posted on the premises.

(4) Facilities shall have an operator or designated service area according to the type of services being performed as defined in OAR 331-205-0020(17).

(5) Facilities shall use and maintain appropriate equipment for providing body piercing services at the place of business. Equipment includes but is not limited to:

(a) Piercing gun of non-porous material which is able to be disinfected;

(b) Single-use stainless steel needles;

(c) Sterilization bags with color strip indicator;

(f) Protective disposable gloves;

(e) Single-use towels, tissues or paper products;

(g) Sharps container; and

(h) Approved equipment for cleaning and sterilizing instruments.

(6) Products and instruments are prohibited from being used in a manner that is disapproved by the Oregon Health Division or the U.S. Food and Drug Administration.

(7) Facilities shall be kept clean and orderly, and equipment shall be maintained in good repair.

(8) All surfaces, including counters, tables, equipment, client chairs or recliners in service areas shall be made of smooth, non-absorbent and non-porous material.

(9) Surfaces or blood spills shall be cleaned using an EPA-registered high-level disinfectant, used according to the manufacturer's instructions.

(10) Disposable products that come in contact with the area(s) to be pierced shall be stored in closeable clean containers.

(11) Clean, sterilized re-usable instruments shall be stored in clean, sterilized containers.

(12) New or disinfected piercing gun tools shall be stored separately from used or soiled tools or instruments.

(13) Chemicals shall be stored in labeled, closed containers.

(14) Clean linens or single-use disposable paper products, and single-use piercing needles, piercing studs and protective gloves shall be used for each client.

(15) Used linens shall be disposed of or stored in a closed or covered container until laundered.

(16) Facilities shall have easy access to a sink with hot and cold running water, as part of surrounding premises or adjacent to the facility but separate from a public restroom.

(17) Lavatories located within the facilities shall be kept clean and in good working order at all times.

(18) All waste material related to body piercing shall be deposited in a covered container following service for each client.

(19) All public places in a facility shall be governed under the Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875, as amended and in effect September 9, 1995.

(20) Pets or other animals shall not be permitted in the business facility. This prohibition does not apply to registered therapy animals, trained guide animals for the disabled, sightless or hearing impaired, or fish or reptiles in aquariums.

Stat. Auth.: ORS 690.510, ORS 690.520 & Ch. 562, OL 1995, effective 9-9-95
 Stats. Implemented: ORS 690.540 & ORS 690.570
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-220-0010

Approved Sterilization Modes; Procedures

(1) Facilities shall sterilize all piercing instruments listed in OAR 331-205-0020(13) which have or may come into direct contact with a client's skin or be exposed to blood or bodily fluid.

(2) Piercing needles shall not be re-used even if cleaned and sterilized by use of an autoclave. All piercing needles shall be single-use.

(3) Approved modes of sterilization include:

(a) Use of autoclave (steam or chemical) sterilizer, registered and listed with the federal Food and Drug Administration, which is used, cleaned and maintained according to the manufacturer's directions; or

(b) Single-use prepackaged sterilized instruments obtained from suppliers or manufacturers.

(4) Facilities using an autoclave for instrument sterilization shall test the device on a monthly basis for functionality and thorough sterilization. Chemical and biological indicator test results shall be available at the facility at all times for inspection by the Division enforcement officers. Testing shall be conducted as follows:

(a) Chemical indicators (color change) to assure sufficient temperature and proper functioning of equipment during sterilization cycle; and

(b) Biological monitoring system (commercial preparation of spores) to assure all microorganisms have been destroyed and sterilization achieved.

(5) Instruments approved for re-use in providing piercing services shall be cleaned prior to sterilizing by brushing or swabbing to remove foreign material or debris, rinsing, then:

(a) Immersing in detergent and water in an ultrasonic unit that operates at 40 to 60 kilohertz, followed by a thorough rinsing and wiping; or

(b) Submerging and soaking in a protein dissolving detergent/enzyme cleaner, followed by a thorough rinsing and wiping.

(6) Instruments approved for re-use in providing piercing services shall be cleaned according to subsection (5) of this rule and placed in sterile bags, with color strip indicators, and sterilized by exposure to one cycle of an approved sterilizer.

Stat. Auth.: ORS 690.510, ORS 690.520 & Ch. 562, OL 1995, effective 9-9-95
 Stats. Implemented: ORS 690.540 & ORS 690.570
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-220-0020

Ear Piercing Services; Facility Requirements

Facilities which provide exclusively ear piercing services, shall be subject to the following standards:

(1) Facilities shall use a piercing gun manufactured and designed to minimize contact with the client's skin and insert a pre-packaged sterilized ear piercing stud into the ear lobe simultaneously with piercing.

(2) The piercing gun shall be made of material which is able to be disinfected. All parts of the gun in direct contact with the client's skin shall be disinfected before and after use on a client.

(3) Single-use prepackaged sterilized ear piercing studs shall be used for each client.

NOTE: Facilities providing exclusively ear piercing services using a manufactured ear piercing gun and single-use prepackaged sterilized ear studs are exempted from use of an autoclave.

(4) Ear piercing services shall be conducted in an area of the facility which is separately maintained from other business activities or services as defined in OAR 331-205-0020(17)(b).

(5) New or disinfected piercing gun tools shall be stored separately from used or soiled tools or instruments.

(6) Facilities shall comply with the licensing, registration and safety/sanitation regulations of OAR 331, Division 200 through 225.

Stat. Auth.: ORS 690.510, ORS 690.520 & Ch. 562, OL 1995, effective 9-9-95
 Stats. Implemented: ORS 690.540 & ORS 690.570
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-220-0030

Handling Disposable Materials

(1) Disposable materials coming into contact with blood and/or body fluids shall be disposed of in a sealable plastic bag (separate from sealable trash or garbage liners) or in a manner that not only protects the technician and the client, but also others who may come into contact with the material such as sanitation workers.

(2) Disposable sharp objects that come in contact with blood and/or body fluids shall be disposed of in a sealable rigid (puncture proof) sharps container that is strong enough to protect the technician and client and others from accidental cuts or puncture wounds that could happen during the disposal process.

(3) Facilities shall have sealable plastic bags available. They shall also have sealable rigid containers available at the facility if disposable sharp objects are used.

Stat. Auth.: ORS 690.510, ORS 690.520 & Ch. 562, OL 1995, effective 9-9-95
 Stats. Implemented: ORS 690.540 & ORS 690.570
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-220-0040

Communicable and Blood Borne Diseases

Facility owners shall be responsible for adhering to the following standards:

(1) A technician or an employee is prohibited from providing body piercing services or working in a facility while having a disease or condition which has been diagnosed by a physician to be in a communicable or transmissible form. Refer to OAR 331-205-0020(5).

(2) A technician or employee shall not diagnose or treat any suspected communicable disease or condition or knowingly provide body piercing services on clients with communicable diseases or conditions. Refer to OAR 331-205-0020(5).

(3) A technician or employee providing service or working in a facility while diagnosed with or suspected of having acquired an immunodeficiency virus and related immunodeficiency conditions or the hepatitis B virus shall observe and follow all current Center for Disease Control (CDC) standards for public service workers regarding personal protective equipment and disposal of blood or bodily fluid contaminated articles, tools and equipment. This includes technicians or employees providing services to clients who have been diagnosed with or are suspected of having an

immunodeficiency virus, related conditions or the hepatitis B virus.

NOTE: It is the position of the Health Division that human immunodeficiency virus (HIV) is the cause of acquired immunodeficiency syndrome (AIDS) and related immunodeficiency conditions. This virus, as well as hepatitis B virus (HBV) may be transmitted by sharp instruments contaminated by blood or other body fluids, if proper precautions are not followed. As the carriers of these viruses may have no symptoms, the most prudent course to follow is to treat body fluids from all persons with the same high standards of caution and to rigorously follow established safety and sanitation practices as required by the law and rules of the Division. There is no published evidence to support casual transmission of HIV, by sneezing or touching, even in close household settings involving AIDS patients and family members caring for them at home. Because HIV is not spread by casual means and because of the inadequacies of the HIV antibody test, there is no reason for the Division to require blood tests prior to certification and/or licensure. Good hand washing after glove removal and between each client is imperative and the most important procedure for prevention of all infections, including HIV. Universal precautions are ample to prevent transmission of HIV or HBV in a facility setting.
Stat. Auth.: ORS 690.510, ORS 690.520 & Ch. 562, OL 1995, effective 9-9-95
Stats. Implemented: ORS 690.540 & ORS 690.570
Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-220-0050

Serving Clients

Facility owners shall be responsible for adhering to the following standards while serving clients in the facility:

(1) Technicians shall observe and follow thorough hand washing with soap and water or equivalent hand washing product before and after serving each client and as needed to prevent cross contamination and/or transmission of body fluids, infections or exposure to service related wastes or chemicals.

(2) Technicians shall cleanse the client’s skin, excluding the areas surrounding the eyes, by washing with a FDA registered antiseptic solution applied with a clean single-use paper product before and after piercing the client’s skin.

(3) All substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Single use tubes or containers and applicators shall be discarded following the piercing service.

(4) Use of any type of marking pen must be on cleansed skin or by use of a surgical marking pen sanitized by design, such as alcohol based ink pens.

(5) Use of styptic pencils or alum solids to control blood flow is prohibited.

(6) After care shall be administered to each client following service. After care shall consist of both verbal and written instructions concerning proper care of the pierced area. Instructions shall specify:

- (a) Care following service;
- (b) Possible side effects; and
- (c) Restrictions.

(7) Technicians who have open sores or bleeding lesions on their hands shall not have client contact until the lesions have healed to the scab phase and shall cover them with protective gloves and/or impervious bandages prior to contact with clients.

(8) As a universal precaution against the possibility of cross-contamination, technicians shall wear single-use disposable protective gloves when providing service.

(9) Technicians shall wear eye goggles, shields and/or a mask if spattering is likely to occur while providing services.

(10) Disposable materials that come in contact with blood and/or body fluids, or are used in cleaning blood spills shall be discarded according to provisions of OAR 331-220-0030 to protect the technician, clients and others who may come into contact with the material.

Stat. Auth.: ORS 690.510, ORS 690.520 & Ch. 562, OL 1995, effective 9-9-95
Stats. Implemented: ORS 690.540 & ORS 690.570
Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-220-0060

Client Records; Prohibitions

(1) Facilities shall maintain client records. The record shall include the name and address of client, date of each service, type

of service, name and registration number of the technician providing service and special instructions or notations relating to the client’s medical or skin conditions.

(2) Facility owners may obtain advice from physicians regarding medical information needed to safeguard client and technician.

(3) Records shall be kept for a minimum of two years.

(4) Pre-service information in written form shall be given to client to advise of possible reactions, side-effects and potential complications of the body piercing process. After care instructions shall be given to the client both verbally and in writing after every service.

(5) Use of piercing guns shall be limited to piercing of the earlobe exclusively. No other part of the body or ear shall be pierced by use of a piercing gun.

(6) Piercing is prohibited:

- (a) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;
- (b) On a person who show signs of recent intravenous drug use;
- (c) On a person with sunburn or skin diseases or disorders such as open lesions, rashes, wounds or puncture marks;
- (d) On a person under 18 years of age :

(A) Genital or nipple piercing is prohibited regardless of parental consent.

(B) Written parental consent shall be required to be issued in person to the facility for piercing services on a minor. Photographic identification of the parent or legal guardian is required.

(6) Use of personal client jewelry or any apparatus and device presented by the client for use during the initial body (including ears) piercing is prohibited. Pre-sterilized jewelry, apparatus or device(s) shall be provided by the facility and be of a metallic content recognized as compatible with piercing services.

Stat. Auth.: ORS 690.510, ORS 690.520 & Ch. 562, OL 1995, effective 9-9-95
Stats. Implemented: ORS 690.530, ORS 690.540 & ORS 690.570
Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

DIVISION 225

BODY PIERCING LICENSING PROGRAM COMPLIANCE

331-225-0000

Complaint Handling

(1) Complaints against facilities and/or technicians regarding licensing, safety, sanitation or sterilization violations may be filed with the Division. The complaint shall be made on forms provided by the Division and shall include the following information:

- (a) The name of the person making the complaint;
- (b) The name of the person, facility owner or license holder, or technician against whom the complaint is being made;
- (c) A concise description of the charge against the person, facility or technician giving dates, time, circumstances of the alleged violation; and
- (d) The signature of the person making the complaint.

(2) Upon receipt of a complaint regarding violations of the licensing law or safety and sterilization rules, the Division will determine if further action is to be taken and may initiate an inspection or investigation.

(3) Upon receipt of a written complaint regarding services provided, the Division shall send a copy of the complaint (including name of complainant) to the facility license holder and request a reply to the charges within 20 days from the date of the inquiry by the Division. The Division will determine if further action by the Division is appropriate.

NOTE: The Division endeavors to maintain confidentiality of complainants involving violations of statute or rule(s) whenever possible.
Stat. Auth.: ORS 690.540, ORS 690.570 & Ch. 562, OL 1995, effective 9-9-95
Stats. Implemented: ORS 690.540 & ORS 690.570
Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-225-0010

Civil Penalty Considerations

(1) In addition to any other penalty provided by law, a person who violates any provision of ORS 690.500 to 690.560, or any rule adopted thereunder shall be subject to a civil penalty imposed by the Health Division. The Division reserves the right to pursue other remedies against alleged violators and may take any other disciplinary action at its discretion that it finds proper, including assessment of penalties not to exceed \$1,000.

(2) In establishing the amount of the penalty for each violation, the Division will consider, but not be limited to the following factors:

- (a) The gravity and magnitude of the violation;
- (b) The person's previous record of complying or of failing to comply with the provisions of ORS 690.500 to 690.560, or with the rules adopted under ORS 690.570;
- (c) The person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and
- (d) Such other considerations as the Division may consider appropriate.

(3) The Division may revoke, suspend or refuse to issue or renew the facility license of the holder who fails to pay on demand a civil penalty which has become due and payable, provided that it first gives the license holder an opportunity for a hearing as outlined in ORS chapter 183.

Stat. Auth.: ORS 690.560, ORS 690.999 & Ch. 562, OL 1995, effective 9-9-95
 Stats. Implemented: ORS 183; ORS 690.560 & ORS 690.999
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

331-225-0020

Schedule of Penalties for Licensing Violations; Violation of Standards

The Division may assess penalties against a facility owner for the first and second licensure or practice violations according to the provisions of OAR 331-225-0010(1) and (2). For subsequent violations the Division shall, while reserving the right to impose other sanctions, assess monetary penalties according to the following schedule:

- (1) Advertising body piercing or making body piercing services available without first receiving a current, valid facility license, or with an expired or suspended facility license: \$500.
- (2) Advertising or allowing an individual to provide body piercing services without obtaining the required technician registration or with an expired technician registration: \$50.
- (3) Failing to post a current, valid facility license or technician registration in public view: \$50.
- (4) Failing to submit changes of required licensing information within time frame set in rule: \$50.
- (5) Providing piercing services at a location other than place or place(s) of businesses licensed by the Division, without receiving prior approval from the Division in accordance with OAR 331-215-0040(3): \$500.
- (6) Using a reproduction of a license or registration in place of an original: \$50.
- (7) Failing to allow inspection of the premises by the Division upon request: \$500 and/or suspension.
- (8) Failing to meet the facility standards adopted by the Division: \$500 and/or suspension or revocation.
- (9) Failing to comply with the Oregon Indoor Clean Air Act: \$100.
- (10) Failing to provide a private or separate operatory area for clients: \$100.
- (11) Except as provided by rule, allowing animals in the facility: \$100.
- (12) Failing to maintain the required equipment or have chemical indicators at facility: \$500 and/or suspension or revocation.
- (13) Failing to use chemical and biological indicators as required to ensure proper sterilization: \$500 and/or suspension or revocation.
- (14) Failing to sterilize instruments using an approved mode: \$1,000 and/or suspension or revocation.

(15) Failing to meet sterilization standards: \$1,000 and/or suspension or revocation.

(16) Failing to clean instruments prior to sterilization: \$1,000 and possible suspension or revocation.

(17) Failing to wash hands before and after service and/or wear protective gloves: \$500.

(18) Failing to prepare area on client to be pierced in accordance with Division standards: \$500 and possible probation.

(19) Failing to meet cleanliness and/or storage standards for linens: \$500 and possible probation.

(20) Failing to meet storage requirements for instruments, products or chemicals: \$500 and possible probation.

(21) Failing to dispose of materials with blood or body fluids in sealable, and if sharp, also rigid container, or having containers available: \$1,000 and possible probation.

(22) Failing to have required covered waste receptacles: \$100.

(23) Providing a restricted service(s): \$1,000 and/or suspension or revocation.

(24) Failing to have and maintain client case history records: \$500.

Stat. Auth.: ORS 690.560 & Ch. 562, OL 1995, effective 9-9-95
 Stats. Implemented: ORS 690.560
 Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96

DIVISION 400

PROCEDURAL RULES

331-400-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the Board of Denture Technology shall:

(1) Publish notice of the adoption, amendment, or repeal in the Secretary of State's Bulletin referred to in ORS 183.360 at least twenty-one (21) days prior to the effective date.

(2) Mail such notice to persons on the Board of Denture Technology mailing list established pursuant to ORS 183.335(7) at least twenty-eight (28) days before the effective date of the rule.

(3) Mail or deliver such notice to Associated Press.

(4) Mail such notice to the following persons, organizations, or publications listed according to Division programs, where the Division determines that such persons, organizations, or publications would have an interest in the subject matter of the proposal:

- (a) Gray Panthers;
- (b) United Seniors of Oregon;
- (c) Oregon State Denturist Association;
- (d) Oregon Dental Association;
- (e) Oregon Dental Hygienists Association;
- (f) Oregon Dental Assistants Association;
- (g) Oregon Association of Dental Labs;
- (h) Oregon Board of Dentistry;
- (i) Oregon State Department of Education, Private Career Schools Program;
- (j) Governor's Office of Education Work Force Policy/Office of Degree Authorization;
- (k) Oregon Public Health Association;
- (l) OSPIRG;
- (m) Oregon State Council of Senior Citizens.

Stat. Auth.: ORS 183 & ORS 680.565
 Stats. Implemented: ORS 183
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-400-0010

Model Rules of Procedure

Pursuant to OAR 183.341, the Board of Denture Technology adopts the Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act as amended and effective September 17, 1997.

Stat. Auth.: ORS 183.341
 Stats. Implemented: ORS 183
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-400-0020

Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases

To Parties in Contested Cases. In addition to the requirements stated in rule 137-003-0000 of the Attorney General's Model Rules of Procedure adopted under rule 331-400-0010, the notice to parties in contested cases may include a statement that an answer to the assertions or charges will be required and, if so, the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of rule 331-400-0030 with the notice.

Stat. Auth.: ORS 183
 Stats. Implemented: ORS 183
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-400-0030

Hearing Requests and Answers; Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Administrator by the party or his attorney and an answer shall include the following:

- (a) An admission or denial of each factual matter alleged in the notice;
- (b) A short and plain statement of each relevant affirmative defense the party may have.
- (2) Except for good cause:
 - (a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;
 - (b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;
 - (c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and
 - (d) Evidence shall not be taken on any issue not raised in the notice and the answer.

Stat. Auth.: ORS 183
 Stats. Implemented: ORS 183
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-400-0040

Disciplinary Procedure; Rules and Orders; Judicial Review

(1) When the Division proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license or place a license on probation, opportunity for hearing shall be accorded as provided in ORS 183.413 to 183.502.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided by ORS 183.310 to 183.480.

(3) Subject to the approval of the Attorney General, an officer or employee of the Health Licensing Office is authorized to appear on behalf of the Division when the Division proposes to deny, suspend or revoke a license or impose a civil penalty.

(4) The agency representative may not make legal argument on behalf of the Division.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the Division to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency or Division; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and

(D) The admissibility of evidence or the correctness of procedures being followed.

(5) When an agency officer or employee represents the Division, the presiding officer shall advise such representative of the

manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change the application of the law on waiver or the duty to make timely objections. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 183
 Stats. Implemented: ORS 183
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

DIVISION 405

GENERAL ADMINISTRATION

331-405-0000

State Board of Denture Technology

(1) In addition to making recommendations concerning the ministerial functions associated with carrying on the duties, functions and powers of the Board, the Board shall:

- (a) Compile a list of licensed denturists available for service to the Division in investigation of complaints;
- (b) Prescribe written and practical examinations for denturist licensure;
- (c) Review or delegate review of appeals of examination scores;
- (d) Establish fees; and
- (e) Establish policies and criteria for the assessment of the quality of the practice of denture technology.

(2) The Board elects a chairperson, and may elect a vice chairperson, annually.

Stat. Auth.: ORS 680.515, ORS 680.520, ORS 680.525, ORS 680.550 & ORS 680.560
 Stats. Implemented: ORS 680.515, ORS 680.515, ORS 680.520, ORS 680.525, ORS 680.550 & ORS 680.560
 Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991 (Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0010

331-405-0010

Delegation to Administrator

(1) The authority to sign notifications, proposed rules and other documents pertaining to rule adoption or amendment, administration, and notifications and orders in contested cases is delegated to the Board Administrator. This authority does not include authority to sign final orders that are issued following Board review of written exceptions to proposed orders based on hearings officer findings of fact and conclusion of law.

(2) To ensure continuity in the administration and daily operations of the Board of Denture Technology, the Board Administrator, appointed and delegated authority by the Assistant Director of Health, in addition to authority delegated by the Board to act on behalf of the Board as its agent, pursuant to carrying out the duties and functions of the Board as mandated in ORS 680.500 to 680.575 shall:

- (a) Direct and oversee the administration, programmatic functions and daily operations;
- (b) Develop and carry out short and long term agency objectives;
- (c) Direct and assure fiscal control over the use of human, equipment and budgetary resources. Hire employees to assist the Administrator in carrying out duties of the Board. Appoint, motivate and provide training, evaluate performance, resolve grievances, initiate promotions and disciplinary actions;
- (d) Sign notifications, proposed rules and other documents pertaining to administrative rule adoption, amendment and/or appeal;
- (e) Direct and oversee enforcement and regulatory programs of the Board;
- (f) Direct and determine budget requests projecting resource needs and implement biennial budget;

(g) Enter into contracts with any state agency, personal or professional service, organization or business as deemed appropriate; and

(h) Generate Board Financial Statement. Provide Board at regularly scheduled meetings with financial statements and reports.

(3) The Board Administrator's authority delegated by the Assistant Director for Health and Board in no way diminishes the Board's policy-making authority in the coordination and review of these activities.

Stat. Auth.: ORS 680
 Stats. Implemented: ORS 680
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-405-0020

Definitions

As used in ORS 680.500 through 680.990 or OAR chapter 331, divisions 400 through 430:

(1) "Board" means the policy-making body known as the State Board of Denture Technology.

(2) "Board Administrator" means the individual who directs the daily functions of the Board as defined in ORS 680.560.

(3) "Clinical procedures" means those procedures in the practice of denture technology as set forth in ORS 680.500(5)(b).

(4) "Contact hours" means academic classroom or course work hours including but not limited to workshops, symposiums, seminars, or laboratory exercises. Contact time does not include personal travel time to or from the training site, registration or check-in periods, breaks or lunch time granted during attendance at any continuing education seminar or course.

(5) "Dentist" as used in ORS 680.510, and 680.545, and OAR 331-410-0010 and 331-410-0000 means a person holding a degree in dentistry and licensed to practice in the jurisdiction in which the practice is or was established.

(6) "Direct supervision" means the supervisor is present in the facility for the purpose of providing oversight and training to a person who has not completed the training requirements stated in OAR 331-410-0010, and oversight occurs in view of the actions while the procedures are performed.

(7) "Division office" means the Health Licensing Office, delegated by the Assistant Director for Health to administer the State Board of Denture Technology.

(8) "Employed by" means other than independent contractor relationship and does not require remuneration.

(9) "Equivalent" means substantially comparable but not identical, covering the same subject matter.

(10) "Indirect supervision" means the supervisor is not required to be on the premises while the procedures are performed by a person undergoing completion of training requirements in OAR 331-410-0010.

(11) "Laboratory procedures" means those procedures in the practice of denture technology as set forth in ORS 680.500(5)(a).

(12) "Official transcript" means an original document certified by a school or educational institution, on a form approved by the Department of Education or regulating authority, delivered from the school to the Board office by mail or courier, which includes:

- (a) School name and location;
- (b) Student's name, address and date of birth;
- (c) Enrollment and completion or termination dates;
- (d) Hours and types of course work;
- (e) Final examination scores;
- (f) School seal or stamp;
- (g) Signature of authorized school representative or registrar.

(13) "Premises" means the structure in which laboratory and/or clinical procedures are performed, not necessarily the same room in which procedures take place.

(14) "Predominant" means located within the place of business and positioned so it may be seen and read without difficulty by consumers who have entered the place of business.

(15) "Restoration" means licensure of a previously licensed person, who has not made application for renewal within three years of expiration of the previous license.

(16) "1,000 hours in the practice of denture technology under direct supervision" or "1,000 hours of clinical and laboratory training in an approved work experience program" means engaging in the clinical and laboratory procedures of the practice of denture technology over a period of not less than six months, with a minimum of 400 hours devoted to clinical procedures. The 1,000 hours under direct supervision shall include construction of no less than 30 units of upper or lower full dentures, with a full set counting as two units.

(17) "Treatment" means the clinical or laboratory procedures in the practice of denture technology.

(18) "Valid license" means a license that has neither expired nor been suspended or revoked.

Stat. Auth.: ORS 680.565
 Stats. Implemented: ORS 680.565
 Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 12-1981(Temp), f. & ef. 7-15-81; HD 1-1983, f. & ef. 1-20-83; HD 4-1988, f. & cert. ef. 3-4-88; HD 25-1988 (Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 10-1989, f. & cert. ef. 11-21-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0005

331-405-0030

Fees

(1) Payment of fees to the Board must be made for the exact amount due. Fees are non-refundable.

(2) Transactions submitted to the Board where either the payment or required documentation is incomplete or incorrect shall be returned to the payor for correction before being processed by the Board.

(3) Fees will be applied as directed by the payor. Fees misapplied may be corrected by written request specifying the license number(s) affected and the action requested, subject to conditions set forth in subsection (5) of this rule.

(4) Fees paid to the Board are not transferable between licenses or from person-to-person.

(5) Payments made by a licensee or applicant without explanation or as an overpayment shall be applied to any outstanding balance owed by licensee or applicant.

(6) Fees established by the Board and approved by the Department of Administrative Services are as follows:

- (a) \$350 — Initial denturist license or re-licensure fee.
- (b) \$350 — Denturist license renewal fee.
- (c) \$50 — Delinquency fee (late renewal).
- (d) \$150 — Restoration of license fee.
- (e) \$50 — Replacement or duplicate license fee.
- (f) \$100 — Application fee.
- (g) Examination or re-examination fees:
 - (A) \$175 — Written examination —
 - (B) \$250 — Practical examination.
 - (C) \$295 — Oral pathology indorsement examination.
 - (D) \$295 — Oral pathology indorsement retake examination.
 - (h) \$15 — Lists, etc.
- (i) In the event a NSF check is received for payment of fees, an additional \$25 administrative processing fee will be assessed.

Stat. Auth.: ORS 680.525
 Stats. Implemented: ORS 680.525
 Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 11-1981(Temp), f. & ef. 7-15-81; HD 9-1985(Temp), f. & ef. 5-24-85; HD 15-1985, f. & ef. 9-4-85; HD 25-1988(Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0035

331-405-0040

Charges for Copies and Documents

(1) All requests for copies of discloseable public records pertaining to the State Board of Denture Technology shall be in writing.

(2) Charges for copies, documents, and services shall be as follows:

(a) For machine copies requested by other state agencies and by the general public, 10 cents per image.

(b) For documents developed by the Division, an amount fixed by the Division not exceeding the actual preparation cost per copy plus postage.

(c) For both machine copies and documents, an additional amount set at the actual costs of the Division for staff time required for search, handling, and copying.

(3) Charges for the general public shall be payable in cash for exact amount due. Charges to state agencies shall be payable in cash unless billing to such agencies is authorized by the Division.

Stat. Auth.: ORS 680.560 & ORS 680.565

Stats. Implemented: ORS 680.560 & ORS 680.565

Hist.: HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0037

331-405-0050

Fee Refunds

(1) The Board shall not refund fees, civil penalties or other moneys overpaid by an amount of \$10 or less unless such refund is requested in writing by the payor within three years after the date of the overpayment.

(2) Examination and initial license fee will be refunded if the applicant does not meet the qualifications for examination or license.

(3) Examination fees will not be refunded once an applicant has been approved to take the examination, even though the applicant is unable to participate in the examination. In the event an applicant can show that participation was prevented by emergency or special circumstances beyond the applicant's control, the fee will be carried forward, on a one-time basis, for the next scheduled examination.

(4) Application fee will not be refunded.

Stat. Auth.: ORS 680.565

Stats. Implemented: ORS 680.565

Hist.: HD 4-1989, f. & cert. ef. 6-1-89; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0038

DIVISION 410

LICENSURE

331-410-0000

Training

(1) Training, or formal education, required for licensure is a planned sequence of instruction of specific content structured to meet stated curriculum objectives which includes evaluation of attainment of those objectives; offered by a post-secondary educational institution or equivalent training as determined following evaluation by educational professional(s) from the Governor's Office of Education Work Force Policy/Office of Degree Authorization. The Governor's Office of Education and Work Force Policy/Office of Degree Authorization will be consulted in the evaluation of the program, including but not limited to school accreditation, instructor credentials, and lecture and lab hours as they equate to standard academic credit hours.

(2) The education or training to be approved by the Health Division pursuant to ORS 680.515(2) shall meet the curriculum objectives as established by the Division. A current list of approved training courses is available at the Division offices.

(3) All individuals or institutions requesting approval of a course or training program must submit a copy of the curriculum, a list of educational materials, books audiovisual aids, and a copy of handouts and tests to the Division for review to ensure the program meets established training standards and curriculum objectives. The following conditions will apply:

(a) No curriculum shall be approved without submission of complete curriculum documentation;

(b) The Division shall retain a copy of the approved curriculum on file as part of the official permanent record;

(c) Division approved education and training program curricula shall be reevaluated for approval every three years or when any portion of the curriculum is modified, or where changes in denture technology or health practices make it necessary. Approved programs existing on the effective date of this rule are subject to immediate re-evaluation, whichever occurs first; and

(d) The Division shall incur any reasonable duplication costs associated with complying with the provisions mandated in ORS 680.515.

(4) A work experience program for completion of the additional 1,000 hours of training required for examination or re-examination in accordance with ORS 680.515(1)(b) and (c) is considered approved by the Board if it is directly supervised by an approved school. Completion of the additional hours of training may also be awarded provided an individual is employed to perform denture technology under the direct supervision of a licensed dentist or licensed dentist who has met the following requirements:

(a) Applies on forms provided by the Board prior to commencing direct supervision and training of any individual;

(b) Holds a valid current Oregon license issued from the Oregon Board of Dentistry or the State Board of Denture Technology, and has been in active practice in Oregon for the past three years.

(c) Holds an oral pathology endorsement if training and supervision is to be conducted by a licensed dentist;

(d) Operates an on-site laboratory and clinic where the direct supervision and training will occur;

(e) Certifies that training provider and facility, where the direct supervision and training will occur, is in compliance with all provisions of Division 420 Practice Standards;

(f) Limits direct supervision and training to two dentist trainees at any given time;

(g) Undergoes Board review of licensing record, if licensee has been subject to disciplinary action, to determine whether the discipline is germane to qualification as a trainer.

(5) Training in oral pathology required in ORS 680.545 for oral pathology indorsement is special training separate and apart from that required for licensure.

(a) Persons who complete oral pathology courses as part of a pre-approved Associate Degree program qualify for oral pathology indorsement without examination.

(b) Persons who complete prescribed training in oral pathology that is not delivered as part of a pre-approved Associate Degree program or recognized equivalent training pre-approved by the Division qualify for oral pathology indorsement only after successfully completing an examination prescribed by the Board.

(6) Credit for courses previously taken can be counted toward completion of schooling requirements for a denture technology program, provided the courses were completed within the five years immediately prior to making application and cover those subjects listed in ORS 680.515(2).

(7) Documentation to prove completion of an Associate Degree program in denture technology shall be official school transcripts from Division approved schools or the equivalent, and may include published course outlines showing that training included curriculum objectives as determined by the Division in consultation with the Governor's Office of Education Work Force Policy/Office of Degree Authorization.

(8) Documentation to prove additional training to satisfy ORS 680.515(1)(b) in a work experience program shall be:

(a) Official transcripts as defined in OAR 331-405-0020(12) from the approved school, including a description of training content, hours of clinical and laboratory training, examination scores, school location, dates of attendance, and the name of the supervisor; or

(b) Signed statement from the dentist or dentist certifying dates of training, places of employment, description of training content, and verification that work included both clinical and laboratory procedures as defined in OAR 331-405-0020(16).

(9) Any dentist trainee who makes more than two (2) changes in supervision must receive approval from the Board prior to making another change in their supervision and training.

Stat. Auth.: ORS 680.515
 Stats. Implemented: ORS 680.515
 Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 1-1983, f. & ef. 1-20-83; HD 4-1989, f. & cert. ef. 6-1-89; HD 10-1989, f. & cert. ef. 11-21-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0040

**331-410-0010
 Documentation of Experience**

(1) Applicants shall have completed at least 1,000 hours in the practice of denture technology under direct supervision. Such practice shall have been under the direct supervision of: an approved school; a licensed dentist or licensed denturist, while employed by the dentist or denturist.

(2) Any person making application shall submit documentation of denture technology experience or equivalent in practice as follows:

(a) For practice under the direct supervision or an approved school, transcript or completion document from the school certifying at least 1,000 hours under direct supervision.

(b) For practice in the employment of a dentist or denturist, a statement on forms provided by the Board of verification of employment and practice from the dentist or denturist that includes the dates of employment, number of hours worked in each category, and number of denture units constructed and fitted. The statement shall be signed by the dentist or denturist and the individual who received training. The statement shall be mailed or delivered from the dentist or denturist to the Board office.

(3) Documentation of denture technology experience will not be accepted if it is incomplete, not signed or includes work experience obtained prior to approval of the direct supervision and training relationship by the Board under OAR 331-410-0000(4).

Stat. Auth.: ORS 680.515 & ORS 680.565
 Stats. Implemented: ORS 680.515 & ORS 680.565
 Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 25-1988(Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 10-1989, f. & cert. ef. 11-21-89; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0025

**331-410-0020
 Qualification; Application for Examination**

Application for examination for denturist license shall be made upon forms furnished by the Division and shall be accompanied by the fee for examination and documentation showing proof that the applicant has completed the necessary training and experience requirements as set forth in OAR 331-410-0000 and 331-410-0010.

(1) Except as provided in OAR 331-410-0030(4), applicants shall apply to take the entire examination and submit the total examination fee.

(2) Applications for examination must be received by the Division at least 30 calendar days prior to the date of the examination or the applicant will be required to wait until the next scheduled exam. A schedule of examination dates is available at the Division office.

(3) Applicants must submit a new application, documentation and fees if they fail to attain licensure within two years of the initial application date or the date of last examination attempt, whichever date is later.

(4) An applicant who has an outstanding civil fine or action in another state or country, documented on the Affidavit of Licensure form or equivalent record, shall be prohibited from qualification for licensure and examinations until any and all fine(s) and/or action(s) are resolved and verification of resolution from the originating state has been received.

Stat. Auth.: ORS 680.515 & ORS 680.565
 Stats. Implemented: ORS 680.515 & ORS 680.565
 Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 25-1989(Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 10-1989, f. & cert. ef. 11-21-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0015

**331-410-0030
 Examinations**

(1) After the Division determines training and experience qualifications have been met, applicants will be notified, by regular mail addressed to the applicant's last address of record filed with the Division, of the time, date and place of the examination. Notice will be mailed at least 20 calendar days prior to the examination.

(2) The examination will consist of two parts: a written portion and a practical portion. The written portion will consist of 300 multiple choice questions; the practical portion will be in the form of a demonstration of skills. Content will include the subject areas in ORS 680.520(2) and may include questions about the laws and rules regulating the practice.

(3) The Division will notify each examination candidate, in writing by regular US Postal Service, of the results of his/her examination score within 30 days from the date of the examination. Results will not be given by any other means.

(4) The applicant must satisfactorily complete all parts of the examination to pass. Those that fail may repeat the parts not passed upon submission of a supplemental application for examination, examination fee for each part to be retaken, and documentation of additional training if applicable.

(5) Passing score for each portion is 70 percent or higher. The portions will be scored individually, not added or averaged together.

(6) Passing scores will be maintained towards meeting licensure requirements only for the periods set forth in OAR 331-410-0010.

(7) Applicants taking the examination will be required to show photographic identification before being allowed entrance to the examination.

Stat. Auth.: ORS 680.520 & ORS 680.565
 Stats. Implemented: ORS 680.520 & ORS 680.565
 Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 1-1983, f. & ef. 1-20-83; HD 25-1988(Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 10-1989, f. & cert. ef. 11-21-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0030

**331-410-0040
 Examination Conduct; Disqualification**

(1) Examinations are conducted in a designated area with restricted access. Authorization for bringing any material or electronic equipment or devices is subject to approval of the Board. Receiving or attempting to receive assistance during the examination, including assistance from other individuals, from notes books or devices or taking unauthorized items into the examination area shall invalidate the examination and result in forfeiture of the examination and fees.

(2) Examination Disqualification: A candidate will be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

(a) Giving or attempting to give assistance to others in answering questions during the examination;

(b) Receiving or attempting to receive assistance during the examination, including assistance from other individuals from notes, books or devices to answer questions;

(c) Removing or attempting to remove any secure examination-related information, notes, or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination;

(e) Exhibiting behavior which impedes the normal progress of the examination; and

(f) Endangering the health or safety of a person involved in the examination.

(3) Disqualification will invalidate the examination and result in forfeiture of the examination and fees. The candidate will be required to reapply, submit additional examination fees, and request in writing to schedule another examination at a date and time determined by the Board. Reexamination may take place fol-

lowing a one year delay from the date of disqualification or at the direction of the Board.

Stat. Auth.: ORS 680.520 & ORS 680.565
 Stats. Implemented: ORS 680.520 & ORS 680.565
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-410-0050

Examination Review and Appeal

(1) Applicants failing the written examination portion will receive a copy of the Review and Appeal Procedure. They will be allowed to review the failed examination with correct answers, provided the request and appointment to review are made within 30 days from the date the examination results were mailed.

(2) All reviews will be held within the Division office. Reference materials or texts may be used during review and appeal preparation. Photographic identification will be required.

(3) At the time of review, applicants may file a written appeal citing specific questions and answers that were judged incorrect during grading and the reason why the applicant believes the answer should have been judged correct.

(4) Applicants will not be allowed to remove appeal documentation from the Division Office.

(5) To be considered by the Board, the appeal must be legibly written. The applicant must appear in person at the next regularly scheduled Board meeting. Failure to appear will result in the dismissal of the appeal by the Board.

(6) If the Board considers the review, it will do so in Executive Session at its next regularly scheduled meeting. Oral arguments will not be considered without the required supporting documentation.

Stat. Auth.: ORS 680.520 & ORS 680.565
 Stats. Implemented: ORS 680.520 & ORS 680.565
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-410-0060

Licensure: Issuance and Renewal

(1) A license shall be issued when both parts of the examination are successfully completed and payment of the license fee is received. Date of issuance shall be the date all requirements are met and the expiration date will be the following June 30. License fees will not be prorated.

(2) Licenses shall be issued for no more than one year.

(3) Renewal shall be for a period of one year, expiring on June 30 following renewal. Application for renewal should be made in advance of the license expiration date. The renewed license is effective as of the expiration date of the prior license.

(4) A license holder who renews within three years from date of expiration, may be granted a license upon reapplication, payment of license fee, and:

(a) If within one year of expiration date, payment of a delinquency fee; or

(b) If after one year but within three years of expiration date, payment of restoration fee; and

(c) Submission of proof of having obtained continuing education as required per OAR 331-415-0010.

(5) A license holder who fails to renew within three years following the date of expiration, may be granted a license upon reapplication, payment of license and/or examination fee(s), and submission of evidence of clinical competence satisfactory to the Division as follows:

(a) Documentation, showing individual engaged in active practice of denture technology in another state or territory during two of the last three years preceding reapplication, verifying construction of no less than 30 units of upper or lower full dentures, with a full set counting as two units. Documentation must include verification of work experience/employment and copies of patient treatment records; or

(b) Successfully passing the practical examination conducted by the Division, as prescribed by the Board.

Stat. Auth.: ORS 680.525, ORS 680.530 & ORS 680.565
 Stats. Implemented: ORS 680.525, ORS 680.530 & ORS 680.565
 Hist.: HD 25-1988(Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-

92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0032

331-410-0070

Licensing Sanctions

(1) A dentist whose license has been denied or suspended, and not renewed under ORS 680.535 for up to one year from the date of the denial of license or the renewal or the date of the order of suspension, may be restored to active status upon:

(a) Payment of license fee, if license expired during denied or suspended status; or

(b) Payment of license and delinquency fee, if license expired during suspended status and was not reactivated within 45 days following cessation of suspended status; and

(c) Submission of proof of having obtained continuing education as required per OAR 331-415-0010.

(2) A dentist whose license has been revoked and not renewed under ORS 680.535 for up to one year from the date of the revocation, may be restored to active status upon;

(a) Payment of license fee and practical examination fee;

(b) Successfully passing the practical examination conducted by the Division, as prescribed by the Board;

(c) Submission of proof of having obtained continuing education as required per OAR 331-415-0010; and

(d) Evidence of satisfaction of terms and conditions of revocation.

(3) In accordance with ORS 348.393 to 348.399 and OAR 575-001-0030, the Health Licensing Office shall provide the Oregon State Scholarship Commission with licensing information which may be electronically cross-matched with the Commission's post-default database.

(4) The Health Licensing Office shall refuse to issue or renew, place the person on probation, or suspend the license if the person is in default on any student loan guaranteed or insured by the Oregon State Scholarship Commission and is not paying in a satisfactory manner as determined by the Commission and in accordance with federal regulations.

(5) Pursuant to ORS 348.393(3), the Health Licensing Office shall notify the license holder of the action being taken against the licensee at the direction of the Commission.

(6) Upon notification by the Commission and receipt of a release notice that the individual has met satisfactory borrower repayment status, the Health Licensing Office shall issue or reinstate the license upon compliance with any qualifications for issuance or reinstatement.

(7) In accordance with ORS 25.750 to 25.783, the Health Licensing Office shall provide the Support Enforcement Division of the Department of Justice with licensing information which may be electronically cross-matched with Support Enforcement Division's records for persons under order of judgement to pay monthly child support and who are in arrears according to ORS 25.750(a), (b) and/or(c).

(8) The Health Licensing Office shall suspend the license, if the Support Enforcement Division or the district attorney identifies the license holder as being in arrears with respect to any judgement or order requiring the payment of child support and that the case is being enforced under the provisions of ORS 25.080.

(9) Pursuant to ORS 25.762 or 25.765, the Health Licensing Office shall notify the license holder of the suspension status and refer the person to the Support Enforcement Division or the district attorney for resolution.

(10) Upon notification by the Support Enforcement Division or district attorney and receipt of a release notice that the conditions resulting in the suspension no longer exist, the Health Licensing Office shall reinstate the license upon compliance with any qualifications for renewal or reactivation.

(11) In accordance with ORS 305.385, upon request the Health Licensing Office shall provide the Department of Revenue with licensing information to determine if the holder has neglected or refused to file any return or to pay any tax without filing a petition with the department as stated in ORS 305.385(4)(a).

(12) The Health Licensing Office shall propose to take action against a license holder identified by the Department of Revenue. Where the Health Licensing Office proposes to refuse to issue, renew or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.480 for contested cases.

(13) Upon notification by the department and receipt of a notice of release issued by the department that the license holder is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate, the Health Licensing Office shall renew, reactivate or release from suspension the license upon compliance with any qualifications for renewal or reactivation.

Stat. Auth.: ORS 680.565
 Stats. Implemented: ORS 25.750 - 25.783, ORS 183, ORS 305.385, ORS 348.393 - ORS 348.399
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-410-0080

Oral Health Certificate

(1) Except in the case of relining or repair, or the replacement of a denture fitted within the preceding 12 months, denturists who have not successfully completed additional training, applied for and received an oral pathology endorsement as described in ORS 680.545(2)(d) or 680.545(3), and OAR 331-410-0000(5) shall not begin treatment without a valid Oral Health Certificate for the patient stating the patient's oral cavity is substantially free from disease and mechanically sufficient to receive a denture.

(2) A valid Oral Health Certificate shall be in the form prescribed by the Division, signed by a licensed dentist or physician (M.D. or D.O.), and show an examination took place within 30 days of the date of commencing treatment.

(3) Oral Health Certificate forms are available at the Division office.

Stat. Auth.: ORS 680.545
 Stats. Implemented: ORS 680.545
 Hist.: HD 12-1980(Temp), f. & ef. 9-29-80; HD 6-1981, f. & ef. 4-3-81; HD 4-1988, f. & cert. ef. 3-4-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0055

331-410-0090

License Display

Each denturist shall post his/her current license to practice denture technology in a predominant area on the premises where he/she engages in the practice of denture technology.

Stat. Auth.: ORS 680.565
 Stats. Implemented: ORS 680.565
 Hist.: HD 12-1980(Temp), f. & ef. 9-29-80; HD 6-1981, f. & ef. 4-3-81; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0060

331-410-0100

Filing Changes to Licensee or Business Related Information

Denturists shall notify the Health Division in writing within 30 days, of any changes as follows:

- (1) Licensee name, residence address and telephone number.
- (2) Business name, address, or location.
- (3) Mailing address.
- (4) Business telephone number and business hours.
- (5) License status, whether from active to inactive practice or from inactive to active practice.

Stat. Auth.: ORS 680.565
 Stats. Implemented: ORS 680.565
 Hist.: HD 12-1980(Temp), f. & ef. 9-29-80; HD 6-1981, f. & ef. 4-3-81; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991 (Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered to 333-020-0045

DIVISION 415

CONTINUING EDUCATION

331-415-0000

Purpose

(1) To ensure continuing efforts on the part of Oregon licensed denturist to remain current with new developments in the denture technology and health care field and to encourage diversified training and qualifications in the profession continuing education is required as a condition of licensure.

(2) Continuing education requirements apply whether the applicant renewing a license is living or working within Oregon or outside of the state so long as Oregon licensure is maintained.

(3) Continuing education is required for renewal, every three years, even if the denturist license has been inactive during that period.

Stat. Auth.: ORS 680.530
 Stats. Implemented: ORS 680.530
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-415-0010

Continuing Education Requirements

(1) Each denturist must complete 30 contact hours of continuing education every three years from date of licensure to qualify for renewal of the denturist's license.

(2) Each denturist shall report compliance with the continuing education requirement through attestation on the license renewal document. Licensees shall be subject to provisions of OAR 331-415-0020 pertaining to periodic audit of continuing education.

(3) Continuing education includes attendance or participation at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, or professional organization or association. For example, lectures, post-secondary school or post-graduate courses, scientific sessions at conventions, teaching (provided that no more than half the required hours be in teaching), or correspondence courses, or video tapes, or similar self-study provided an examination is taken and passed as part of the course.

(4) Subject matter shall be related specifically to denture technology as set forth in ORS 680.515(2), the law and rules regulating licensed denturists, science, related dental practices, health care professional concerns such as infection control or medical emergencies, ethics, and business practices. A Board member will be designated to review the content of continuing education courses upon request by staff.

(5) Denturists notified of selection for audit of continuing education attestation shall submit to the Division office within 30 days from the date of notice, satisfactory evidence of participation in required continuing education through completion of the Application for Continuing Education Credit Form accompanied by all copies of a certificate of completion of attendance at a program or course provided by the sponsor, which must include: the name of the sponsoring institution/association or organization, title of presentation, description of content, name of instructor or presenter, date, duration in hours, and certificate or statement of attendance or completion provided by the sponsor.

(6) Submission to the Division of proof of participation in required continuing education is the responsibility of the denturist.

(7) To ensure that adequate proof of attainment of required continuing education is available for audit or investigation by the Division, denturists shall maintain a record of attendance for one year following the three year continuing education cycle and renewal of the denturist license.

(8) Hours obtained in excess of the 30 contact hours required each three year period will not be carried forward as credit for the succeeding three year continuing education requirement.

Stat. Auth.: ORS 680.530 & ORS 680.565
 Stats. Implemented: ORS 680.520 & ORS 680.565
 Hist.: HD 10-1989, f. & cert. ef. 11-21-89; HD 13-1991 (Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0041

331-415-0020

Continuing Education: Audit and Sanction for Non-Compliance

(1) The Health Licensing Office shall audit a random sample of licensee records to verify compliance with continuing education requirements and documentation were met.

(2) If documentation of the continuing education is improper, the licensee shall correct the deficiency. Failure to correct the continuing education documentation within thirty days (30) shall constitute grounds for disciplinary action.

(3) Misrepresentation of compliance shall constitute grounds for disciplinary action.

(4) Failure to maintain documentation supporting compliance with continuing education requirements as stipulated in OAR 331-415-0010(7) shall constitute grounds for disciplinary action.

Stat. Auth.: ORS 680.565

Stats. Implemented: ORS 680.565

Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

DIVISION 420

PRACTICE STANDARDS

331-420-0000

Practice Standards

The following practice standards shall be met by licensed denturists:

(1) Oral Health Certificate. Compliance with requirements for Oral Health Certificates as described in ORS 680.545(2)(d) and OAR 331-410-0080.

(2) Health History. Record, update, and maintain a health history for each patient that will include the following information as a minimum:

- (a) General health status;
- (b) Systemic diseases or disorders;
- (c) Allergies and sensitivities;
- (d) Current medical and dental treatment including medications;

- (e) Length of edentulousness; and
- (f) Difficulties encountered in prior dental or dentist visits.

(3) Clinical Examination. Conduct and record a clinical examination of each patient that will include as a minimum, information relative to:

- (a) Appearance of gingiva, oral mucosal membranes, pharynx; and
- (b) Oral conditions that may affect successful denture construction and use.

(4) Record of Clinical Treatment. Complete a written record of clinical treatment with a brief description of each clinical treatment event for each denture construction patient.

(5) Retention of Records. Retain each Oral Health Certificate, Health History, Clinical Examination Record, and Record of Clinical Treatment for a minimum of two years.

(6) Minimum Standards of Acceptability for Full Dentures:

(a) The maxillary denture covers the entire hard palate, with a postdam that extends from the hamular notch to form a posterior seal on the soft palate;

(b) The mandibular denture has full posterior flanges, extending near the floor of the mouth and extending distally to include a portion of the retromolar pad;

(c) The denture base material adapts to the soft tissues and the extension achieves stability;

(d) Tooth position, size, and shade appear natural;

(e) Contour and shade of the denture base material appear natural;

(f) Centric occlusion, if not correct, is correctable;

(g) Vertical dimension is within the physiologic tolerance of the patient;

(h) No occlusal interferences are present in lateral and protrusive excursions;

(i) Occlusal surfaces may lack anatomic or nonanatomic detail, but masticatory forces are evenly distributed;

(j) Occlusal disharmony may be present, but the patient is comfortable and no visible pathology exists; and

(k) There may not be movement of the denture when biting pressure is applied in anterior and posterior segments of the arch except when it is not reasonably possible to achieve the desired result.

(7) A denture may deviate from the standards outlined in 331-410-0000(6)(a) through (k), if the deviation is shown to be reasonable.

(8) Deviations may include physiologic conditions or requirements or specific requests of the individual patient or dentist.

(9) The dentist must include in the patient records the reasons for any deviation from the standards.

(10) A dentist cannot be held responsible for the outcome of any treatment provided by any person other than that dentist or his/her employees or trainees.

Stat. Auth.: ORS 680.550 & ORS 680.565

Stats. Implemented: ORS 680.550 & ORS 680.565

Hist.: HD 4-1988, f. & cert. ef. 3-4-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; Subsections (9)(a) through (h) renumbered to 333-020-090 and 333-020-100; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0085

331-420-0010

Facility Requirements

The clinical procedures of denture technology shall be conducted in facilities that meet the following criteria:

(1) All areas kept clean and in good repair.

(2) All surfaces (counters, tables, equipment, client chairs or recliners) in treatment and sterilization areas shall be made of smooth, non-absorbent and non-porous material.

(3) Surfaces or blood spills shall be disinfected using an EPA-registered high-level disinfectant, chemical germicide, or solution which has demonstrated tuberculocidal activity.

(4) Water and plumbing requirements shall include:

(a) Easy access to a sink with hot and cold running water, as part of surrounding premises or adjacent to the facility;

(b) Water supplies which meet the requirement of ORS Chapter 448 and the State Plumbing Code, OAR Chapter 918; and

(c) Toilet facilities kept clean and in good working order at all times.

(5) Pets or other animals shall not be permitted on the premises of the business facility at any time. This prohibition does not apply to trained guide animals for the disabled, sightless, or hearing impaired.

Stat. Auth.: ORS 680.550 & ORS 680.565

Stats. Implemented: ORS 680.550 & ORS 680.565

Hist.: HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; Renumbered from 333-020-085(9)(a) through (h); HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0090

331-420-0020

Clinical Requirements

The Board will consider current Centers for Disease Control guidelines when determining acceptable patient care and requirements for the clinical practice of denture technology. Additionally, denturists must comply with the following standards:

(1) Instruments, implements, supplies and impression trays used in intra-oral procedures that come in contact with body fluids shall be sterilized prior to each use, using a method that destroys all living microbes and spores, such as: Autoclave (steam or chemical) sterilizer, registered and listed with the federal Food and Drug Administration; used, cleaned, and maintained according to manufacturer's instructions.

(2) Instruments or other equipment which are "heat-sensitive" shall be disinfected by complete immersion of the object(s) or portion(s) thereof to be disinfected, in an EPA-registered high-level disinfectant which has demonstrated tuberculocidal activity, and used according to the manufacturer's instructions.

(3) All sterilizing devices shall be tested on a monthly basis for functionality and thorough sterilization by use of the following means:

(a) Chemical indicators (color change) to assure sufficient temperature and proper functioning of equipment during sterilization cycle; and

(b) Biological monitoring system (commercial preparation of spores) to assure all microorganisms have been destroyed and sterilization achieved.

(4) Chemical and biological test indicators shall be available at the facility at all times and test results available for inspection by the Division compliance officers.

(5) All disinfecting solutions and/or agents shall be kept at adequate strengths and be free of foreign material to maintain effectiveness.

(6) Disposable gloves shall be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Hands shall be washed and re-gloved before performing procedures on another patient.

(7) A clean bib and disposable cup shall be provided to every patient except during consultations.

(8) A clean garment shall be worn during clinical patient contact activities.

(9) All contaminated wastes and sharps shall be disposed of according to governmental requirements, specifically ORS 459.386 through 459.405 and OARS 333-018-0040 through 333-018-0070.

Stat. Auth.: ORS 680.550 & ORS 680.565
 Stats. Implemented: ORS 680.550 & ORS 680.565
 Hist.: HD 3-1992, f. & cert. ef. 3-25-92; Renumbered from 333-020-085(9)(a) through (h); HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0100

DIVISION 425

COMPLAINT PROCESSING AND RESOLUTION

331-425-0000

License to Practice

Pursuant to ORS 680.505 an individual shall not display a sign or in any way advertise or purport to be a license holder or to be engaged in the practice of denture technology without first obtaining a license under ORS 680.515.

Stat. Auth.: ORS 680.515
 Stats. Implemented: ORS 680.515
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-425-0010

Procedure for Filing a Complaint

The Division shall investigate all complaints in accordance with ORS 680.540. Complaints against individuals practicing denture technology may be filed with the Board on forms provided by the Board, which requests the following information:

(1) The name of the person making the complaint;

(2) The name of the person or license holder against whom the complaint is being made;

(3) A concise description of the charge against the person or license holder, giving dates, time, circumstances of the alleged violation; and

(4) The signature of the person making the complaint.

Stat. Auth.: ORS 680.540 & ORS 680.565
 Stats. Implemented: ORS 680.540 & ORS 680.565
 Hist.: HD 1-1983, f. & ef. 1-20-83; HD 4-1989, f. & cert. ef. 6-1-89; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0070

331-425-0020

Complaint Processing and Investigation

The Health Licensing Office shall investigate complaints made regarding the practice of denture technology. Complaints filed with the Board regarding the practice of denture technology, services offered or performed, shall be handled as follows:

(1) The Health Licensing Office determines that the complaint is related to the practice of denture technology as defined in

ORS 680.500(5) or services performed, and the complaint falls within Board authority.

(2) The complaint and any other pertinent information will be given by the Health Licensing Office to one or more investigators or investigators selected by the Board from a list of licensed denturists or other qualified persons approved by the Board as appropriate.

(3) The investigator(s):

(a) Reviews the information and as applicable, interviews parties and witnesses, and examines physical evidence relating to the complaint;

(b) Advises on whether the license holder or individual practiced within the acceptable standards;

(c) May attempt to informally resolve the matter; and

(d) Makes recommendations for Board action.

(4) Following advice from the investigator(s), the Health Licensing Office, in consultation with the Board, will determine what action will be taken.

(5) A report of all investigations and Health Licensing Office action will be presented to the Board during Executive Session, subject to provisions of ORS 192.660.

Stat. Auth.: ORS 680.540
 Stats. Implemented: ORS 680.540
 Hist.: HD 12-1980(Temp), f. & ef. 9-29-80; HD 6-1981, f. & ef. 4-3-81; HD 4-1988, f. & cert. ef. 3-4-88; HD 25-1988 (Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0050

DIVISION 430

DISCIPLINE; CIVIL PENALTIES

331-430-0000

Disciplinary Action

(1) The Division may refuse to issue, suspend or revoke a license, or place a licensed person on probation for the causes stated in ORS 680.535.

(2) The Division shall have grounds for a determination of incompetency in the practice of denture technology pursuant to ORS 680.535, upon evidence of the use of any controlled substance, dangerous or illegal drug, intoxicating liquor, or any emotional or physical impairment of a denturist, to the extent that such use or condition impairs or prevents the denturist's ability to perform competently.

(3) The Division shall have grounds for a determination of fraud or misrepresentation in the practice of denture technology pursuant to ORS 680.535, upon evidence of any advertising statements of a nature that would deceive or mislead the public or that are untruthful, such as:

(a) Incorrect use of a title; or

(b) Claiming or implying a qualification, competency or specialty in connection with the practice of denture technology to which the person is not entitled, or which is untrue.

(4) The specific identification of grounds for disciplinary action stated in sections (2) and (3) of this rule are intended to be descriptive of some, but not limited to, those causes for which disciplinary action may be taken as stated in ORS 680.535.

(5) Failure to cooperate with the Division or its agent is considered unprofessional conduct and is subject to discipline which may include license suspension, revocation and/or assessment of civil fines. Unprofessional conduct includes, but is not limited to, the following:

(a) Failing to respond to an inquiry from the Division regarding a complaint;

(b) Failing to provide information to the Division in response to a written inquiry by the Division, or provide written response within specified time allotted by notice of intended action;

(c) Failing to temporarily surrender custody of original client records to the Division upon request, which includes treatment charts, models, health histories, billing documents, correspondence and memoranda;

(d) Interference, use of threats or harassment which delays or obstructs any person in providing evidence in any investigation, contested case, or other legal action instituted by the Division;

(e) Interference, use of threats or harassment which obstructs or delays the Division in carrying out its functions under ORS 680.500 to 680.535 and rules adopted thereunder;

(f) Deceiving or attempting to deceive the Division concerning any matter under investigation including altering or destroying any records.

(6) When the Division requires correction of deficiencies in lieu of the suspension, revocation or denial of license, the correction shall be made within the time frames established by the Division or the suspension, revocation or denial of license action will proceed.

(7) Practicing denture technology while a license is in suspended status is grounds for additional disciplinary action, which includes revocation and/or fines.

Stat. Auth.: 680.530 & ORS 680.565

Stats. Implemented: ORS 680.535 & ORS 680.565

Hist.: HD 1-1983, f. & ef. 1-20-83; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0075

331-430-0010

Opportunity for Hearing

When the board serves notice of proposed action to revoke or suspend the license of a denturist, refuse to issue or renew a license, or place a licensed denturist on probation, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98

331-430-0020

Civil Penalty Considerations

(1) In addition to any other penalty provided by law, a person who violates any provision of ORS 680.500 to 680.570 or any rule adopted thereunder shall be subject to a civil penalty imposed by the Health Division. The Division reserves the right to pursue other remedies against alleged violators and may take any other disciplinary action at its discretion that it finds proper, including warning, probation or assessment of costs of the disciplinary proceedings and assessment of penalties not to exceed \$5,000.

(2) In establishing the amount of the penalty for each violation, the Division will consider, but not be limited to the following factors:

(a) The gravity and magnitude of the violation;

(b) The person's previous record of compliance or failure to comply with the provisions of ORS 680.500 to 680.572 or with the rules adopted under ORS 680.565;

(c) The person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and

(d) Such other considerations as the Division may consider appropriate.

(3) The Division may revoke, suspend or refuse to issue or renew the license of any person, who fails to pay on demand a civil penalty which has become due and payable, provided that it first gives the person an opportunity for a hearing as outlined in ORS chapter 183, and conducted in accordance with OAR 331-400-0010.

Stat. Auth.: ORS 680.565 & ORS 680.572

Stats. Implemented: ORS 680.565 & 680.572

Hist.: HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0110

331-430-0030

Establishing Civil Penalty Amounts

The Division may assess penalties for the first and second license violations according to the provisions of OAR 331-430-0020(1) and (2). For subsequent violations the Division shall,

while reserving the right to impose other sanctions, assess monetary penalties according to the following schedule:

(1) Practicing or holding one's self out as available to practice denture technology, or using the title denturist without a license is a violation of ORS 680.505 and shall incur a penalty of \$5,000.

(2) Practicing or holding one's self out as available to practice denture technology, or using the title denturist with an expired or suspended license is a violation of ORS 680.505 and shall incur a penalty of \$5,000.

(3) Licensed denturists who allow employees, technicians, dental assistants, and other non-licensed persons to perform clinical procedures is a violation of ORS 680.505 and shall incur a penalty of \$5,000.

(4) Failing to post a current, valid denturist license in public view is a violation of OAR 331-410-0090 and shall incur a penalty of \$150.

(5) Performing or offering to perform denture technology services involving intra-oral work, without obtaining a valid Oral Health Certificate prior to services being rendered, or without having qualified for and obtained an oral pathology endorsement is a violation of ORS 680.545, and shall incur a penalty of \$2,000.

(6) Failing to notify the Division within 30 days of a change in business related information or license status, is a violation of OAR 331-410-0100, and shall incur a penalty of \$200.

(7) Advertising in a manner which would deceive or mislead the public or that is untruthful is a violation of ORS 680.535 and OAR 331-430-0000, and shall incur a penalty of \$2,000.

(8) Failing to meet practice standards, involving health history, clinical examination, record of clinical treatment, or retention of records is a violation of ORS 680.550 and OAR 331-420-0000, and shall incur a penalty of \$1,000.

(9) Failing to meet minimum standards of acceptability for full dentures is a violation of ORS 680.550 and OAR 331-420-0000(6), and shall incur a penalty of \$5,000.

(10) Practicing denture technology without having a sink with hot and cold running water in the clinical area of the premises, and/or clean floors, walls, and ceilings, is a violation of OAR 331-420-0010, and shall incur a penalty of \$1,000.

(11) Failing to disinfect surfaces or blood spills by using an EPA-registered high level disinfectant is a violation of OAR 331-420-0010(3), and shall incur a penalty of \$1,000.

(12) Failing to sterilize all instruments, impressions trays, and supplies for intraoral use prior to each use on patients is a violation of OAR 331-420-0020(1), and shall incur a penalty of \$1,000.

(13) Failing to regularly test all sterilizing devices and to have both biological and chemical test indicators available at the facility for inspection by the Division enforcement officers is a violation of OAR 331-420-0020(3) and/or (4), and shall incur a penalty of \$1,000.

(14) Failing to keep EPA-registered high-level disinfecting solution at adequate strength and free of foreign material to maintain effectiveness is a violation of OAR 331-420-0020(5), and shall incur a penalty of \$1,000.

(15) Failing to wash hands with a germicidal or antiseptic soap and water before and after every patient when clinical contact occurs or failing to use disposable gloves whenever placing fingers into a patient's mouth or when handling blood or saliva contaminated instruments or equipment is a violation of OAR 331-420-0020(6), and shall incur a penalty of \$1,000.

(16) Failing to provide each patient with a clean bib and disposable cup during clinical contact, and/or failing to wear a clean garment during patient contact activities are violations of OAR 331-420-0020(7) and/or (8), and shall incur a penalty of \$500.

(17) Failing to dispose contaminated wastes and/or sharps in accordance with provisions of ORS 459.386 through 459.405 and OAR 333-018-0040 through 333-018-0070 is a violation of OAR 331-420-0020(9) and shall incur a penalty of \$1,000.

(18) Allowing pets or other animals on the premises of the business facility other than trained guide animals, is a violation of OAR 331-420-0010(5), and shall incur a penalty of \$500.

Stat. Auth.: ORS 680.565 & ORS 680.572
 Stats. Implemented: ORS 680.565 & ORS 680.572
 Hist.: HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0120

**DIVISION 500
 PROCEDURAL RULES**

331-500-0000

Notice of Proposed Rule

Prior to adoption, amendment, or repeal of any rule, the State Health Division, Advisory Council for Electrologist Permanent Color Technicians and Tattoo Artists shall:

(1) Publish notice of the adoption, amendment, or repeal in the Secretary of State’s Bulletin referred to in ORS 183.360 at least twenty-one (21) days prior to the effective date.

(2) Mail such notice to persons on the Advisory Council for the Electrologist, Permanent Color Technicians and Tattoo Artists mailing list established pursuant to ORS 183.335(7) at least twenty-eight (28) days before the effective date of the rule.

(3) In addition to persons or organizations listed in OAR 333-001-0000(4)(ee), notice of rulemaking shall be mailed to the following:

- (a) For the practice of electrolysis:
 - (A) Licensed electrologists;
 - (B) Oregon Association of Licensed Electrologists;
 - (C) State Representative, International Guild for Professional Electrologists;
 - (D) Oregon schools of electrolysis;
 - (E) Oregon Department of Education, Private Career Schools;
 - (F) American Electrology Association.
 - (b) For the practice of permanent color and tattooing:
 - (A) Licensed Permanent Color Technicians and Tattoo Artists;
 - (B) National Tattoo Association;
 - (C) Professional Tattoo Artists Guild;
 - (D) The Society of Permanent Cosmetic Professionals;
 - (E) Alliance of Professional Tattooists;
 - (F) National Cosmetic Tattooing Association;
 - (G) Oregon Medical Association;
 - (H) Board of Medical Examiners .
- Stat. Auth.: ORS 690.405 & ORS 690.997
 Stats. Implemented: ORS 690.405
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-500-0010

Model Rules of Procedure

Pursuant to OAR 183.341, the Oregon Health Division, Advisory Council for Electrologist, Permanent Color Technicians and Tattoo Artists adopts the Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act as amended and effective September 17, 1997.

Stat. Auth.: ORS 690.405
 Stats. Implemented: ORS 690.405
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-500-0020

Election of Officers

The Council shall elect a Chairperson and may elect a Vice Chairperson annually.

Stat. Auth.: ORS 690.405
 Stats. Implemented: ORS 690.405
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; Renumbered from 333-305-0005

331-500-0030

Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases

In addition to the requirements stated in rule 137-003-001 of the Attorney General’s Model Rules of Procedure adopted under rule 331-500-0010, the notice to parties in contested cases may include a statement that an answer to the assertions or charges will be required and, if so, the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of rule 331-500-0040 with the notice.

Stat. Auth.: ORS 690.405 & ORS 690.997
 Stats. Implemented: ORS 690.405
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-500-0040

Hearing Request and Answers; Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Administrator by the party or his attorney and an answer shall include the following:

- (a) An admission or denial of each factual matter alleged in the notice;
- (b) A short and plain statement of each relevant affirmative defense the party may have.
- (2) Except for good cause:
 - (a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;
 - (b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;
 - (c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and
 - (d) Evidence shall not be taken on any issue not raised in the notice and the answer.

Stat. Auth.: ORS 690.405 & ORS 690.997
 Stats. Implemented: ORS 690.405
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-500-0050

Disciplinary Procedure; Rules and Orders; Judicial Review

(1) When the Division proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license or place a license on probation, opportunity for hearing shall be accorded as provided in ORS 183.413 to 183.502.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided by ORS 183.310 to 183.480.

(3) Subject to the approval of the Attorney General, an officer or employee of the Health Licensing Office is authorized to appear on behalf of the Division when the Division proposes to deny, suspend or revoke a license or impose a civil penalty.

(4) The agency representative may not make legal argument on behalf of the Division:

- (a) “Legal argument” includes arguments on:
 - (A) The jurisdiction of the Division to hear the contested case;
 - (B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency or Division; and
 - (C) The application of court precedent to the facts of the particular contested case proceeding.
- (b) “Legal argument” does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:
 - (A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;
 - (B) Comparison of prior actions of the agency in handling similar situations;
 - (C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and
 - (D) The admissibility of evidence or the correctness of procedures being followed.

(5) When an agency officer or employee represents the Division, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change the application of the law on waiver or the duty to make timely objections. Where such objections involve legal argument,

the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 183
 Stats. Implemented: ORS 183
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

DIVISION 505

GENERAL ADMINISTRATION

331-505-0000

General Definitions

The definitions of terms used in ORS 690.350 to 690.430 and ORS 690.996 to 690.998 and the rules of OAR Chapter 331, Divisions 500 through 590, are:

(1) “*Administrator*” means the individual who directs the daily functions of the Council as delegated by the Assistant Director for Health.

(2) “*Antiseptic*” means product used to stop or inhibit the growth of bacteria.

(3) “*Approved*” means acceptable to the State Health Division.

(4) “*Clean*” means the absence of soil and dirt by washing, sweeping, clearing away, or any other appropriate method rendering a sanitary condition.

(5) “*Closed book*” means without aid from or availability of written material.

(6) “*Council*” means the Advisory Council to the Health Division established under ORS 690.425.

(7) “*Division*” means the Health Division of the Department of Human Resources of the State of Oregon.

(8) “*Division office*” means the Health Licensing Office, delegated by the Assistant Director for Health to administer the daily functions and operations of the Advisory Council.

(9) “*Easily accessible*” means unrestricted use or availability, easy to approach or enter.

(10) “*Enclosed storage area*” means separate room, closet, cupboard or cabinet.

(11) “*Equivalent*” means comparable but not identical, covering the same subject matter.

(12) “*Facility*” means an establishment in which licensees perform acts of electrolysis, permanent color or tattooing, or any combination thereof.

(13) “*High-level disinfectant*” means a chemical agent which has demonstrated tuberculocidal activity.

(14) “*Incompetence*” includes, but is not limited to, a demonstrated lack of ability or fitness to perform.

(15) “*Linens*” means cloths or towels used for such things as draping or protecting table.

(16) “*Low-level disinfectant*” means a chemical agent which has demonstrated bactericidal, germicidal, fungicidal and limited virucidal activity.

(17) “*Official transcript*” means an original document certified by a licensed or accredited school indicating hours and types of course work, examinations and scores that the student completed, which has been submitted directly by mail from the school or authorized courier to the Division office in a sealed envelope.

(18) “*One year of work experience*” means employment consisting of a 40 hour work week for a minimum of 50 consecutive weeks during a 12 month period or a cumulative total of 2,000 clock hours within a 24 month period.

(19) “*Operatory*” means isolated area where treatment or services are provided.

(20) “*Part-time experience*” means engaging in practice for a period of at least 24 weeks or 1,000 hours during a 12 month time period.

(21) “*Photographic identification*” means an official document issued by a recognized governmental agency or entity, including but not limited to a valid driver’s license, passport, health identification card, or other document which contains per-

sonal information pertaining to the individual, a photograph and signature.

(22) “*Place or places of business*” means the physical location where services are performed or will be performed.

(23) “*Premises*” means the entire building or structure within which services are performed.

(24) “*Probation*” means continuation of licensure under conditions set by the Division.

(25) “*Protective gloves*” means gloves made of vinyl or latex.

(26) “*Public view*” means open to view and easy for the public to see, located in the operatory/treatment area, or waiting/lobby area at the place of business.

(27) “*Reactivate*” means to change an expired license to an active license.

(28) “*Reciprocity*” means that an applicant, holding an active certificate or license in another state, meets the qualifications and requirements for licensure based on satisfactory completion of education, training, and/or work experience determined equivalent to Oregon standards, and further that the applicant has demonstrated competency by satisfactory completion of a national or state written and/or practical examination recognized or approved by the Division.

(29) “*Renew*” means to extend a current license for a year beyond expiration or to bring an expired license to current, active status.

(30) “*Residence address or place(s) of business*” means a street, route or location address, not a post office box.

(31) “*Sharps*” means any object that can penetrate the skin, including but not limited to needles, scalpel blades, lancets, glass tubes, or other instruments that could be broken during handling, and syringes that have been removed from their original sterile containers.

(32) “*Sharps container*” means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal. The container must be red and labeled with the “*Biohazard*” symbol.

(33) “*Single Use*” means products or items that are disposed of after each use, including but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings.

(34) “*Sterilization*” means destruction of all forms of micro-biotic life, including spores.

(35) “*Suspend*” refers to two distinct meanings defined by statute: ORS 690.385(2) pertaining to voluntary license expiration, and ORS 690.395 pertaining to disciplinary action.

(36) “*Under direct supervision of a physician*” means employed by and working in the office of a physician, with treatment ordered by and reimbursed to the physician.

Stat. Auth. : ORS 690.405(9)
 Stats. Implemented: ORS 690.405
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0020

331-505-0010

Fees

(1) Payment of fees to the Division shall be made for the exact amount of the transaction. No monetary change will be transacted for payments made at the Division office. Fees are non-refundable.

(2) Transactions submitted to the Division where either the payment or required documentation is incomplete or incorrect shall be returned to the payor for correction before being processed by the Division.

(3) Fees established by the Division are as follows:

- (a) Application for initial practitioner or facility license - \$100;
- (b) Initial, one-year license - \$175;
- (c) Annual renewal for active license - \$175;
- (d) Late fee - \$10;
- (e) Annual renewal for suspended license - \$50;
- (f) Reactivation fee - \$50;

- (g) Examination:
- (A) Written - \$50;
- (B) Practical or skill assessment - \$100.
- (h) Initial instructor authorization - \$10;
- (i) Annual renewal for instructor authorization - \$10;
- (j) Application for demonstration permit - \$25;
- (k) Demonstration permit - \$50;
- (l) Duplicate license - \$25;
- (m) Initial permanent color and tattoo facility license - \$250;
- (n) Annual renewal of permanent color and tattoo facility license - \$250;
- (o) In the event a "NSF" check is received for payment of fees, an additional \$25 administrative processing fee will be assessed.

(4) Monies will be applied according to the transaction documentation or request submitted to the Division by the payor. Fees misapplied may be corrected by written request specifying the license number affected and the action requested, subject to conditions set forth in subsection five (5) of this rule.

(5) Fees paid to the Division are not transferable between licenses or from person-to-person where applicant was eligible for service and service was rendered pursuant to application or transaction request submitted to the Division.

(6) Monies received without indication as to purpose or intent or as an amount of overpayment shall be applied toward any outstanding civil penalty balance owed.

Stat. Auth.: ORS 690.415

Stats. Implemented: ORS 690.415

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; OHD 14-1998, f. 12-9-98, cert. ef. 12-15-98; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0155

331-505-0020

Fee Refunds

(1) Examination fees will be refunded if the applicant does not meet the qualification for licensure as referred to in OAR 331-515-0050 (electrolysis) and OAR 331-555-0050 (permanent color and tattooing).

(2) Examination fees will not be refunded once an applicant has been approved to take the examination, even if the applicant is unable to participate in the examination. The fees will be carried forward to the next examination one time only.

(3) Application fees will not be refunded.

(4) The Division shall not refund fees, civil penalties or other moneys overpaid by an amount of \$10, or less, unless such refund is requested in writing by the payor within three years after the date of the overpayment.

Stat. Auth.: ORS 690.405(9) & ORS 690.415(3)

Stats. Implemented: ORS 690.405 & ORS 690.415

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0160

331-505-0030

Charges for Copies and Documents

(1) All requests for copies of public records pertaining to the Advisory Council for Electrologist, Permanent Color Technicians and Tattoo Artists shall be in writing.

(2) The Council may charge for copies of its records. Fees shall not exceed actual costs of locating, compiling, making available for inspection, preparing copy in paper, audio, computer disk, microfilm or machine readable format, and delivering public records. All fees assessed must be paid before public records are made available. Estimates for processing requests for public records will be given when requested.

(3) Persons wishing to obtain copies of records may learn the charge for them by contacting the Division office.

(4) Charges to the general public shall be payable for the exact amount due. Charges to government agencies shall be payable in cash unless billing to such agencies is authorized by the Administrator.

Stat. Auth.: ORS 690.405

Stats. Implemented: ORS 690.405

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0010

331-505-0040

Notification Requirements for Changes to Information

(1) Licensees shall notify the Division by mail or in person within 30 calendar days of a change in the following information:

- (a) Residential or mailing address;
- (b) Name;
- (c) Area code and telephone number; or
- (d) Employment status.

(2) A licensee shall notify the Division by mail or in person within 5 calendar days of a change to the following business information:

- (a) Business name;
- (b) Business telephone number, including area code;
- (c) General hours of operation;
- (d) Address change resulting from city or U.S. Postal Service action; or
- (e) Closure or sale of business facility or practice.

NOTE: Change of address initiated by the city or postal service requires submission of documentation substantiating action taken resulted from a governmental agency action and was not a result of the facility owner's business decision.

Stat. Auth.: ORS 690.380

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0015

DIVISION 510

DEFINITIONS FOR THE PRACTICE OF ELECTROLOGY

331-510-0000

Electrology Definitions

In addition to definitions listed in OAR 331-505-0000, the following terms are specific to Divisions 510 through 545.

(1) "Access" means unrestricted use or availability, easy to approach or enter; may be adjacent to or within a reasonable distance.

(2) "Instruments" means devices, tools and implements used in the practice of electrolysis, which includes but is not limited to needles, probes, forceps, hemostases, or tweezers.

(3) "Modality" means manner of mode in which electricity is used to produce a therapeutic effect (i.e. electrolysis, thermolysis, the blend).

(4) "Needle" means the conductor as referred to in ORS 690.350(4) also called wires, or probes.

Stat. Auth.: ORS 690.405(9)

Stats. Implemented: ORS 690.405

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0020

DIVISION 515

ELECTROLOGY: QUALIFICATIONS FOR LICENSURE

331-515-0000

Approval of Schools

The Health Division shall recognize a school of electrolysis which has met the following requirements:

(1) The facility has been approved and registered by the Department of Education, Private Career Schools, and meets provisions of ORS 345 and rules adopted by the Department for licensure as a career school;

(2) A curriculum/course of study has been submitted to the Division which has been approved as meeting the curriculum objectives outlined under OAR 333-515-0010;

(3) An initial inspection has been conducted by the Department of Education and Health Division and the facility satisfacto-

rily passed requirements for compliance with instruction and sanitary rules.

Stat. Auth.: ORS 690.410
 Stats. Implemented: ORS 690.410
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0025

331-515-0010

Approved Course of Study

To be approved by the Division, a course of study shall include, but is not limited to, 600 hours of training instruction. The course shall include 235 hours of theory, and 365 hours of practical experience in the following areas:

- (1) Laws and rules: 15 hours of training in theory.
- (2) Bacteriology: 20 hours of training in theory.
- (3) Sanitation and sterilization: 20 hours of training in theory and 15 hours of practical training.
- (4) Anatomy and physiology: 20 hours of training in theory.
- (5) Endocrinology: 20 hours of training in theory.
- (6) Structure, dynamics and diseases of skin and hair: 20 hours of training in theory.
- (7) Circulatory and nervous system: 20 hours of training in theory.
- (8) Electricity: 15 hours of training in theory.
- (9) Electrolysis (galvanic): 20 hours of training in theory and 115 hours of practical training.
- (10) Thermolysis: 20 hours of training in theory and 115 hours of practical training.
- (11) Combinations of electrolysis and thermolysis (blend): 20 hours of training in theory and 110 hours of practical training.
- (12) Draping and positioning: 5 hours of training in theory and 5 hours of practical training.
- (13) Professional ethics and business practices: 10 hours of training in theory and 5 hours of practical training.

Stat. Auth.: ORS 690.410
 Stats. Implemented: ORS 690.410
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0030

331-515-0020

Equivalent Course of Study; Experience Equivalency Standards

An applicant shall not be required to comply with the training requirements under OAR 331-515-0010 if the Division determines that the training and/or work experience obtained elsewhere is equivalent to minimum requirements listed in ORS 690.365(4) based on the following:

- (1) One hundred hours of course work credit shall be granted for every three full months of work experience or 12 months part-time experience as a practicing electrologist, if the applicant completed a course of study in another state with fewer than the 600 hours of theory and practical instruction required for Oregon licensure; or
- (2) Applicant provides documentation of two years full-time or four years part-time active work experience in the field of electrolysis. Documentation required as outlined in OAR 331-515-0030.

Stat. Auth.: ORS 690.365, ORS 690.405 & ORS 690.410
 Stats. Implemented: ORS 690.365, ORS 690.405 & ORS 690.410
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0045 & 333-305-0050

331-515-0030

Application for Licensure

- (1) Applicants shall be at least 18 years of age, and shall provide documentation confirming date of birth, such as a copy of the birth certificate, driver's license, passport or school/military/governmental record.
- (2) Applicants shall have completed four years of standard high school education or the equivalent. Acceptable documentation is a high school diploma, letter from school or military

records verifying completion, GED passing scores, or proof of enrollment in a post-secondary educational institution.

(3) Application shall be made on forms prescribed by the Division and shall be accompanied by required documentation and the application and examination fees. A completed application form includes, but is not limited to, the following information:

- (a) Applicant's name, address and telephone number;
- (b) Applicant's date of birth;
- (c) Applicant's Social Security Number;
- (d) Licensure information from another state, if applicable;
- (e) Applicant's signature and date of application;
- (f) Proof of training and/or licensure; and
- (g) Original, color "passport quality" photograph (non-Polaroid, such as identification photo or driver's license photo), head and shoulders view, 1 1/2 inch by 2 inch dimension.

(4) Application for licensure as an electrologist shall also be accompanied by a verification of required education and/or training in the form of an official transcript:

(a) **OFFICIAL TRANSCRIPT:** The document shall be mailed directly to the Division office from a licensed or accredited school or an equivalent institution recognized by the Division, showing completion of the prescribed course of study, listed in OAR 331-515-0010 or its equivalent approved by the Division, and shall be issued by:

- (A) A school of electrolysis licensed by the Department of Education, Private Career Schools, under ORS 345;
- (B) A licensed or accredited school of electrolysis located in another state where the practice of electrolysis is unregulated; or
- (C) An institution recognized by the Division, such as a medical facility or other county, state, or federal agency or entity, where training and education is provided by means of a standardized course of study, adhering to prescribed curriculum objectives and criteria.

(5) The transcript must be mailed directly to the Division or delivered in person in a sealed envelope, issued from the school or entity. The issuing school or institution shall attest to the document's authenticity and accuracy and affix an authorized signature over the envelope seal.

(6) The Division may accept a facsimile of an applicant's transcript sent from the school to the Council office at the request of the applicant to facilitate scheduling an examination. The original official transcript shall be submitted to the Council office within seven (7) calendar days after the examination date. The license shall not be issued until the Division receives the official transcript from the school.

(7) **OUT OF STATE LICENSURE:** Applicants who hold an electrolysis license issued from another state shall submit an original Affidavit of Licensure form affixed with the state's seal or stamp, signed by the licensing authority where the applicant is currently licensed, and mailed directly to the Division office by that state.

(a) The form shall indicate whether the applicant satisfactorily passed a national or state prepared written and practical examination.

(b) Additional documentation may be required substantiating completion of equivalent training requirements listed in OAR 331-515-0020.

Stat. Auth.: ORS 690.365 & ORS 690.405
 Stats. Implemented: ORS 690.365 & ORS 690.405
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0035

331-515-0040

Application for Electrolysis Instructor

- (1) The Division shall authorize an Oregon licensed electrologist to act as an instructor if the licensee holds a valid current license, has been actively practicing for at least two (2) years, and has not been the subject of any disciplinary action for an offense relevant to the individual's qualification as an instructor.
- (2) Application for examination for electrolysis instructor indorsement shall be on forms provided by the Division and shall include the following:

- (a) The application fee and examination fee;
- (b) Number of current, valid Oregon electrolysis license;
- (c) Documentation verifying two years active practical experience as a licensed electrologist.

(3) Upon qualification for an instructor indorsement, following satisfactory completion of examination, an applicant shall submit the instructor indorsement fee.

(4) A statement attesting to the person's qualifications as an electrolysis instructor shall be placed on the practitioner's license as an "indorsement" and the license reissued.

(5) The instructor indorsement shall be issued with the same expiration date as the electrologists' current license.

Stat. Auth.: ORS 690.410
 Stats. Implemented: ORS 690.410
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0040

331-515-0050

Application Completion and Deadlines

(1) Applications for examination must be received by the Division at least 30 calendar days prior to the date of the examination or the applicant will be required to wait until the next scheduled exam. A schedule of application deadlines and examination dates is available at the Division office upon request.

(2) The Division will notify an applicant of any incomplete documentation or outstanding issues requiring further action. An applicant who fails to take corrective action within 90 calendar days from the date of notification, will be considered disqualified and his/her application closed. Ineligible status pertaining to age or minimum education requirements, incomplete or improperly completed forms, lack of documentation verifying training and/or experience, or insufficient fees are grounds for disqualification.

(3) Examination fees shall not be carried forward for a subsequent examination if an applicant is not excused from or does not appear for the examination or take all sections of the examination as scheduled and required by the Division.

(4) Applicants failing to successfully complete the examination process and attain licensure within two years from the date of the initial application or the most recent examination attempt, whichever is later, shall be required to:

(a) Reapply for examination according to OAR 331-515-0030;

- (b) Pay the appropriate fees; and
- (c) Retake examination.

(5) An applicant who has an outstanding civil fine or action in another state or country, documented on the Affidavit of Licensure form or equivalent record, shall be prohibited from qualification for licensure and examinations until any and all fine(s) and/or action(s) are resolved and verification of resolution from the originating state has been received.

Stat. Auth.: ORS 690.365 & ORS 690.405
 Stats. Implemented: ORS 690.365 & ORS 690.405
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; Renumbered from 333-305-360; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0055

DIVISION 520

ELECTROLOGY: EXAMINATIONS

331-520-0000

Examination Authorization

(1) The Division will conduct examinations for licensure and instructor's indorsement. Applicants will not be scheduled for an examination until all documentation and fee requirements have been completed.

(2) The Division reserves the right to alter or adjust examination dates, times and locations as it deems necessary to meet emergency situations and will notify applicants and schools in advance whenever possible.

(3) The Division will mail notice to each applicant approved for examination by U.S. Postal Service, at least 20 calendar days prior to the examination. Notification will not be given by any other means.

(4) Applicants shall be required to present photographic identification, such as a driver's license, at the time of the examination.

Stat. Auth.: ORS 690.370
 Stats. Implemented: ORS 690.370
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0075 & 333-305-0080

331-520-0010

Examination for Electrologist License

(1) The examination for an electrolysis license shall consist of two sections: a written examination and a practical examination. Applicants shall take all sections of both parts of the examination on the first attempt.

(2) The written examination shall consist of no more than 200 multiple choice questions, and shall not exceed three hours in duration. Questions shall cover subjects required in an approved course of study in accordance with OAR 331-515-0010.

(3) The practical examination will consist of an actual demonstration of hair removal on a model provided by the applicant and shall not exceed 90 minutes in duration. Information on the practical examination procedures will be mailed to applicants with the examination notice. Refer to OAR 331-520-0000(3).

(4) Graded criteria shall include model preparation, safety, sterilization and sanitation measures, technique, use of instruments, and aftercare.

(5) The examination shall be "closed book", and shall be prepared or conducted in English.

(6) The written and practical sections of the examination will be scored individually, not added or averaged together.

(7) A passing score of at least 75 percent on each section of the examination is required before a license will be issued.

Stat. Auth.: ORS 690.370
 Stats. Implemented: ORS 690.370
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0065

331-520-0020

Examination for Electrologist Instructor Indorsement

(1) The examination for approval as an instructor of electrolysis shall consist of:

(a) Submission at the start of the examination of a daily lesson plan covering one of the required subjects in an approved school curriculum;

(b) A 30 minute classroom presentation of the daily lesson plan submitted.

(2) A practical instructional demonstration of one modality, as designated by the Division at the time of examination notice, on a model provided by the applicant.

(3) Written instructional summaries of the other two modalities submitted at the start of the examination.

(4) A passing score of at least 75 percent is required for each of the four sections of the instructor examination before a replacement license showing the instructor indorsement will be issued.

Stat. Auth.: ORS 690.370
 Stats. Implemented: ORS 690.370
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0065

331-520-0030

Special Examination Accommodations

(1) Applicants who have a learning, psychological, physical, or other disability which requires an accommodation to the regular testing environment may request a special examination.

(2) Requests for accommodation shall be made on forms provided by the Division and shall contain supporting documentation completed by a licensed professional holding appropriate credentials qualified to certify that the applicant's disabling condition requires the requested test accommodation.

(3) A "Request for Accommodation" form must be submitted to the Division at least 30 calendar days in advance of the scheduled examination date to make appropriate arrangements contingent upon the type of accommodation requested.

(4) All special examinations are conducted in the Division office, unless the Division is unable to accommodate the disability there. In that case, the Division will make special arrangements for an adequate test site to accommodate the request.

Stat. Auth.: ORS 690.370
 Stats. Implemented: ORS 690.370
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-520-0040

General Information about the Examination

(1) Applicants shall take all sections of the examination at the first attempt. The examination fee shall not be carried forward for a subsequent examination if an applicant is not excused from or does not appear for the examination or take all sections of the examination as scheduled and required by the Division.

(2) Taking notes, textbooks or notebooks into the examination area is prohibited.

(3) Electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by Division staff, are prohibited in the examination area. Taking such items into the examination area will invalidate the examination and result in forfeiture of the examination fees.

(4) An applicant will be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

(a) Giving or receiving aid, directly or indirectly during the examination process;

(b) Obtaining help or information from notes, books, or other individuals to answer questions;

(c) Removing or attempting to remove any examination-related information, notes or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination; and

(e) Exhibiting behavior which impedes the normal progress of the examination.

(5) Disqualification will invalidate the examination and result in forfeiture of the examination fees. The applicant will be required to reapply, submit additional examination fees and request in writing to schedule another examination at a date and time determined by the Administrator. Reexamination shall be deferred for a period of at least one year following the date of disqualification. The location of reexamination shall be determined by the Division.

Stat. Auth.: ORS 690.410
 Stats. Implemented: ORS 690.410
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0090

331-520-0050

Notification of Examination Results

(1) The Division will mail notice to each applicant by U.S. Postal Service of the results of his/her examination scores within 30 calendar days from the date of the examination. Results will not be given by any other means.

(2) Applicants who have successfully passed the examination will be required to pay the initial one year license fee prior to being issued a license.

Stat. Auth.: ORS 690.370
 Stats. Implemented: ORS 690.370
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0095

331-520-0060

Examination Review

(1) Pursuant to ORS 183.435, applicants who fail to attain licensure as a result of test scores are not entitled to a formal appeal or hearing. Applicants will be provided information on areas of weakness in preparation for subsequent examination.

(2) Applicants may request an information review of their test results and/or comment on either procedures or conduct of the examination; however practical examination results are not challengeable.

(3) Applicants failing the written examination portion will receive a copy of the examination review procedures. Review of a failed written examination may be scheduled, provided the request and appointment to review are made within 30 days from the date the examination results were mailed.

(4) All reviews will be held within the Division office. Reference materials or texts may be used during the review process. Photographic identification will be required.

(5) After the review, if the applicant's concerns have not been satisfactorily addressed, a written complaint may be submitted to the Advisory Council. The written complaint must cite specific questions and answers that were judged incorrect during grading and the reason why the applicant believes the answer should have been judged correct.

(6) Applicants may wish to prepare the complaint immediately after the review in the Division office. However, if an applicant does not prepare the complaint at the time of review, any written materials will not be allowed to be removed from the Division office.

(7) To be considered by the Advisory Council, the complaint must be legibly written. The applicant must appear in person at the next regularly scheduled Advisory Council meeting. Failure to appear will result in the dismissal of the complaint by the Division.

(8) The Advisory Council will consider the complaint in Executive Session at its next regularly scheduled meeting.

(9) If the Advisory Council is not scheduled to meet within 60 calendar days from the date the examination is reviewed, the Council may delegate review of the applicant's complaint and/or comment to its designated "Examination Committee".

Stat. Auth.: ORS 690.410
 Stats. Implemented: ORS 690.410
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0100

331-520-0070

Retake of Examination Sections; Additional Training

(1) Applicants who fail the examination three times (first attempt plus two retakes) shall be required to obtain an additional 100 hours of theory training within their scope of practice through an Oregon career school licensed under ORS 345.010 to 345.450.

(2) Prior to an applicant's fourth examination attempt, an official transcript must be received from a school identified in subsection (1) of this rule which indicates that the applicant has satisfactorily met the additional instruction.

Stat. Auth.: ORS 690.370
 Stats. Implemented: ORS 690.370
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0105 & 333-305-0110

DIVISION 525

ELECTROLOGY: LICENSE ISSUANCE, RENEWAL AND REACTIVATION

331-525-0000

Issuance and Renewal of Licenses

(1) Licenses shall be issued for one-year, from the date all qualifications for licensure are met and shall have the expiration date as the last day of the month in which the license was issued.

(2) The Division may mail a notice of renewal to the last-known address of the license holder.

(3) Application for renewal shall be made in advance of the license expiration date, and shall be submitted with the appropriate fee(s) for renewal and satisfactory proof of continuing education as required under OAR 331-530-0000 and 331-530-0010.

(4) Renewal payments received in the Division office or postmarked after the expiration date but within one year of expiration

tion, will be assessed a late fee in addition to the annual renewal fee.

(5) A license which has been expired for more than one year but less than three, shall be deemed suspended and may be reactivated by payment of the following fees listed in OAR 331-505-0010:

- (a) A suspended renewal fee for each year expired;
- (b) A reactivation fee; and
- (c) A renewal fee.

(6) Failure to renew or reactivate a license within three years from the date of expiration will require submitting a new application and successfully passing the qualifying examination according to provisions of OAR 331, Divisions 515 and 520 before a license will be reissued.

(7) A licensee holding an electrolysis instructor indorsement shall submit the authorization fee at the time of practitioner renewal.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0115

**331-525-0010
 Conditions for License Renewal**

(1) Licensees must meet applicable requirements listed in OAR 331-525-0000 and 331-530-0000 to be eligible for license renewal.

(2) Practicing electrologists shall submit to an annual inspection or as required by the Division to determine compliance with the requirements of the statute and with sanitation and sterilization practices.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0120

**331-525-0020
 Display of License and Inspection Certificate; Identification**

(1) The individual's current practitioner license and a copy of the latest inspection certificate must be posted in public view in the lobby or waiting area or in the operatory or treatment area in plain view at the place of business.

(2) All license holders shall carry photographic identification at all times when performing services or when a facility is open for business, and shall provide Division inspectors with the appropriate identification upon request. Acceptable photographic identification includes, but is not limited to, a valid driver's license, passport, or other official document issued by a recognized governmental agency.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0140

**331-525-0030
 Duplicate Licenses**

(1) The Division will issue a duplicate license provided the request is made in writing, certifying the original license has been lost or destroyed and the appropriate fee is enclosed.

(2) The posting of a reproduction of any license is prohibited unless the Division issued and marked it "Duplicate".

(3) The posting of a pocket identification card in lieu of a license is prohibited.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0145

**331-525-0040
 Practicing at Location Other Than Named Place(s) of Business**

(1) Electrologists shall not practice at any location other than the place or places of business listed with the Division. Exceptions shall be granted as follows:

- (a) Nursing homes;
- (b) Private residences or hospitals when client is physically confined through medical disability or restriction; or
- (c) Demonstrations for educational purposes at a single location, not to exceed 30 days.

(2) Demonstration permits shall be issued upon:

- (a) Submission of application on forms provided by the Division;

and

- (b) Payment of demonstration applications and permit fees;

and

- (c) Compliance with safety, sanitation, and sterilization procedures.

(3) All licensees who perform services at locations listed in subsections (1)(a) through (c) of this rule or at more than one business location shall carry their license with them and post it while working.

Stat. Auth.: ORS 690.390 & ORS 690.405(9)
 Stats. Implemented: ORS 690.390 & ORS 690.405(9)
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0185

**331-525-0050
 Licensing Sanctions**

(1) In accordance with ORS 348.393 to 348.399 and OAR 575-001-0030, the Division shall provide the Oregon State Scholarship Commission with certification and licensing information which may be electronically cross-matched with the Commission's post-default database.

(2) The Division shall refuse renew or suspend the practitioner license, or place the license on probation, if the person is in default on any student loan guaranteed or insured by the Oregon State Scholarship Commission and is not paying in a satisfactory manner as determined by the Commission and in accordance with federal regulations.

(3) Pursuant to ORS 348.393(3), the Division shall notify the license holder of the action being taken against the license at the direction of the Commission.

(4) Upon notification by the Commission and receipt of a release notice that the individual has met satisfactory borrower repayment status, the Division shall renew, or release from probation or suspension the license upon compliance with any qualifications for renewal.

(5) In accordance with ORS 25.750 to 25.783, the Division shall provide the Support Enforcement Division of the Department of Justice with licensing information which may be electronically cross-matched with Support Enforcement Division's records for persons under order of judgment to pay monthly child support and who are in arrears according to ORS 25.750(a), (b) and/or (c).

(6) The Division shall place into a suspended status the license, if the Support Enforcement Division or the district attorney identifies the license holder as being in arrears with respect to any judgment or order requiring the payment of child support and that the case is being enforced under the provisions of ORS 25.080.

(7) Pursuant to ORS 25.762 or 25.765, the Division shall notify the license holder of the suspension status and refer the person to the Support Enforcement Division or the district attorney for resolution.

(8) Upon notification by the Support Enforcement Division or district attorney and receipt of a release notice that the conditions resulting in the suspension no longer exist, the Division shall release from suspension the license upon compliance with any qualifications for renewal or reactivation.

(9) In accordance with ORS 305.385, the Division upon request shall provide the Department of Revenue with licensing information to determine if the holder has neglected or refused to file any return or to pay any tax without filing a petition with the department as stated in ORS 305.385(4)(a).

(10) The Division shall propose to take action against a licensed holder identified by the Department of Revenue. Where the Division proposes to refuse to reissue, renew or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550 for contested cases.

(11) Upon notification by the department and receipt of a license issued by the department that the license holder is in good standing with respect to any returns due and taxes payable to the department as of the date of the applicant, the Division shall renew, issue or release from suspended status the license upon compliance with any qualifications for renewal or issuance.

Stat. Auth.: ORS 690.085, ORS 690.165 & OL 1995, Ch. 287
 Stats. Implemented: ORS 690.165; OL 1995, Ch. 287; ORS 348.393 – ORS 348.399; ORS 25.750 – ORS 25.783; & ORS 305.385
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

DIVISION 530

ELECTROLOGY: CONTINUING EDUCATION

331-530-0000

Continuing Education for License Renewal

To maintain licensure in the field in which they are licensed to practice, electrologists must participate in continuing education as follows:

(1) Complete 20 clock hours, either as one unit or combination of units, not less than one hour each, every three years.

(2) Satisfactory continuing education courses shall fit into the approved curriculum objectives listed in ORS 690.410(1)(b) and the course of study outlined in OAR 331-515-0010:

(a) Participation or attendance at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, or association; except;

(b) Self-study, participation, or attendance not covered by subsection (a) of this rule may comprise up to eight hours of the total requirement; or

(c) Attendance at meetings of the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists for a maximum of three hours per meeting, totaling no more than six hours per three year period.

(3) Continuing education is required for renewal, every three years, even if the license has been inactive or suspended during that period.

(4) Licenses will not be renewed without receipt of the required continuing education report.

(5) Licensees failing to obtain 20 clock hours of continuing education every three years must reapply and qualify according to the requirements of OAR 331-515-0030 and successfully pass a written and practical examination.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0125

331-530-0010

Reporting Continuing Education

(1) Submission to the Division of proof of participation in required continuing education is the responsibility of the licensee.

(2) Licensees shall submit to the Division, the renewal document, fee(s), and proof of 20 clock hours of continuing education as a condition of renewal every three years. Proof of participation shall be:

(a) Submission to the Division of evidence substantiating completion of self-study. Self-study materials must be directly related to subjects outlined in OAR 331-515-0010. Any request for self-study credit must be made on forms provided by the Division, which lists sponsor/source, type of study, description of content, date of completion, duration in clock hours. Self-study may include continuing education obtained by means of the following:

(A) Correspondence courses or national home study issues;

(B) Review of publications, textbooks, printed material, or audio cassette(s);

(C) Viewing of films, videos, or slides; or

(b) Submission to the Division of evidence substantiating the following:

(A) Completion or verification by the sponsoring organization or person of attendance in a course, program, lecture or seminar;

(B) Name of sponsor, title of the presentation, description of content, name of instructor or presenter;

(C) Date and duration in hours of the course, program, lecture or seminar; and

(D) Any supplemental documentation to support that sponsor and subject matter meet the requirements and relate to practice as stated in OAR 331-515-0010.

(3) Proof of 20 clock hours of continuing education shall be accumulated and held by the licensee until submitted to the Division only at the time of renewal.

(4) Hours of continuing education, in excess of the requirement for renewal every three years, will not be carried forward.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0130

DIVISION 535

ELECTROLOGY: PRACTICE STANDARDS

331-535-0000

Compliance with all Applicable Regulations

(1) Electrologists shall observe all applicable Health Division and other state regulations pertaining to public health and safety. Compliance with state building, fire, plumbing, and electrical regulations is required.

(2) In addition, when an employee/employer relationship exists, practitioners shall comply with ORS 654 and the Oregon Safe Employment Act.

(3) Electrologist shall observe and adhere to all Oregon Occupational Safety & Health Codes (OR-OSHA), OAR 437, 1910.1030 Bloodborne Pathogens.

(4) Every electrologist shall have a written Exposure Control Plan. All procedures developed for the facility's exposure control plan shall be in compliance with OSHA state and federal regulations and with current Center for Disease Control (CDC) standard for public service workers.

(5) Only authorized equipment or products may be utilized, and in addition, must only be used in a manner approved by manufacturers and appropriate regulatory agencies.

Stat. Auth.: ORS 690.165
 Stats. Implemented: ORS 690.165 and ORS 654
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-535-0010

Electrologist Practice Standards: Restrictions

(1) Electrologists shall provide a written statement of practice to each client, stating the services they provide, the purpose for asking certain questions regarding the client's health, and advising that recommending medical attention or advising a client to check with their physician is not the result of diagnosis nor to be considered a medical referral.

(2) Licensees shall keep an individual record of each client. That record shall include: name and address of client; type of treatment required/requested; type of hair or skin; date and duration of each treatment; special instructions or notations relating to the treatment precautions or needs, such as allergies, pacemaker, etc.; and, name and telephone of referring doctor, if applicable.

(3) Electrologists are prohibited from performing services under the following conditions or circumstances (for blood borne diseases only, refer to OAR 331-535-0020):

(a) Licensee or client has a disease or condition which has been diagnosed by a physician to be in a communicable or transmittable form during treatment;

(b) Licensee determines by direct observation or communication with client, that client has or may have a suspected communicable disease or condition;

(c) Licensee knows or should have reasonably known from the state of his/her own physical condition, a communicable disease or condition may exist; or

(d) Treatment in areas with high propensity towards bacterial colonization, such as nostrils and ear canals.

(4) Electrologists must first obtain written authorization from a physician when any of the following exists:

(a) Request for hair removal from moles or birthmarks;

(b) Removal of eyelashes;

(c) Clients with diabetes; or

(d) Clients with heart problems or pacemaker.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0245

331-535-0020

Communicable and Blood Borne Diseases

A licensee providing service or working in a facility while diagnosed with having acquired an immunodeficiency virus and related immunodeficiency conditions or Hepatitis viruses (B, C and/or D) shall observe and follow all current Centers for Disease Control (CDC) standards for public service workers regarding personal protection equipment and disposal of blood or bodily fluid contaminated articles, tools and equipment. This includes practitioners or employees providing services to clients who have been diagnosed with having an immunodeficiency virus, related conditions or the Hepatitis viruses (B, C and/or D).

NOTE: It is the position of the Division that human immunodeficiency virus (HIV) is the cause of acquired immunodeficiency syndrome (AIDS) and related immunodeficiency conditions. This virus, as well as Hepatitis B virus (HBV), Hepatitis C virus (HCV) and Hepatitis virus (HVD) may be transmitted by sharp instruments contaminated by blood or other body fluids, if standard precautions are not followed. As the carriers of these viruses may have no symptoms, the most prudent course to follow is to treat body fluids from all persons with the same high standards of caution and to rigorously follow established safety and sanitation practices as required by the law and rules of the Division. There is no published evidence to support casual transmission of HIV, by sneezing or touching, even in close household settings involving AIDS patients and family members caring for them at home. Because HIV is not spread by casual means and because of the inadequacies of the HIV antibody test, there is no reason for the Division to require blood tests prior to certification and/or licensure. Good hand washing after glove removal and between each client is imperative and the most important procedure for prevention of all infections, including HIV. Uniform body fluid precautions are ample to prevent transmission of HIV, HBV, HCV and/or HDV in a facility setting.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-535-0030

Handwashing/Protective Gloves; Handling Disposable Materials

(1) **HANDWASHING:** Electrologists shall observe and adhere to the following handwashing standards when serving clients:

(a) Hands must be washed before and after treatment of each client and before putting on gloves and immediately after gloves are removed;

(b) Thorough hand washing shall be by use of soap and water or other alternative hand washing product, such as jell, aerosol spray, foam, or pre-packaged hand wipes, immediately before and after serving each client as needed. Use of bar soap is prohibited.

(c) The client's skin shall be cleansed by applying an antiseptic or antibacterial solution prior to and following treatment.

(2) **PROTECTIVE GLOVES:** Electrologists shall observe and adhere to the following protective glove standards when serving clients:

(a) A fresh pair of disposable gloves should be worn during the treatment of each client;

(b) Hands must be washed in accordance with the handwashing standards stated in subsection (1) of this rule before putting on gloves and immediately after gloves are removed;

(c) Low-powdered gloves should be worn and/or excess exterior powder should be removed with a clean disposable paper towel moistened with tap water and dried gently with a clean disposable paper towel to prevent powder from contacting client's skin surface during treatment;

(d) When a treatment session is interrupted:

(A) A protective covering should be used over the gloved hand/hands; or

(B) Gloves should be removed and discarded.

(e) When gloves are removed during a treatment session, hands should be washed and a fresh pair of gloves used;

(f) Gloves should be worn during the procedures of mechanical pre-cleaning, cleaning, rinsing, and drying of needles/probes and forceps/tweezers;

(g) Torn or perforated gloves should be removed immediately, and hands should be washed after gloves are removed.

(3) **DISPOSABLE MATERIALS:** Electrologists shall observe and adhere to the following disposable material standards when serving clients:

(a) All waste materials related to treatment shall be disposed of in a covered container after each client service;

(b) Disposable materials in contact with blood and/or body fluids shall be placed in a sealable plastic bag, separate from sealable trash or garbage liners, and then disposed of in a covered container;

(c) Disposable sharp objects in contact with blood and/or body fluids shall be disposed of in an appropriate "sharps container" as defined in OAR 331-505-0000(32);

(d) Electrologists shall have both sealable plastic bags and sealable rigid containers available at the facility.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0210, 333-305-0215 & 333-305-0235

331-535-0040

Linens

(1) Clean linens shall be used for each client.

(2) A common towel is prohibited.

(3) Air blowers can be substituted for hand towels.

(4) Clean linens, tissues or single-use paper products shall be stored in a clean, storage area until needed for immediate use.

(5) Used linens shall be disposed of or stored in a closed or covered container until laundered.

(6) Used linens shall be laundered either by a regular commercial laundering or by a noncommercial laundering process which includes use of commercial laundry detergent manufactured for the specific purpose of cleaning clothes, linens or other washable fabric, and immersion in hot water during the wash and rinse cycle.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0220

331-535-0050

Criteria for Facilities; Required Equipment

(1) All facilities shall have a treatment area or operator area that is separate, private, or screened from the entrance, waiting area, and/or other treatment areas.

(2) Facilities shall be kept clean and orderly, and equipment shall be maintained in good repair

(3) All surfaces (counters, tables, equipment, client chairs or recliners) in treatment and sterilization areas shall be made of smooth, non-absorbent and non-porous material.

(4) All floors and walls shall easily cleanable. Concrete blocks or other masonry used in wall construction shall be covered or made smooth and sealed for a washable surface.

(5) Surfaces or blood spills shall be cleaned using an EPA-registered high-level disinfectant, used according to the manufacturer's instructions.

(6) Pets or other animals shall not be permitted in the business facility. This prohibition does not apply to therapy animals, trained guide animals for the disabled, sightless or hearing impaired, fish in aquariums or nonpoisonous reptiles in terrariums.

(7) Electrologists shall maintain at the place of business an adequate supply of approved disinfecting or sterilizing equipment, tools/implements, articles and materials for usage requirements and volume of business. The following equipment shall be maintained at the place of business:

- (a) A Federal Communications Commission (FCC) approved epilator;
- (b) Sufficient supply of needles and tweezers to supply sterile instruments for each client treated;
- (c) A treatment light;
- (d) Choice of hemostat, forceps, or tweezer to transfer sterilized instruments;
- (e) Protective gloves;
- (f) Sealable plastic bags and sharps container.

Stat. Auth.: ORS 690.390 & ORS 690.405(9)
 Stats. Implemented: ORS 690.390 & ORS 690.405(9)
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0165, 333-305-0175, 333-305-0180 & 333-305-0190

331-535-0060

Water Supply Requirements and Standards

(1) The quality and construction of facility water supplies shall meet the requirements of ORS Chapter 448 and State Plumbing Code, OAR 814, Divisions 750-799, and OAR 437-112.

(2) Facility water supplies shall have a minimum of 20 pounds pressure per square inch in accordance with the State Plumbing code.

(3) All facilities shall have easy and adequate supply of both hot and cold running water and wash basins on the facility premises or as part of surrounding premises or adjacent to the facility but separate from a public restroom.

(4) Waste from toilets or lavatories shall be discharged directly into a public sewer or by a method meeting the requirements of ORS 454.

(5) Hand washing accommodations shall be provided in work areas where employees are exposed to hazardous materials which will have a harmful effect on or be absorbed through the skin if the contamination is not removed.

(6) Washing accommodations shall be maintained in a clean and sanitary condition.

Stat. Auth.: ORS 690.390 & ORS 690.405(9)
 Stats. Implemented: ORS 690.390 & ORS 690.405(9)
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0165

331-535-0070

Compliance with Indoor Clean Air Act

Any public place in a facility shall be governed under the Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875.

(1) A proprietor or person in charge of the facility can designate the entire area as a non-smoking area.

(2) Designated smoking area means any area set aside by a proprietor or person in charge of a public place where tobacco smoking is permitted and where a sign indicates same.

(3) No person shall smoke or carry any lighted smoking device in a public place except in designated smoking areas.

(4) No facility may be designated in its entirety as a smoking area.

(5) Public place means any enclosed indoor area open to and frequented by the public.

(6) Open to and frequented by the public means any area where the public can freely enter or move without special invitation.

(7) The Health Division Administrator may grant a waiver to the no smoking requirements. The request shall explain how the facility will meet the three provisions set forth in OAR 333-015-0060. Waiver information may be obtained from the Health Division.

Stat. Auth.: ORS 690.390 & ORS 690.405(9)
 Stats. Implemented: ORS 433.835 - ORS 433.875, ORS 690.390 & ORS 690.405(9)
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0170

331-535-0080

Waste Receptacles

(1) All waste material related to treatment shall be deposited in a covered container following service for each client.

(2) Waste disposed of in receptacles located in reception and/or restroom areas are limited to materials which are not practice-related or used in the performance of any client services. Waste receptacles located in these areas are exempt from the covered container requirements listed in subsection (1) of this rule.

(3) Outer surface of waste disposal containers shall be kept clean.

Stat. Auth.: ORS 690.390
 Stats. Implemented: ORS 690.390
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0240

DIVISION 540

ELECTROLOGY: SAFETY AND STERILIZATION STANDARDS

331-540-0000

Cleaning Requirements and Standards

(1) All items in direct contact with the client's skin that do not require disinfecting shall be clean.

(2) All items in direct contact with the client's skin that cannot be cleaned or disinfected shall be disposed of in a covered waste receptacle immediately after use.

(3) All substances used in the practice of electrolysis shall be dispensed from containers in a manner to prevent contamination of the unused portion.

(4) All disinfecting solutions and/or agents shall be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times the facility is open for business.

(5) The Division shall authorize the use of disinfecting agents provided those agents are EPA registered and meet the criteria set forth in OAR 331-505-0000(14) and (16).

Stat. Auth.: ORS 690.205
 Stats. Implemented: ORS 690.205
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-540-0010

Instrument Cleaning; Sterilization Standards

(1) Prior to sterilizing, instruments shall be brushed and/or swabbed to remove foreign material or debris, rinsed and then cleaned by one of the following approved methods:

(a) Immersing in detergent and water in an ultra sonic unit that operates at 40 to 60 hertz, followed by a thorough rinsing and wiping; or

(b) Submerging and soaking in a protein dissolving detergent/enzyme cleaner, followed by a thorough rinsing and wiping.

(2) Instruments or other equipment which are "heat-sensitive" shall be disinfected by complete immersion of the object(s)

or portion(s) thereof to be disinfected, in an EPA-registered high-level disinfectant which has demonstrated tuberculocidal activity, and used according to the manufacturer's instructions.

(3) The removable tip of an epilator needle or probe holder shall be removed after each treatment, cleaned and then soaked for in a commercial sporicide solution according to manufacturers' instructions.

(4) Cleaned instruments used in the practice of electrolysis shall be placed in sterile bags or containers with color strip indicators, sterilized by exposure to one cycle of an approved sterilizer listed in OAR 331-540-0020.

Stat.: Auth. ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0200 & 333-305-0205

331-540-0020

Approved Sterilization Modes

(1) Instruments used in the practice of electrology shall be sterilized using one of the following methods:

(a) Autoclave (steam or chemical) sterilizer, registered and listed with the federal Food and Drug Administration, used, cleaned, and maintained according to manufacturer's instructions; or

(b) Dry heat unit registered and listed with the federal Food and Drug Administration, used, cleaned, and maintained according to manufacturer's instructions.

(2) In lieu of sterilization methods listed in (1) above, a licensee may use single-use, prepackaged, sterilized equipment, obtained from commercial suppliers or manufacturers.

(3) Sterilizing devices shall be tested during each sterilizing cycle by means of a commercial test mechanism, such as but not limited to color strip indicators to measure temperature control and general functioning of the equipment.

(4) Sterilizing devices shall be tested at least quarterly for functionality and thorough sterilization by using a commercial biological monitoring (spore) system to assure all microorganisms, including spores, have been destroyed. Biological indicator test results must be available for inspection at all times.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0195

331-540-0030

Clean Instruments; Products Storage

(1) Before use, disposable products that come in contact with the areas to be treated shall be stored in clean containers that can be closed between treatments.

(2) Clean, sterilized re-usable instruments that come in contact with the areas to be treated, shall be individually stored in clean, sterilized containers to maintain effective sterilization of the instrument until removed from the container.

(3) Clean, sterilized re-usable transfer instruments shall be stored in a clean, dry, sterilized container.

(4) Chemicals shall be stored in labeled, closed containers in an enclosed storage area.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0225 & 333-305-0230

DIVISION 545

COMPLIANCE

331-545-0000

Complaint Handling

(1) After receipt of a written complaint, regarding services performed, the Division shall send a copy of the complaint (including name of complainant) to the licensee and request a reply to the charges within 20 days from the date of the inquiry by

the Division. The Division will then determine if further action is appropriate.

(2) The Division may initiate an inspection or investigation pursuant to ORS 690.405.

Stat. Auth.: ORS 690.405(6) & ORS 690.405(9)

Stats. Implemented: ORS 690.405(6) & ORS 690.405(9)

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0255

331-545-0010

Civil Penalty Considerations

(1) In addition to any other penalty provided by law, a person who violates any provision of ORS 690.350 to 690.410 or any rule adopted thereunder shall be subject to a civil penalty imposed by the Health Division. The Division reserves the right to pursue other remedies against alleged violators and may take any other disciplinary action at its discretion that it finds proper, including assessment of penalties not to exceed \$1,000.

(2) In establishing the amount of the penalty for each violation, the Division will consider, but not be limited to the following factors:

(a) The gravity and magnitude of the violation;

(b) The person's previous record of complying or of failing to comply with the provisions of ORS 690.350 to 690.410 or with the rules adopted under ORS 690.405;

(c) The person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and

(d) Such other considerations as the Division may consider appropriate.

(3) The Division may revoke, suspend or refuse to issue the applicant of any person, who fails to pay on demand a civil penalty which has become due and payable, provided that it first gives the person an opportunity for a hearing as outlined in ORS chapter 183, and conducted in accordance with OAR 333-12-001.

Stat. Auth.: ORS 690.996

Stats. Implemented: ORS 690.996

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0262

331-545-0020

Schedule of Penalties for Licensing Violations; Violation of Standards

The Division may assess penalties for the first and second license and practice violations according to the provisions of OAR 331-545-0010(1) and (2). For subsequent violations the Division shall, while reserving the right to impose other sanctions, assess monetary penalties according to the following schedule:

(1) Practicing or holding one's self out as available to practice, or using the title electrologist, without first receiving a current, valid license: \$1,000.

(2) Practicing or holding one's self out as available to practice, or using the title electrologist, with an expired or suspended license: \$1,000.

(3) Failing to post a current, valid license in public view: \$200.

(4) Failing to provide appropriate photographic identification upon request by the Division is violation of OAR 331-525-0020: \$1,000.

(5) Failing to submit changes of required licensing information within time frame set in rule: \$50.

(6) Practicing at location other than places of businesses designated to the Division, except as permitted by rule: \$500.

(7) Using a reproduction of a license in place of an original: \$50.

(8) Failing to allow inspection of the premises by the Division upon request or at least once every two years: \$1,000.

(9) Failing to meet the facility or practice standards adopted by the Division: \$500.

(10) Failing to comply with the Oregon Indoor Clean Air Act: \$100.

(11) Failing to provide a private or separate treatment area for clients: \$100.

(12) Except as provided by rule, allowing animals in the facility: \$100.

(13) Failing to maintain the required equipment or have approved test indicators at facility: \$500 and/or suspension or revocation.

(14) Failing to use approved test indicators or mechanism as required to ensure proper sterilization: \$500.

(15) Failing to sterilize instruments using an approved mode: \$1,000.

(16) Failing to meet sterilization standards: \$1,000.

(17) Failing to clean instruments prior to sterilization: \$1,000.

(18) Failing to wash hands before and after treatment and/or wear protective gloves: \$500.

(19) Failing to prepare treatment area on a client in accordance with Division standards: \$500.

(20) Failing to meet cleanliness and/or storage standards for linens: \$500.

(21) Failing to meet storage requirements for instruments, products or chemicals: \$500.

(22) Failing to dispose of materials contaminated with blood or body fluids in a sealable container or appropriate *sharps container*, or failing to have appropriate containers available: \$1,000.

(23) Failing to have required covered waste receptacles: \$100.

(24) Performing a restricted treatment(s): \$1,000.

(25) Failing to have and maintain client case history records: \$500.

Stat. Auth.: ORS 690.996

Stats. Implemented: ORS 690.996

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0265

DIVISION 550

DEFINITIONS FOR THE PRACTICE OF PERMANENT-COLOR TECHNICIANS AND TATTOO ARTISTS

331-550-0000

Permanent Color Technicians and Tattoo Artists Definitions

In addition to definitions listed in OAR 331-505-0000, the following terms are specifically used in the practice of permanent color and tattooing and are defined as used in OAR 331, Divisions 550 through 590.

(1) “*Access*” means immediate unrestricted use or availability, easy to approach or enter.

(2) “*Completed procedure*” means, for the purposes of determining qualification for licensure under OAR 331-555-0010; a tattoo which has been finished, including any touchups or additional work following initial healing, and the client is released from service, as follows:

(a) Figurative tattooing includes outlining and shading, use of different size/configuration of needles, a new design on a client or a different client;

(b) Cosmetic tattooing includes eyeliner, eyebrows, lip liner, full lip color, repigmentation or camouflage but does not include beauty marks.

(3) “*Direct supervision*” means the supervisor is present and actively involved in direct oversight and training to a person who has not completed the requirements of OAR 331-555-0010.

(4) “*Instruments*” means devices, tools and implements used in permanent color and tattooing services.

(5) “*Needle*” means the implement used to insert dyes or pigments into the dermis of the skin during permanent color or tattooing procedures.

(6) “*Needle bar*” means the metal or plastic device used to attach the needle to a tattoo machine.

(7) “*Practical*” means one-on-one training under the direct supervision of an instructor in the application of permanent color or tattooing.

(8) “*Repigmentation*” means recoloration of the skin:

(a) After dermabrasion, chemical peels, removal or resolution of birthmarks, vitiligo or other skin conditions which result in the loss of melanin to the skin;

(b) Scarring caused by surgical procedures, such as face lifts, mole or wart removal, cauterization, etc.;

(c) Burn grafts and other skin irregularities caused by burns or photo damage;

(d) Mastectomy, i.e. recreation of an areola or nipple; or

(e) Blotchy pigmentation requiring camouflage.

(9) “*Theory*” means all forms of relevant study which do not involve the application of permanent makeup or tattoos on human skin. Theory may include but is not limited to review of videos or written matter, attendance at lectures, or application of tattoos or permanent makeup on materials other than human skin.

Stat. Auth.: ORS 690.405(9)

Stats. Implemented: ORS 690.405

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0020

DIVISION 555

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: QUALIFICATIONS FOR LICENSURE

331-555-0000

Approval of Schools; Approval of Instructors

(1) Pursuant to ORS 345.010(4), education and training in the field of tattooing shall be conducted by a school of tattooing, licensed by the Oregon Department of Education, Private Career Schools, and provided by instructors approved by the Department under ORS 345 and OAR chapter 581 Division 045.

(2) The Health Division shall recognize a school of tattooing which has met the following requirements:

(a) The facility has been approved and registered by the Department of Education, Private Career Schools, and meets provisions of ORS 345 and rules adopted by the Department for licensure as a career school;

(b) A curriculum/course of study has been submitted to the Division which has been approved as meeting the curriculum objectives outlined under OAR 333-555-0010;

(c) An initial inspection has been conducted by the Department of Education and Health Division and the facility satisfactorily passed requirements for compliance with instruction and sanitary rules.

(3) The Division approved course of study offered through a school licensed according to section (1) listed above, shall meet requirements of OAR 331-555-0020.

Stat. Auth.: ORS 690.410

Stats. Implemented: ORS 690.410

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0025

331-555-0010

Approved Course of Study

(1) To be approved by the Division, a course of study shall include, but is not limited to 360 hours of instruction. The course shall include 210 hours of theory and 150 hours of practical work. This practical work must include as a minimum 50 completed procedures.

(2) All practical applications performed during training in the subject areas listed in subsection (3) of this rule shall be counted toward meeting the minimum 150 hours practical tattooing experience.

(3) The Division’s approved course of study shall include, but is not limited to, the following areas:

(a) Needles and needle bars: 20 hours of theory;

(b) Tattoo machines and equivalent equipment: 20 hours of theory;

(c) Equipment / Supplies: 20 hours of theory;

(d) Safety, Sanitation and Sterilization: 40 hours of theory;

(e) Basic color theory and pigments: 10 hours of theory;

(f) Design, art and placement: 10 hours of theory;

(g) Skin: 20 hours of theory;

(h) Client services 20 hours of theory;

(i) Business operations, including exposure control plan and federal regulations: 40 hours of theory;

(j) Oregon Laws and Rules: 10 hours of theory training.

(4) As part of the approved course of study, all hours of theory should be completed prior to practical work being performed on the general public.

(5) Detailed information pertaining to the Division approved course of study listing the above subject areas, content and scope, and required hours of instruction is on file with the Division office and may be obtained by written request from the Division.

Stat. Auth.: ORS 690.410

Stats. Implemented: ORS 690.410

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0030

331-555-0020

Training Criteria

(1) Training shall meet minimum objectives listed in OAR 331-555-0010 and shall be conducted under the direct supervision and authority of an Oregon licensed permanent color technician and tattoo artist, licensed as an instructor by the Department of Education, Private Career Schools. All aspects pertaining to services performed by the student shall be evaluated before receiving the instructor's sign-off as a completed procedure defined in OAR 331-550-0000(2).

(2) A registered instructor shall provide direct supervision of practical training on a one-to-one student/instructor ratio as defined in OAR 331-550-0000(3) for students performing practical training and when the student is working on the general public.

(3) The Division, with concurrence from the Department of Education, shall recognize an Oregon licensed permanent color technician or tattoo artist as a registered instructor if the individual:

(a) Holds a valid current Oregon license;

(b) Has substantiated active practice in the field of permanent color or tattooing for a minimum of four years prior to applying for registration as an instructor; and

(c) Has not been the subject of any disciplinary action for an offense relevant to the individual's qualification as an instructor.

NOTE: Refer to OAR 331-555-0040(4)(c) for documentation requirements if four years practical experience was obtained outside of Oregon and qualification is by means of experience equivalency.

(4) Individual progress records must be regularly maintained for the purpose of monitoring each student's progress through the instructional program and verifying actual hours of instruction in each classification listed under OAR 331-555-0010.

(5) The Division, with the assistance of a curriculum committee, will develop minimum standards for each classification within the approved course of study. The minimum standards should indicate specific levels of competence to be achieved by each student prior to any practical work to ensure students have achieved sufficient skill and knowledge to successfully and safely perform assigned tasks on members of the general public.

(6) The training syllabus submitted for Division approval shall include clearly defined student performance objectives which measure levels of performance for each classification of instruction listed under OAR 331-555-0010, for each skill/task and knowledge required for students to successfully pass the appropriate practitioner license examination and successfully and safely perform on members of the public all services relating to the field of tattooing, as defined in ORS 690.350(12).

(7) Arrangements for the time, place and cost of education and training shall be arranged between the applicant and the school providing the training.

(8) **TRANSITION:** Individuals registered with the Division as "approved trainers" and "trainees" as of the effective date of this rule adoption, may continue the Division approved training program of 268 hours of training by means of direct supervision, in accordance with provisions of former OAR 333-305-0030(2), until the registered individual's training is completed or March 31, 1999, whichever date occurs first.

NOTE: Should the individual not complete all required hours of theory and practical training(268 clock hours) under the former OAR 333-305-0030(2), the training record must be submitted to the Division to determine hours credited toward meeting requirements of OAR 331-555-0010.

Stat. Auth.: ORS 690.410

Stats. Implemented: ORS 690.410

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HDLP 2-1999, f. & cert. ef. 7-1-99

331-555-0030

Experience Equivalency Standards

An applicant shall not be required to comply with the training requirements under OAR 331-555-0010 if the Division determines that the training and/or work experience obtained in another state is equivalent to minimum requirements for Oregon licensure, based on the following:

(1) One hundred hours of course work credit shall be granted for every three full months of work experience or 12 months part-time experience as a practicing permanent color technicians and/or tattoo artist, if the applicant completed a course of study in another state with fewer than the 360 hours of theory and practical instruction required for Oregon licensure; or

(2) Applicant provides documentation of two years full-time or four years part-time active work experience in the field of permanent color and tattooing. Documentation outlined in OAR 331-555-0050(4) is required.

Stat. Auth.: ORS 690.410

Stats. Implemented: ORS 690.410

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0045 & 333-305-0050

331-555-0040

Application for Licensure

(1) Applicants shall be at least 18 years of age, and shall provide documentation confirming date of birth, such as a copy of the birth certificate, driver's license, passport or school/military/governmental record.

(2) Applicants shall have completed four years of standard high school education or the equivalent. Acceptable documentation is a high school diploma, letter from school or military records verifying completion, GED passing scores, or proof of enrollment in a post-secondary educational institution.

(3) Application shall be made on forms prescribed by the Division and shall be accompanied by required documentation and required application fee. A completed application form includes, but is not limited to, the following information:

(a) Applicant's name, address and telephone number;

(b) Applicant's date of birth;

(c) Applicant's Social Security Number;

(d) Licensure information from another state, if applicable;

(e) Applicant's signature and date of application;

(f) Proof of training and/or licensure; and

(g) Original, color "passport quality" photograph (non-Polaroid, such as identification photo or driver's license photo), head and shoulders view, 1 1/2 inch by 2 inch dimension.

(4) Submission of satisfactory evidence of completion of required training under OAR 331-555-0010 by one of the following education and training pathways for licensure:

(a) **OFFICIAL TRANSCRIPT:** The document shall be mailed directly to the Division office from a licensed or accredited school or an equivalent institution recognized by the Division, showing completion of the prescribed course of study, listed in OAR 331-555-0010 or its equivalent, approved by the Division, and shall be issued by:

(A) A school of tattooing licensed by the Department of Education, Private Career Schools, under ORS 345;

(B) A licensed or accredited school of tattooing located in another state where the practice is unregulated;

(C) An institution recognized by the Division, such as a medical facility or other county, state, or federal agency or entity, where training and education is provided by means of a standardized course of study, adhering to prescribed curriculum objectives and criteria.

(D) The transcript must be mailed directly to the Division or delivered in person in a sealed envelope, issued from the school or entity. The issuing school or institution shall attest to the document's authenticity and accuracy and affix an authorized signature over the envelope seal.

(E) The Division may accept a facsimile of an applicant's transcript sent from the school to the Council office at the request of the applicant to facilitate scheduling an examination. The original official transcript shall be submitted to the Council office within seven (7) calendar days after the examination date. The license shall not be issued until the Division receives the official transcript from the school.

(b) **OUT OF STATE LICENSURE:** Professionals working under valid licenses in their city, state, or county which meet or exceed Oregon standards should provide verification by the mailing of an original Affidavit of Licensure form affixed with the applicable state, county or city seal or stamp, signed by the licensing authority where the application is currently licensed, and mailed directly to the Division office by said authority.

(c) **EXPERIENCE EQUIVALENCY:** All other professionals, working in a state where the practice of permanent color and tattooing is unregulated, must provide documentation in the form of tax returns verifying that the applicant has met the minimum qualification for licensure. Personal tax returns must substantiate that the individual acquired work experience through two years of active full-time practice in the field of permanent color tattooing. Applicants shall be required to meet equivalency requirements listed in OAR 331-555-0030.

NOTE: The Division may request addition information to substantiate qualification if the tax return does not verify that the individual has been practicing permanent color or tattooing in an unregulated state.
Stat. Auth.: ORS 690.365, ORS 690.405
Stats. Implemented: ORS 690.365, ORS 690.405
Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0035

331-555-0050

Application Completion and Deadlines

(1) Applications shall be reviewed and if requirements have been satisfied, the applicant will be notified and upon receipt of examination fees will be scheduled for an examination.

(2) The Division will notify an applicant of any incomplete documentation or outstanding issues requiring further action. An applicant who fails to take corrective action within 90 calendar days from the date of notification, will be considered disqualified and his/her application closed. Ineligible status pertaining to age or minimum education requirements, incomplete or improperly completed forms, lack of documentation verifying training and/or experience, or insufficient fees are grounds for disqualification.

(3) Examination fees shall not be carried forward for a subsequent examination if an applicant is not excused from or does not appear for the examination or take all sections of the examination as scheduled and required by the Division. Refer to OAR 331-560-0000(2).

(4) Applicants failing to successfully complete the examination process and attain licensure within two years from the date of the initial application or the most recent examination attempt, whichever is later, shall be required to:

- (a) Reapply for examination according to OAR 331-555-0040;
- (b) Pay the appropriate fees; and
- (c) Retake examination.

(5) An applicant who has an outstanding civil fine or action in another state or country, documented on the Affidavit of Licensure form or equivalent record, shall be prohibited from qualification for licensure and examinations until any and all fine(s) and/or action(s) are resolved and verification of resolution from the originating state or country has been received.

Stat. Auth.: ORS 690.365, ORS 690.405
Stats. Implemented: ORS 690.365, ORS 690.405
Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; Renumbered from 333-305-0360; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0055

DIVISION 560

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: EXAMINATIONS

331-560-0000

Examination Authorization

(1) The Division will conduct examinations for licensure. A schedule of examination dates and times is available at the Division office upon request. Applicants will not be eligible for an examination until all documentation and fee requirements have been completed.

(2) The Division reserves the right to alter or adjust examination dates, times and locations as it deems necessary to meet emergency situations and will notify applicants and schools in advance whenever possible.

(3) Applicants shall be required to present photographic identification at the time of the examination.

Stat. Auth.: ORS 690.370
Stats. Implemented: ORS 690.370
Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0075 & 333-305-0080

331-560-0010

Examination for Licensure

(1) Applicants for licensure shall be required to satisfactorily pass a written examination on Safety/Sanitation, Standard Precautions, Infection Control and Standards of Practice.

(2) The written examination tests the applicant's knowledge of:

- (a) Basic principles of safety, sanitation and sterilization;
- (b) Oregon laws and rules (including licensure requirements and regulations);
- (c) Chemical use and storage;
- (d) Diseases/disorders (skin, HIV, Hepatitis B, C and D viruses, communicable/transmittable);
- (e) Equipment, supplies, tools and implements;
- (f) Practice standards;
- (g) Facility standards;
- (h) Definitions.

(3) The written examination shall consist of two sections as follows:

- (a) 100 multiple choice questions not to exceed one hour in duration; and
- (b) 50 scenario based questions not to exceed one hour in duration.

(4) Examination candidates must achieve a 75 percent or higher score on each section to pass the written examination.

(5) The examination will be conducted in English.
Stat. Auth.: ORS 690.410(3)(b)
Stats. Implemented: ORS 690.410(3)(b)
Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0070; HDLP 2-1999, f. & cert. ef. 7-1-99

331-560-0020

Special Examination Accommodations

(1) Applicants who have a learning, psychological, physical, or other disability which requires an accommodation to the regular testing environment may request a special examination.

(2) Requests for accommodation shall be made on forms provided by the Division and shall contain supporting documentation completed by a licensed professional holding appropriate credentials qualified to certify that the applicant's disabling condition requires the requested test accommodation.

(3) A "Request for Accommodation" form must be submitted to the Division in advance of the scheduled examination date to make appropriate arrangements contingent upon the type of accommodation requested.

(4) All special examinations are conducted in the Division office, unless the Division is unable to accommodate the disability there. In that case, the Division will make special arrangements for an adequate test site to accommodate the request.

Stat. Auth.: ORS 690.370

Stats. Implemented: ORS 690.370

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-560-0030

General Information about the Examination

(1) Taking notes, textbooks or notebooks into the examination area is prohibited.

(2) Electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by Division staff, are prohibited in the examination area. Taking such items into the examination area will invalidate the examination and result in forfeiture of the examination fees.

(3) An applicant will be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

- (a) Giving or receiving aid, directly or indirectly during the examination process;
- (b) Obtaining help or information from notes, books, or other individuals to answer questions;
- (c) Removing or attempting to remove any examination-related information, notes or materials from the examination site;
- (d) Failing to follow directions relative to the conduct of the examination; or
- (e) Exhibiting behavior which impedes the normal progress of the examination.

(4) Disqualification will invalidate the examination and result in forfeiture of the examination fees. The applicant will be required to reapply, submit additional examination fees, and request in writing to schedule another examination at a date and time determined by the Administrator. Reexamination shall be deferred for a period of at least one year following date of disqualification. Location of reexamination shall be determined by the Division.

Stat. Auth.: ORS 690.410

Stats. Implemented: ORS 690.410

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0090

331-560-0040

Notification of Examination Results

The Division may mail notice to each applicant by U.S. Postal Service of the results of his/her examination scores within 30 calendar days from the date of the examination.

Stat. Auth.: ORS 690.370

Stats. Implemented: ORS 690.370

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0095

331-560-0050

Examination Review

(1) Pursuant to ORS 183.435, applicants who fail to attain licensure as a result of test scores are not entitled to a formal appeal or hearing.

(2) Applicants may comment on either procedures or conduct of the examination; however practical examination results are not challengeable. If the applicant's concerns have not been satisfactorily addressed, a written complaint may be submitted to the Advisory Council.

(3) Applicants may wish to prepare the complaint immediately after the review in the Division office. However, if an applicant does not prepare the complaint at the time of review, written materials will not be allowed to be removed from the Division office.

(4) To be considered by the Advisory Council, the complaint must be legibly written. The applicant must appear in person at the next regularly scheduled Advisory Council meeting. Failure to appear will result in the dismissal of the complaint by the Division.

(5) The Advisory Council will consider the complaint in Executive Session at its next regularly scheduled meeting.

(6) If the Advisory Council is not scheduled to meet within 60 calendar days from the date the examination is reviewed, the Council may delegate review of the applicant's complaint and/or comment to its designated "Examination Committee".

Stat. Auth.: ORS 690.410

Stats. Implemented: ORS 690.410

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0100

331-560-0060

Retake of Examination Sections; Additional Training

(1) Failed section(s) of the examination may be retaken after seven (7) calendar days have elapsed from the date the examination was failed.

(2) Applicants who fail to pass any section of the written examination after three attempts (initial examination plus two re-takes) shall be required to complete an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-555-0010(3), with emphasis on safety, sanitation and sterilization, needles, machines, and equipment. Additional instruction shall be obtained through an Oregon career school licensed under ORS 345.010 to 345.450.

(3) Prior to an applicant's fourth examination attempt, an official transcript must be received from an Oregon licensed career school which indicates that the applicant has satisfactorily completed the additional required hours of instruction.

Stat. Auth.: ORS 690.370

Stats. Implemented: ORS 690.370

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0105 & 333-305-0110; HDLP 2-1999, f. & cert. ef. 7-1-99

DIVISION 565

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: LICENSE ISSUANCE, RENEWAL AND REACTIVATION

331-565-0000

Issuance and Renewal of Licenses

(1) Licenses shall be issued for one-year, from the date all qualifications for licensure are met and shall have the expiration date as the last day of the month in which the license was issued.

(2) The Division may mail a notice of renewal to the last-known address of the license holder.

(3) Application for renewal shall be made in advance of the license expiration date, and shall be submitted with the appropriate fee(s) for renewal and satisfactory proof of continuing education as required under OAR 331-570-0000 and 331-570-0010.

(4) Renewal payments received in the Division office or postmarked after the expiration date but within one year of expiration, will be assessed a late fee in addition to the annual renewal fee.

(5) A license which has been expired for more than one year but less than three, shall be deemed suspended and may be reactivated.

vated by meeting renewal and continuing education requirements and payment of:

- (a) A suspended renewal fee for each year expired;
 - (b) A reactivation fee; and
 - (c) A renewal fee.
- (6) Failure to renew or reactivate a license within three years from the date of expiration will require reapplication, submission of an application fee, examination fees and one-year licensee fee, and successfully passing all sections of the examination before a license will be reissued.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0115; HDLP 2-1999, f. & cert. ef. 7-1-99

**331-565-0010
 Conditions for License Renewal**

(1) Licensees must meet applicable requirements listed in OAR 331-565-0000 and 331-570-0000 to be eligible for license renewal.

(2) Permanent color technicians and tattoo artists shall submit to the Division at the time of renewal, the license number of the tattoo facility where employed or where services are provided.

(3) Permanent color and tattoo facilities shall submit to an annual inspection as required by the Division to determine compliance with the requirements of the statute and with sanitation and sterilization practices.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0120

**331-565-0020
 Facility License and Renewal**

(1) The Division will issue a facility license to qualified individuals, provided the applicant:

- (a) Is at least 18 years of age, as required in ORS 690.365(2);
- (b) Has registered with the Corporation Division and received an assumed business name prior to applying for a facility license (unless doing business under the full name of the owner);
- (c) Applies to the Division and pays the required application and license fees;
- (d) Complies with all applicable rules and regulations; and
- (e) Certifies that application information is correct.

(2) Each facility license applicant shall apply on a form approved by the Division and meet the following criteria:

- (a) Provide a map or direction to the facility if it is located in a rural or isolated area;
- (b) If the facility is in a home, have an identifying house number or a sign which is easily visible from the street and indicates the location of the facility:

(A) The area within a home operated as a facility must be equipped with the structures, accommodations, and equipment which the Division requires for all facilities; and

(B) A facility within a home shall have an entry that is separate from the entry to the living area of the home. The living area of the home shall be separated from the facility by solid walls extending from floor to ceiling, with any connecting doors kept closed while the facility is in actual operation.

(c) Meet the specifications for building, fire and plumbing codes as specified in OAR 331-580-0000 and comply with exit and fire standards established by the Building Codes Agency and Office of the State Fire Marshal.

- (3) Each facility owner shall:
 - (a) Allow a Division inspector to inspect the facility when it is open for business;
 - (b) Ensure employees cooperate with Division inspectors and refrain from impeding an inspection in any way;
 - (c) Contact the Division in writing to make arrangements for an inspection if the Division has been unable to perform an annual inspection because the facility was closed.

(4) Facility licenses shall be issued for one year from the date all qualifications for licensure are met and shall have the expiration date as the last day of the month in which the license was issued.

(5) The Division may mail a notice of renewal to the address of the facility.

(6) Application for renewal shall be made in advance of the license expiration date.

(7) Renewal payments received in the Division office or postmarked after the expiration date will be assessed a late fee in addition to the annual renewal fee.

Stat. Auth.: ORS 690.390 & ORS 690.405
 Stats. Implemented: ORS 690.390 & ORS 690.405
 Hist.: HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0062; HDLP 2-1999, f. & cert. ef. 7-1-99

**331-565-0030
 Facility License Requirements**

(1) A facility owner or license holder shall meet the requirements of a new facility (refer to OAR 331-565-0020) and submit a new facility application and required fees when any of the following conditions exist:

(a) A facility is purchased from the current or previous owner, partnership or corporation. Facility licenses are not transferable from person-to-person or from business-to-business;

(b) There is a change in the legal ownership, partnership or holding of a facility regulated under ORS 690 and OAR 331, such as:

(A) A partner(s) or co-owner(s) is added to the existing facility license; or

(B) A partner(s) or co-owner(s) is removed from the existing facility license, including change in ownership status due to death of facility owner(s), or spouse listed as a co-owner on the Division's records.

(c) An existing facility moves or relocates to a new physical address. Facility licenses are not transferrable from location-to-location.

- (2) Facility owners closing their facilities shall:
 - (a) Submit written notice to the Division office within 5 business days of a facility closure, indicating whether the closure is permanent or of a temporary duration. Notice of temporary facility closure shall specify the anticipated date of resuming business operations;
 - (b) If notice of a permanent facility closure was submitted, and the license holder (same owner) reopens the facility while the license is still in active current status, the facility owner shall submit notice to the Division prior to the reopening the facility and resuming business operations/services.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0062

**331-565-0040
 Display of License and Inspection Certificate; Identification**

(1) All practitioner and facility licenses and a copy of the latest inspection certificate shall be posted in public view at the place of business.

(2) All license holders shall carry photographic identification at all times when performing services or when a facility is open for business, and shall provide Division inspectors with the appropriate identification upon request. Acceptable photographic identification includes, but is not limited to, a valid driver's license, passport, or other official document issued by a recognized governmental agency.

Stat. Auth.: ORS 690.380
 Stats. Implemented: ORS 690.380
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0140

331-565-0050

Duplicate Licenses

(1) The Division will issue a duplicate license provided the request is made in writing, certifying the original license has been lost or destroyed and the appropriate fee is enclosed.

(2) The posting of a reproduction of any license is prohibited unless the Division issued and marked it "Duplicate".

(3) The posting of a pocket identification card in lieu of a license is prohibited.

Stat. Auth.: ORS 690.405 & ORS 690.415
 Stats. Implemented: ORS 690.405 & ORS 690.415
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0145

331-565-0060

Practicing at Location Other Than Named Place(s) of Business

(1) Permanent color technicians and tattoo artist shall not practice at any location other than the place or places of business listed with the Division.

(2) Exceptions shall be granted as follows:

(a) Nursing homes;

(b) Private residences or hospitals when client is physically limited;

(c) Demonstrations at a single location, not to exceed 30 consecutive calendar days, upon application, payment of fee, and qualification for a permit issued for the following purposes:

(A) Educational purposes;

(B) Artistic competitions, where services are not performed upon the public; or

(C) Fairs, carnivals, or bazaars, provided compliance with safety, sanitation and sterilization practices and facility requirements under ORS 690.390 are maintained.

(3) All licensees who perform services at locations listed in subsection (2)(a) through (c) of this rule or at more than one business location shall carry their license with them and post it while working.

Stat. Auth.: ORS 690.390 & ORS 690.405(9)
 Stats. Implemented: ORS 690.390 & ORS 690.405(9)
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0185

331-565-0070

Licensing Sanctions

(1) In accordance with ORS 348.393 to 348.399 and OAR 575-001-0030, the Division shall provide the Oregon State Scholarship Commission with certification and licensing information which may be electronically cross-matched with the Commission's post-default database.

(2) The Division shall refuse to, renew or suspend the practitioner license, or place the license on probation, if the person is in default on any student loan guaranteed or insured by the Oregon State Scholarship Commission and is not paying in a satisfactory manner as determined by the Commission and in accordance with federal regulations.

(3) Pursuant to ORS 348.393(3), the Division shall notify the license holder of the action being taken against the license at the direction of the Commission.

(4) Upon notification by the Commission and receipt of a release notice that the individual has met satisfactory borrower repayment status, the Division shall renew, or release from probation or suspension the license upon compliance with any qualifications for renewal or reactivation.

(5) In accordance with ORS 25.750 to 25.783, the Division shall provide the Support Enforcement Division of the Department of Justice with licensing information which may be electronically cross-matched with Support Enforcement Division's records for persons under order of judgment to pay monthly child support and who are in arrears according to ORS 25.750(a), (b) and/or (c).

(6) The Division shall place into a suspended status the license, if the Support Enforcement Division or the district attorney

identifies the license holder as being in arrears with respect to any judgment or order requiring the payment of child support and that the case is being enforced under the provisions of ORS 25.080.

(7) Pursuant to ORS 25.762 or 25.765, the Division shall notify the license holder of the suspension status and refer the person to the Support Enforcement Division or the district attorney for resolution.

(8) Upon notification by the Support Enforcement Division or district attorney and receipt of a release notice that the conditions resulting in the suspension no longer exist, the Division shall release from suspension the applicant and/or license upon compliance with any qualifications for renewal or reactivation.

(9) In accordance with ORS 305.385, the Division upon request shall provide the Department of Revenue with licensing information to determine if the holder has neglected or refused to file any return or to pay any tax without filing a petition with the department as stated in ORS 305.385(4)(a).

(10) The Division shall propose to take action against a licensed holder identified by the Department of Revenue. Where the Division proposes to refuse to reissue, renew or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550 for contested cases.

(11) Upon notification by the department and receipt of a license issued by the department that the license holder is in good standing with respect to any returns due and taxes payable to the department as of the date of the applicant, the Division shall renew, issue or release from suspended status the license upon compliance with any qualifications for renewal or issuance.

Stat. Auth.: ORS 690.085, ORS 690.165 & OL 1995, Ch. 287 ef. 6-7-95
 Stats. Implemented: ORS 690.165, ORS 348.393 - ORS 348.399; ORS 25.750 - ORS 25.783, ORS 305.385 & OL 1995, Ch. 287
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

DIVISION 570

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: CONTINUING EDUCATION

331-570-0000

Continuing Education for License Renewal

To maintain licensure all permanent color technicians and tattoo artists must participate in continuing education as follows:

(1) Complete 15 clock hours, either as one unit or combination of units, not less than one hour each, every three years.

(2) Satisfactory continuing education courses shall fit into the approved course of study outlined in OAR 331-555-0010:

(a) Participation or attendance at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, or association; except

(b) Self-study, participation, or attendance not covered by subsection (a) of this rule may comprise up to six (6) hours of the total requirement; or

(c) Attendance at meetings of the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists for a maximum of three hours per meeting, totaling no more than six hours per three year period.

(3) Continuing education is required for renewal, every three years, even if the license has been inactive or suspended during that period.

(4) Licensees failing to obtain 15 clock hours of continuing education every three years must reapply and qualify according to the requirements of OAR 331-555-0040 and successfully pass a written examination.

Stat. Auth.: ORS 690.385
 Stats. Implemented: ORS 690.385
 Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0125

331-570-0010

Reporting Continuing Education

(1) Submission to the Division of proof of participation in required continuing education is the responsibility of the licensee.

(2) Licensees shall submit to the Division, the renewal document, fee(s), and proof of 15 clock hours of continuing education as a condition of renewal every three years. Proof of participation shall be:

(a) Submission to the Division of evidence substantiating completion of self-study. Self-study materials must be directly related to subjects outlined in OAR 331-555-0010. Any request for self-study credit must be made on Division forms, which lists sponsor/source, type of study, description of content, date of completion, duration in clock hours. Self-study may include continuing education obtained by means of the following:

(A) Correspondence courses or national home study issues;

(B) Review of publications, textbooks, printed material, or audio cassette(s);

(C) Viewing of films, videos, or slides, or

(b) Submission to the Division of evidence substantiating completion or verification, issued by the sponsoring organization or person, of attendance in a course, program, seminar, or lecture showing name of sponsor, title of presentation, description of content, name of instructor or presenter, date, duration in hours, and any supplemental documentation to support that sponsor and subject matter meet the requirements and relate to practice as stated in OAR 331-570-0000.

(3) Proof of 15 clock hours of continuing education shall be accumulated and held by the licensee until submitted to the Division only at the time of renewal.

(4) Hours of continuing education, in excess of the requirement for renewal every three years, will not be carried forward.

Stat. Auth.: ORS 690.385

Stats. Implemented: ORS 690.385

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0130

DIVISION 575

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: PRACTICE STANDARDS

331-575-0000

Required Equipment; Articles and Materials

(1) Permanent color technicians and tattoo artists shall provide and maintain at the place of business an adequate supply of disinfecting or sterilizing equipment, tools/implements, and other necessary materials for his/her own practice needs, taking into account volume of business.

(2) The following equipment shall be maintained at the place of business:

(a) Tattoo machine or hand pieces, of non-porous material which can be sanitized;

(b) Stainless steel or carbon needles and needle bars;

(c) Tubes, stainless steel, brass, or lexan which can be sterilized;

(d) Stencils, plastic acetate or single use disposable carbon paper;

(e) Sterilization bags with color strip indicator;

(f) Protective disposable gloves;

(g) Single use or disposable plastic tubes, razors or straight razor;

(h) Single use towels, tissues or paper products;

(i) Sharps container;

(j) Commercially purchased inks, dyes and pigments.

(2) Approved equipment for cleaning and sterilizing instruments shall be maintained at the place of business.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0190

331-575-0010

Practice Standards; Restrictions

(1) Licensees shall keep an individual record of each client. That record shall include the name and address of client, the date and duration of each service, type of service, special instructions, medical history or client conditions, including:

(a) Diabetes;

(b) Allergies;

(c) Cold sores and fever blisters;

(d) Epilepsy;

(e) Heart conditions;

(f) Hemophilia;

(g) Hepatitis;

(h) Use of blood thinners;

(i) Moles or freckles at the site of service;

(j) Psoriasis or eczema;

(k) Pregnancy or breast-feeding/nursing;

(l) Scarring (keloid);

(m) Other medical or skin conditions.

(2) Licensees may obtain advice from physicians regarding medical information needed to safeguard client and technician or artist.

(3) Records shall be kept for a minimum of two years.

(4) Pre-service information in written form shall be given to client to advise of possible reactions, side-effects and potential complications of the tattooing process. Aftercare instructions shall be given to the client both verbally and in writing after every service.

(5) Before and after photographs shall be taken for medical tattooing procedures, and records maintained.

(6) Inks, dyes, or pigments shall be purchased from a commercial supplier or manufacturer. Products banned or restricted by the Food and Drug Administration shall not be used.

(7) Tattooing is prohibited:

(a) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;

(b) On persons who show signs of intravenous drug use;

(c) On persons with sunburn or other skin diseases or disorders such as open lesions, rashes, wounds, puncture marks in areas of treatment;

(d) On persons under 18 years of age, regardless of parental consent, except when authorized or prescribed by a physician's statement exclusively for medical repigmentation as defined in OAR 331-550-0000(8).

Stat. Auth.: ORS 690.405(9)

Stats. Implemented: ORS 690.405(9)

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0150

331-575-0020

Permanent Color and Tattoo Procedures; Preparation and Aftercare

(1) During preparation, performance of service, and aftercare phases all substances shall be dispensed from containers in a manner to prevent contamination of the unused portion (refer to OAR 331-585-0000). Use of spray bottle to apply liquid to skin is acceptable. Single use tubes or containers and applicators shall be discarded following tattoo service.

(2) The client's skin shall be cleansed, excluding the areas surrounding the eyes, by washing with a Food and Drug Administration (FDA) germicidal solution applied with a clean single-use paper product before placing the design on the client's skin or beginning tattooing work.

(3) If the area is to be shaved, the licensee shall use a single use disposable safety razor or sterilized straight-edged razor, and then rewash client's skin.

(4) Substances applied to client's skin to transfer design from stencil or paper shall be single use. Paper stencils and skin scribes shall be single-use and disposed of immediately following service.

(5) Body pencils used during a tattoo service shall have the tip removed, the body and tip of pen disinfected, and the tip sharp-

ened to remove exposed edge after use on a client and prior to use on another client.

(6) The plastic or acetate stencil used to transfer the design to the client's skin shall be thoroughly cleansed and rinsed in an Environmental Protection Agency (EPA) approved high-level disinfectant according to the manufacturers instructions and then dried with a clean single-use paper product.

(7) Individual portions of inks, dyes, or pigments in clean single-use containers shall be used for each client. Any remaining unused dye or pigments shall be discarded immediately following service.

(8) Excess ink, dye, or pigment applied to the client's skin shall be removed with clean single-use paper product obtained from a self-dispensing container.

(9) Use of styptic pencils or alum solids to check any blood flow is prohibited.

(10) Upon completion of tattooing, the skin shall be cleansed, excluding the area surrounding the eyes, with a clean single-use paper product saturated with an (FDA) approved germicidal solution.

(11) A sanitary covering shall be placed if appropriate or over large designs and adhered to the skin with suitable skin tape.

(12) Aftercare shall consist of both verbal and written instructions concerning proper care of the tattooed skin. Instructions shall specify:

- (a) Care following service;
- (b) Possible side affects; and
- (c) Restrictions.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390(3)

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0252

331-575-0030

Handwashing/Protective Gloves; Handling Disposable Materials

(1) **HANDWASHING:** Permanent color technicians and tattoo artists shall observe and adhere to the following handwashing standards when serving clients:

(a) Hands must be washed before and after treatment of each client and before putting on gloves and immediately after gloves are removed;

(b) Thorough hand washing shall be by use of soap and water or other alternative hand washing product, such as jell, aerosol spray, foam, or pre-packaged hand wipes, immediately before and after serving each client as needed. Use of bar soap is prohibited;

(c) The client's skin shall be cleansed by applying an antiseptic or antibacterial solution prior to and following treatment.

(2) **PROTECTIVE GLOVES:** Permanent color technicians and tattoo artists shall observe and adhere to the following protective glove standards when serving clients:

(a) A fresh pair of disposable gloves should be worn during the treatment of each client;

(b) Hands must be washed in accordance with the handwashing standards stated in subsection (1) of this rule before putting on gloves and immediately after gloves are removed;

(c) Low-powdered gloves should be worn and/or excess exterior powder should be removed with a clean disposable paper towel moistened with tap water and dried gently with a clean disposable paper towel to prevent powder from contacting client's skin surface during treatment;

(d) When a treatment session is interrupted:

(A) A protective covering should be used over the gloved hand/ hands; or

(B) Gloves should be removed and discarded.

(e) When gloves are removed during a treatment session, hands should be washed and a fresh pair of gloves used;

(f) Torn or perforated gloves should be removed immediately, and hands should be washed after gloves are removed.

(3) **DISPOSABLE MATERIALS:** Permanent color technicians and tattoo artists shall observe and adhere to the following disposable material standards when serving clients:

(a) All waste materials related to treatment shall be disposed of in a covered container after each client service;

(b) Disposable materials in contact with blood and/or body fluids shall be placed in a sealable plastic bag, separate from sealable trash or garbage liners, and then disposed of in a covered container;

(c) Disposable sharp objects in contact with blood and/or body fluids shall be disposed of in an appropriate "sharps container" as defined in OAR 331-505-0000(32);

(d) Permanent color technicians or tattoo artists shall have both sealable plastic bags and sealable rigid containers available at the facility.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0210, 333-305-0215 & 333-305-0235

331-575-0040

Communicable and Blood Borne Diseases

A licensee providing service or working in a facility while diagnosed with having acquired an immunodeficiency virus and related immunodeficiency conditions or the Hepatitis viruses (B, C and/or D) shall observe and follow all current Centers for Disease Control (CDC) standards for public service workers regarding personal protection equipment and disposal of blood or bodily fluid contaminated articles, tools and equipment. This includes practitioners or employees providing services to clients who have been diagnosed with having an immunodeficiency virus, related conditions or the Hepatitis viruses (B, C and/or D).

NOTE: It is the position of the Division that human immunodeficiency virus (HIV) is the cause of acquired immunodeficiency syndrome (AIDS) and related immunodeficiency conditions. This virus, as well as Hepatitis B Virus (HBV), Hepatitis C virus (HCV) and Hepatitis D virus (HDV), may be transmitted by sharp instruments contaminated by blood or other body fluids, if standard precautions are not followed. As the carriers of these viruses may have no symptoms, the most prudent course to follow is to treat body fluids from all persons with the same high standards of caution and to rigorously follow established safety and sanitation practices as required by the law and rules of the Division. There is no published evidence to support casual transmission of HIV, by sneezing or touching, even in close household settings involving AIDS patients and family members caring for them at home. Because HIV is not spread by casual means and because of the inadequacies of the HIV antibody test, there is no reason for the Division to require blood tests prior to licensure. Good hand washing after glove removal and between each client is imperative and the most important procedure for prevention of all infections, including HIV. Uniform body fluid precautions are ample to prevent transmission of HIV, HBV, HCV and/or HDV in a facility setting.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-575-0050

Linens

(1) Clean linens shall be used for each client.

(2) A common towel is prohibited.

(3) Air blowers can be substituted for hand towels.

(4) Clean linens, tissues or single-use paper products shall be stored in a clean, enclosed storage area until needed for immediate use.

(5) Used linens shall be disposed of or stored in a closed or covered container until laundered.

(6) Used linens shall be laundered either by a regular commercial laundering or by a noncommercial laundering process which includes use of commercial laundry detergent manufactured for the specific purpose of cleaning clothes, linens or other washable fabric, and immersion in hot water during the wash/rinse operation.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0220

DIVISION 580

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: FACILITY STANDARDS**331-580-0000****Compliance with all Applicable Regulations**

(1) Licensees and facility owners shall observe all applicable Health Division and other state regulations pertaining to public health and safety. Compliance with building, state fire, plumbing, and electrical regulations is required.

(2) In addition, when an employee/employer relationship exists, practitioners shall comply with ORS 654 and the Oregon Safe Employment Act.

(3) Permanent color technicians and tattoo artists shall observe and adhere with all Oregon Occupational Safety & Health Code (OR-OSHA), OAR 437, 1910.1030 Bloodborne Pathogens.

(4) Every permanent color and tattoo facility shall have a written Exposure Control Plan. All procedures developed for the facility's exposure control plan shall be in compliance with OSHA state and federal regulations and with current Centers for Disease Control (CDC) standards for public service workers.

(5) Only authorized equipment or products may be utilized, and in addition, must only be used in a manner approved by manufacturers and appropriate regulatory agencies.

Stat. Auth.: ORS 690.165

Stats. Implemented: ORS 690.165 & ORS 654

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-580-0010**Criteria for Facilities**

(1) All facilities shall have a treatment area/operatory that is separate, private, or screened from the entrance, waiting area, and/or other treatment areas.

(2) Facilities shall be kept clean and orderly, and equipment shall be maintained in good repair

(3) All surfaces (counters, tables, equipment, client chairs or recliners) in treatment and sterilization areas shall be made of smooth, non-absorbent and non-porous material.

(4) All floors and walls shall easily cleanable. Floors and walls in the treatment area shall be made of smooth, non-absorbent and non-porous material. Concrete blocks or other masonry used in wall construction shall be covered or made smooth and sealed for a washable surface.

(5) Surfaces or blood spills shall be cleaned using an EPA-registered high-level disinfectant, used according to the manufacturer's instructions.

(6) Pets or other animals shall not be permitted in the business facility. This prohibition does not apply to therapy animals, trained guide animals for the disabled, sightless or hearing impaired, fish in aquariums or nonpoisonous reptiles in terrariums.

(7) Tattoo services provided in beauty facilities shall be separated by a permanent, solid barrier from hair design and nail technology services in such a manner as to prevent contact with irritants including but not limited to hair spray and nail dust.

Stat. Auth.: ORS 690.390 & ORS 690.405(9)

Stats. Implemented: ORS 690.390 & ORS 690.405(9)

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0165, 333-305-0175 & 333-305-0180

331-580-0020**Water Supply Requirements and Standards**

(1) The quality and construction of facility water supplies shall meet the requirements of ORS Chapter 448 and State Plumbing Code, OAR 814, Divisions 750-799, and OAR 437-112.

(2) Facility water supplies shall have a minimum of 20 pounds pressure per square inch in accordance with the State Plumbing code.

(3) All facilities shall have immediate access to an adequate supply of both hot and cold running water and wash basins on the facility premises or as part of surrounding premises or adjacent to

the facility. Sinks located in the restroom do not qualify as a water source for the facility premises.

(4) Waste from toilets or lavatories discharged directly into a public sewer or by a method meeting the requirements of ORS 454.

(5) Hand washing accommodations shall be provided in work areas where employees are exposed to hazardous materials which may have a harmful effect on or be absorbed through the skin.

(6) Washing accommodations shall be maintained in a clean and sanitary condition.

Stat. Auth.: ORS 690.390 & ORS 690.405(9)

Stats. Implemented: ORS 690.390 & ORS 690.405(9)

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0165

331-580-0030**Compliance with Indoor Clean Air Act**

Any public place in a facility shall be governed under the Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875.

(1) A proprietor or person in charge of the facility can designate the entire area as a non-smoking area.

(2) Designated smoking area means any area set aside by a proprietor or person in charge of a public place where tobacco smoking is permitted and where a sign indicates same.

(3) No person shall smoke or carry any lighted smoking device in a public place except in designated smoking areas.

(4) No facility may be designated in its entirety as a smoking area.

(5) Public place means any enclosed indoor area open to and frequented by the public.

(6) Open to and frequented by the public means any area where the public can freely enter or move without special invitation.

(7) The Health Division Administrator may grant a waiver to the no smoking requirements. The request shall explain how the facility will meet the three provisions set forth in OAR 333-015-0060. Waiver information may be obtained from the Oregon Health Division.

Stat. Auth.: ORS 690.390 & ORS 690.405(9)

Stats. Implemented: ORS 433.835 - ORS 433.875, ORS 690.390 & ORS 690.405(9)

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0170

DIVISION 585

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: SAFETY AND STERILIZATION STANDARDS**331-585-0000****Cleaning Requirements and Standards**

(1) All items which come in direct contact with the client's skin that do not require disinfecting shall be clean.

(2) All items which come in direct contact with the client's skin that cannot be cleaned or disinfected shall be disposed of in a covered waste receptacle immediately after use.

(3) All substances used in the practice of permanent color technicians and tattoo artists shall be dispensed from containers in a manner to prevent contamination of the unused portion.

(4) All disinfecting solutions and/or agents shall be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times the facility is open for business.

(5) The Division shall authorize the use of disinfecting agents provided those agents are EPA registered and meet the criteria set forth in OAR 331-505-0000(14) and (16).

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99

331-585-0010**Instrument Cleaning; Sterilization Standards**

(1) Prior to sterilizing, instruments shall be brushed and/or swabbed to remove foreign material or debris, rinsed and then cleaned by one of the following approved methods:

(a) Immersing in detergent and water in an ultra sonic unit that operates at 40 to 60 hertz, followed by a thorough rinsing and wiping; or

(b) Submerging and soaking in a protein dissolving detergent/enzyme cleaner, followed by a thorough rinsing and wiping.

(2) Instruments or other equipment which are "heat-sensitive" shall be disinfected by complete immersion of the object(s) or portion(s) thereof to be disinfected, in an EPA-registered high-level disinfectant which has demonstrated tuberculocidal activity, and used according to the manufacturer's instructions.

(3) Cleaned instruments used in the practice of permanent color technology and tattooing shall be placed in sterile bags or containers with color strip indicators, sterilized by exposure to one cycle of an approved sterilizer listed in OAR 331-585-0020, and handled with sterile transfer equipment during placement into sterile bags or containers.

Stat.: Auth. ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0200 & 333-305-0205

331-585-0020**Approved Sterilization Modes**

(1) Instruments used in the practice of permanent color or tattoo artist services shall be sterilized using one of the following methods:

(a) Autoclave (steam or chemical) sterilizer, registered and listed with the federal Food and Drug Administration, used, cleaned and maintained according to manufacturer's directions;

(b) Dry heat unit registered and listed with the federal Food and Drug Administration, used, cleaned, and maintained according to manufacturer's instructions.

(2) In lieu of sterilization methods listed in (1) above, a licensee may use single-use, prepackaged, sterilized equipment, obtained from commercial suppliers or manufacturers.

(3) Sterilizing devices shall be tested during each sterilizing cycle by means of a commercial test mechanism, such as but not limited to color strip indicators to measure temperature control and general functioning of the equipment.

(4) Sterilizing devices shall be tested at least quarterly for functionality and thorough sterilization by using a commercial biological monitoring (spore) system to assure all microorganisms, including spores, have been destroyed. Biological indicator test results must be available for inspection at all times.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0195

331-585-0030**Clean Instruments; Products Storage**

(1) Before use, disposable products that come in contact with the areas to be treated shall be stored in clean containers that can be closed between treatments.

(2) Clean, sterilized re-usable instruments that come in contact with the areas to be treated, shall be stored in clean, sterilized sealed bags or containers to maintain effective sterilization of the instrument until removed from the container.

(3) Clean, sterilized re-usable transfer instruments shall be stored in a clean, dry, sterilized container.

(4) Chemicals shall be stored in labeled, closed containers in an enclosed storage area.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0225 & 333-305-0230

331-585-0040**Waste Receptacles**

(1) All waste material related to treatment shall be deposited in a covered container following service for each client.

(2) Waste disposed in receptacles located in reception and/or restroom areas is limited to materials which are not practice-related or used in the performance of any client services. Waste receptacles located in these areas are exempt from the covered container requirement listed in subsection (1) of this rule.

(3) Outer surface of waste disposal containers shall be kept clean.

Stat. Auth.: ORS 690.390

Stats. Implemented: ORS 690.390

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0240

DIVISION 590**COMPLIANCE****331-590-0000****Complaint Handling**

(1) After receipt of a written complaint, regarding services performed, the Division shall send a copy of the complaint (including name of complainant) to the licensee and request a reply to the charges within 20 days from the date of the inquiry by the Division. The Division will then determine if further action by the Division is appropriate.

(2) The Division may initiate an inspection or investigation pursuant to ORS 690.405.

Stat. Auth.: ORS 690.405(6) & ORS 690.405(9)

Stats. Implemented: ORS 690.405(6) & ORS 690.405(9)

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0255

331-590-0010**Civil Penalty Considerations**

(1) In addition to any other penalty provided by law, a person who violates any provision of ORS 690.350 to 690.410 or any rule adopted thereunder shall be subject to a civil penalty imposed by the Health Division. The Division reserves the right to pursue other remedies against alleged violators and may take any other disciplinary action at its discretion that it finds proper, including assessment of penalties not to exceed \$1,000.

(2) In establishing the amount of the penalty for each violation, the Division will consider, but not be limited to the following factors:

(a) The gravity and magnitude of the violation;

(b) The person's previous record of complying or of failing to comply with the provisions of ORS 690.350 to 690.410 or with the rules adopted under ORS 690.405;

(c) The person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and

(d) Such other considerations as the Division may consider appropriate.

(3) The Division may revoke, suspend or refuse to issue the applicant of any person, who fails to pay on demand a civil penalty which has become due and payable, provided that it first gives the person an opportunity for a hearing as outlined in ORS chapter 183, and conducted in accordance with OAR 333-012-0001.

Stat. Auth.: ORS 690.996

Stats. Implemented: ORS 690.996

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0262

331-590-0020**Schedule of Penalties for Licensing Violations; Violation of Standards**

The Division may assess penalties for the first and second license and practice violations according to the provisions of OAR

331-590-0000(1) and (2). For subsequent violations the Division shall, while reserving the right to impose other sanctions, assess monetary penalties according to the following schedule:

(1) Practicing or holding one's self out as available to practice, or using the title permanent color technician or tattoo artist without first receiving a current, valid practitioner and/or facility license: \$1,000.

(2) Practicing or holding one's self out as available to practice, or using the title permanent color technician or tattoo artist with an expired or suspended practitioner and/or facility license: \$1,000.

(3) Failing to post a current, valid license in public view: \$200.

(4) Failing to provide appropriate photographic identification upon request by the Division is violation of OAR 331-565-0040: \$1,000.

(5) Failing to submit changes of required licensing information within time frame set in rule: \$50.

(6) Practicing at location other than places of businesses designated to the Division, except as permitted by rule: \$500.

(7) Using a reproduction of a license in place of an original: \$50.

(8) Failing to allow inspection of the premises by the Division upon request or at least once every two years: \$1,000.

(9) Failing to meet the facility or practice standards adopted by the Division: \$500.

(10) Failing to comply with the Oregon Indoor Clean Air Act: \$100.

(11) Failing to provide a private or separate treatment area for clients: \$100.

(12) Except as provided by rule, allowing animals in the facility: \$100.

(13) Failing to maintain the required equipment or have approved test indicators at facility: \$500 and/or suspension or revocation.

(14) Failing to use approved test indicators or mechanism as required to ensure proper sterilization: \$500.

(15) Failing to sterilize instruments using an approved mode: \$1,000.

(16) Failing to meet sterilization standards: \$1,000.

(17) Failing to clean instruments prior to sterilization: \$1,000.

(18) Failing to wash hands before and after treatment and/or wear protective gloves: \$500.

(19) Failing to prepare treatment area on a client in accordance with Division standards: \$500.

(20) Failing to meet cleanliness and/or storage standards for linens: \$500.

(21) Failing to meet storage requirements for instruments, products or chemicals: \$500.

(22) Failing to dispose of materials contaminated with blood or body fluids in a sealable container or appropriate sharps container, or having appropriate containers available: \$1,000.

(23) Failing to have required covered waste receptacles: \$100.

(24) Performing a restricted treatment(s): \$1,000.

(25) Failing to have and maintain client case history records: \$500.

Stat. Auth.: ORS 690.996

Stats. Implemented: ORS 690.996

Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0265

DIVISION 700

RESPIRATORY THERAPIST LICENSING BOARD PROCEDURAL RULES

331-700-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the Respiratory Therapist Licensing Board shall:

(1) Publish notice of the adoption, amendment, or repeal in the Secretary of State's Bulletin referred to in ORS 183.360 at least twenty-one (21) days prior to the effective date.

(2) Mail such notice to persons on the Respiratory Therapist Licensing Board's mailing list established pursuant to ORS 183.335(7) at least twenty-eight (28) days before the effective date of the rule.

(3) Mail or deliver such notice to Associated Press.

(4) Mail such notice to the following persons, organizations, or publications listed according to Division programs, where the Division determines that such persons, organizations, or publications would have an interest in the subject matter of the proposal:

- (a) Oregon Society of Respiratory Care;
- (b) American Association of Respiratory Care;
- (c) Oregon Association of Hospitals and Health Systems;
- (d) Association for Home Care;
- (e) Oregon Health Division;
- (f) Oregon Medical Association;
- (g) Board of Medical Examiners;
- (h) National Board of Respiratory Care.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-700-0010

Model Rules of Procedure

Pursuant to OAR 183.341, the Respiratory Therapist Licensing Board adopts the Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act as amended and effective September 17, 1997.

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183

Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

DIVISION 705

RESPIRATORY THERAPIST LICENSING BOARD GENERAL ADMINISTRATION

331-705-0000

Delegation to Administrator

(1) The authority to sign notifications, proposed rules and other documents pertaining to rule adoption, amendment, and administration and notifications and orders in contested cases is delegated to the Board Administrator. This authority does not include authority to sign final orders that are issued following Board review of written exceptions to proposed orders based on hearings officer findings of fact and conclusion of law.

(2) To ensure continuity in the administration and daily operations of the Respiratory Therapist Licensing Board, the Board Administrator, appointed and delegated authority by the Assistant Director of Health, in addition to authority delegated by the Board to act on behalf of the Board as its agent, pursuant to carrying out the duties and functions of the Board as mandated in ORS 688.830 and 688.835 shall:

(a) Direct and oversee the administration, programmatic functions and daily operations;

(b) Develop and carry out short and long term agency objectives;

(c) Direct and assure fiscal control over the use of human, equipment and budgetary resources. Hire employees to assist the Administrator in carrying out duties of the Board. Appoint, motivate and provide training, evaluate performance, resolve grievances, initiate promotions and disciplinary actions;

(d) Sign notifications, proposed rules and other documents pertaining to administrative rule adoption, amendment and/or appeal;

(e) Direct and oversee enforcement, regulatory, and diversion programs of the Board;

(f) Direct and determine budget requests projecting resource needs and implement biennial budget;

(g) Enter into contracts with any state agency, personal or professional service, organization or business as deemed appropriate; and

(h) Generate Board Financial Statement. Provide Board at regularly scheduled meetings with financial statements and reports.

(3) The Board Administrator's authority delegated by the Assistant Director for Health and Board in no way diminishes the Board's policy-making authority in the coordination, review and approval of these activities.

Stat. Auth.: ORS 688.830
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-705-0010

Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases

In addition to the requirements stated in OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 331-700-0000, the notice to parties in contested cases may include a statement that an answer to the assertions or charges will be required and if so, the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of OAR 331-705-0040 with the notice.

Stat. Auth.: ORS 183
 Stats. Implemented: ORS 183
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-705-0020

Hearing Request and Answers: Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Board by the party or his attorney and an answer shall include the following.

(a) An admission or denial of each factual matter alleged in the notice;

(b) A short and plain statement of each relevant affirmative defense the party may have.

(2) Except for good cause:

(a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;

(b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

(c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the Board; and

(d) Evidence shall not be taken on any issue not raised in the notice and the answer.

Stat. Auth.: ORS 183
 Stats. Implemented: ORS 183
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-705-0030

Request for Information

(1) All licensees, including temporary licensees, shall file with the Board office:

(a) Legal name, including any name change due to court action;

(b) Residence address, both location and post office box, if applicable;

(c) Name of business or businesses, where services are performed;

(d) Address of place or places of business, both location and post office box, if applicable;

(e) Telephone number of place or places of business.

(2) The Board shall use the business address on license documents from the Board unless a business address has not been filed.

(3) Any initial filings or changes to any of the filings required by this rule shall be reported to the Board office in written form and signed by the licensee. Initial filings shall be made within 30 days from the date of licensing. Report of any change of information shall be made within 30 days of the change.

(4) Temporary license holders shall report name of employer and supervisor within 30 days of hire date.

Stat. Auth.: ORS 688.830(4)
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-705-0040

Charges for Copies and Documents

(1) All requests for copies of public records pertaining to the Respiratory Therapist Licensing Board shall be in writing.

(2) The Board may charge for copies of its records. Fees shall not exceed actual costs of locating, compiling, making available for inspection, preparing copy in paper, audio, computer disk, microfilm or machine readable format, and delivering public records. All fees assessed must be paid before public records are made available. Estimates for processing requests for public records will be given when requested.

(3) Persons wishing to obtain copies of records may learn the charge for them by contacting the Board office.

(4) Charges to the general public shall be payable in cash for exact amount due. Charges to state agencies shall be payable in cash unless billing to such agencies is authorized by the Board Administrator.

Stat. Auth.: ORS 688.830(9)
 Stats. Implemented: ORS 688.830(9)
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-705-0050

Definitions

(1) "Active license" means a license issued when all requirements are met, fees paid and license is not expired, suspended or revoked.

(2) "Affidavit of Licensure" means an original document verifying licensing history and status, issued and signed by the licensing authority in the state which issued the license with an official seal or stamp affixed to the document; it is not the certificate or license form issued which authorizes the holder to practice.

(3) "Board" means the policy-making body known as the Respiratory Therapist Licensing Board.

(4) "Board Administrator" means the individual who directs the daily functions of the Board.

(5) "Board office" means the Health Licensing Office which administers the Respiratory Therapist Licensing Board.

(6) "Contact hours" means academic classroom or course work hours including but not limited to workshops, symposiums, seminars, or laboratory exercises. Contact time does not include personal travel time to or from the training site, registration or check-in periods, breaks or lunch time granted during attendance at any continuing education seminar or course.

(7) "CRTT" means a person who has satisfactorily completed the Certified Respiratory Therapy Technician examination issued by the National Board for Respiratory Care (NBRC).

(8) "Division" means the Health Licensing Office of the Department of Human Resources.

(9) "Expired" means a license which has not been renewed.

(10) "Health Licensing Office" means the office assigned to carry out the administrative, programmatic and daily operations, and regulatory functions of the Board.

(11) "Inactive license" means a license which has been expired less than two years from the expiration date; requires certificate of continuing education and payment of fees for reinstatement.

(12) "Lapsed license" means a license which has been expired more than two years from the expiration date; requires proof of continuing education, or satisfactory retake of entry level

examination by National Board for Respiratory Care (NBRC) and payment of fees for reinstatement.

(13) "NBRC means the National Board for Respiratory Care, which provides credentialing and examination services for the respiratory care profession.

(14) "Official transcript" means an original document certified by the school indicating hours and types of course work, examinations and scores that the student has completed, which has been submitted through mail by the school or by courier from the school to the Board office in a sealed envelope.

(15) "Practitioner" means any person whom the Board has licensed to practice respiratory care.

(16) "RRT" means a person who has satisfactorily completed the Registered Respiratory Therapist examination issued by the National Board for Respiratory Care (NBRC).

(17) "Standard precautions" means a set of guidelines and controls, published by the Centers for Disease Control (CDC), which outline certain practices which health workers should employ in order to prevent parenteral, mucous-membrane, and no intact skin exposure to blood-borne pathogens. The method of infection control requires the employer and employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood borne pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, proper handling and disposal of needles and other sharp instruments and blood and body fluid contaminated products.

(18) "Supervision" means the presence of a licensed Respiratory Care Practitioner or qualified Medical Director within the work location at the same time as the applicant working under a "temporary license".

(19) "Temporary License" means a document issued for a period of one year which is not renewable, authorizing an applicant for licensure to practice respiratory therapy under supervision pending passage of the qualifying examination.

Stat. Auth.: ORS 688.830

Stats. Implemented: ORS 688.830

Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

**331-705-0060
Fees**

(1) Payment of fees to the Board must be made for the exact amount due. Fees are non-refundable.

(2) Transactions submitted to the Board where either the payment or required documentation is incomplete or incorrect shall be returned to the payor for correction before being processed by the Board.

(3) Fees will be applied as directed by the payor. Fees misapplied may be corrected by written request specifying the license number(s) affected and the action requested, subject to conditions set forth in subsection (6) of this rule.

(4) Fees paid to the Board are not transferable between licenses or from person-to-person.

(5) The Board shall not refund fees, civil penalties or other moneys overpaid by an amount of \$10 or less unless such refund is requested in writing by the payor within three years after the date of the overpayment.

(6) Payments made by a licensee or applicant without explanation or as an overpayment shall be applied to any outstanding balance owed by licensee or applicant.

(7) Fees are as follows:

- (a) Application: \$50;
- (b) Original license: \$100 for one year initial cycle;
- (c) Renewal of license: \$100 for one year renewal cycle;
- (d) Temporary license (one year, non-renewable): \$100;
- (e) Delinquency or late renewal of license: \$50;
- (f) Restoration of license: \$100;
- (g) Replacement of license including name change: \$25;
- (h) Duplicate license: \$25;
- (i) In the event a NSF check is received for payment of fees, an additional \$25 administrative processing fee will be assessed.

Stat. Auth.: ORS 688.830(9)

Stats. Implemented: ORS 688.830(9)

Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 1-1998(Temp), f. & cert. ef. 3-20-98 thru 4-1-98; HDLP 2-1998, f. & cert. ef. 6-15-98

DIVISION 710

**RESPIRATORY THERAPIST LICENSING BOARD
APPLICATION FOR LICENSURE**

331-710-0000

Training

Training, or formal education, required for licensure is a planned sequence of instruction of specific content structured to meet stated curriculum objectives which includes evaluation of attainment of those objectives; offered by a post-secondary educational institution accredited by the *Committee On Accreditation For Respiratory Care*, or its successors, or recognized by the National Board for Respiratory Care.

Stat. Auth.: ORS 688.830

Stats. Implemented: ORS 688.830

Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-710-0010

Application for Licensure

Application for licensure shall be made in writing on forms prescribed and furnished by the Board. Required documentation includes the following:

- (1) A signed and completed application form which contains the following information:
 - (a) Applicant's name, address and telephone number;
 - (b) Applicant's date of birth;
 - (c) Examination categories;
 - (d) Affidavit of Licensure information from all states licensed, if applicable;
 - (e) Applicant's signature and date of application;
 - (f) Applicant's Social Security Number;
 - (g) Any and all previous license and examination information;
 - (h) Disclosure of all information pertaining to conviction of any crime.
- (2) Official documentation of a passing score of the Certified Respiratory Therapy Technician (CRTT) examination or Registered Respiratory Therapist (RRT) examination mailed by the National Board for Respiratory Care to the Board office. Copies of examination results or other documentation provided by the applicant are not acceptable.

NOTE: The applicant assumes responsibility for payment of fees assessed by NBRC in obtaining required official documentation.

(3) Payment of the application and original license fees.

Stat. Auth.: ORS 688.815 & ORS 688.830

Stats. Implemented: ORS 688.815 & ORS 688.830

Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-710-0020

Application for Temporary Licensure

Application for temporary licensure may be made by persons who have completed training and wish to begin supervised practice pending passage of the qualifying examination. Application for temporary license shall be made in writing on forms prescribed and furnished by the Board. Required documentation includes the following:

- (1) A signed and completed application form which contains the following information:
 - (a) Applicant's name, address and telephone number;
 - (b) Applicant's date of birth;
 - (c) Examination categories;
 - (d) Affidavit of Licensure from all states licensed, if applicable;
 - (e) Applicant's signature and date of application;
 - (f) Applicant's Social Security Number;

- (g) Any and all previous license and examination information;
- (h) Disclosure of all information pertaining to conviction of any crime; and
- (i) If application precedes employment, the temporary applicant shall submit the following items within 30 days of hire:
 - (A) Employer's name, address and telephone number;
 - (B) Name and credentials of supervisor.
- (2) Official transcripts from college or university in respiratory care.

NOTE: A notarized *Certificate of Completion* issued by the college or university to the Board may be submitted following completion of schooling until the official transcript is available to facilitate temporary licensure. The official transcript must be received by the Board to complete application requirements.

- (3) Payment of the application and temporary license fees.
- (4) A temporary license shall be issued when all requirements have been met, and shall expire the last day of the month one year from the date of issuance. Temporary licenses are not renewable.
- (5) Temporary licensees shall notify the Board within 30 calendar days of changes in employment status.

Stat. Auth.: ORS 688.815 & ORS 688.830
 Stats. Implemented: ORS 688.815 & ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-710-0030

Examination

The Board has selected the CRTT or RRT examination administered by the National Board for Respiratory Care (NBRC) as its minimal qualifying examination for licensure. Individual applicants are responsible for payment of all NBRC application, examination, national certification or other fees directly to NBRC.

(1) Applicants who meet the educational requirements and achieve a passing score on the examination must request certification of the passing score be sent from the National Board for Respiratory Care to the Board office as a prerequisite to application.

(2) Testing schedules and other information about the examination may be obtained from the Board office.

Stat. Auth.: ORS 688.830
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

DIVISION 715

**RESPIRATORY THERAPIST LICENSING BOARD
 LICENSURE; RENEWAL; PRACTICE STANDARDS**

331-715-0000

Licensure

(1) A license shall be issued to individuals upon compliance with all qualifications and requirements. The date of issuance shall be the date all requirements are met. Every license shall be issued for a one year period. Licenses shall expire on the last day of the month one year from date of issuance.

(2) The license form shall state the holder's name, address, license number, expiration date and bear the signature of the holder.

(3) If for any reason a person is mistakenly issued a license, or if the form contains a material error, the Board may certify the license null and void.

(4) Upon demanding return of any license form issued by the Board, the individual shall surrender the license requested.

(5) Every Respiratory Care Practitioner licensed by the Board shall be licensed under the applicant's legal name and shall function as a respiratory care practitioner under that name.

(6) When a name is changed, 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 the Board;

- (b) A copy of the legal document showing the name change;
- (c) Return of the license form issued and payment of replacement fee if a corrected license is requested.

(7) Practitioner licenses shall be posted at the employer's place of business in public view. The practitioner's address printed on the license may be blocked from public view.

(8) The Board issues only one original license to Respiratory Care practitioners. Posting a reproduction of any license is prohibited unless the reproduction is issued by the Board and marked **DUPLICATE**.

(9) The Board shall issue a replacement license (marked **DUPLICATE**), provided the license is current and valid and the practitioner submits a replacement fee and written request stating practitioner's name, address, telephone number, employment information, and statement attesting reason for replacement license, i.e. lost, stolen, disfigured or destroyed.

NOTE: Holding more than one valid original license is prohibited.

(10) Practitioners who work in more than one facility must carry the license identification card (pocket card) with them in lieu of the official license when working at more than one place of business.

Stat. Auth.: ORS 688.830
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 1-1998(Temp), f. & cert. ef. 3-20-98 thru 4-1-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-715-0010

License Renewal

(1) Renewal shall be for a period not to exceed one year.

(2) The Board may mail to each license holder notice of license expiration, sending the notice to the last known address on file with the Board. The license holder is responsible for submitting a timely application for renewal whether or not a renewal form was mailed by the Board.

(3) The application for renewal shall be submitted in advance of the license expiration date and be accompanied by a renewal fee and attestation of obtaining required continuing education pursuant to OAR 331-720-0010.

(4) Renewal applications received in the Board office or postmarked after a license has expired but within one year from the expiration date, may be approved upon payment of the renewal and delinquency fees and required verification of obtaining continuing education.

(5) A license which has been expired for more than one year but less than two years may be renewed upon payment of the license renewal and restoration fees and submission of required continuing education documentation pursuant to OAR 331-720-0010.

(6) A license which has been expired two or more years may be reinstated by payment of application and renewal fees, and submission of continuing education documentation pursuant to OAR 331-720-0010 or proof of NBRC retake of entry level examination completed within one year prior to the date of reapplication.

(7) All license holders shall obtain 15 contact hours of continuing education training every two years as a condition of renewal, whether licensure is active or inactive.

(8) Appropriate documentation required in OAR 331-720-0020 shall be accumulated and held by the license holder until submitted to the Board office at the time of audit upon Board request.

(9) Evidence of obtaining required continuing education shall be provided at the time of renewal by means of a prescribed self-attestation form certifying participation in approved continuing education.

Stat. Auth.: ORS 688.830
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 1-1998(Temp), f. & cert. ef. 3-20-98 thru 4-1-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-715-0020

License Sanctions

(1) In accordance with ORS 348.393 to 348.399 and OAR 575-001-0030, the Oregon Health Licensing Office shall provide the Oregon State Scholarship Commission with licensing information which may be electronically cross-matched with the Commission's post-default database.

(2) The Health Licensing Office shall refuse to issue or renew, place the person on probation, or suspend the license if the person is in default on any student loan guaranteed or insured by the Oregon State Scholarship Commission and is not paying in a satisfactory manner as determined by the Commission and in accordance with federal regulations.

(3) Pursuant to ORS 348.393(3), the Health Licensing Office shall notify the license holder of the action being taken against the licensee at the direction of the Commission.

(4) Upon notification by the Commission and receipt of a release notice that the individual has met satisfactory borrower repayment status, the Health Licensing Office shall issue or reinstate the license upon compliance with any qualifications for issuance or reinstatement.

(5) In accordance with ORS 25.750 to 25.783, the Health Licensing Office shall provide the Support Enforcement Division of the Department of Justice with licensing information which may be electronically cross-matched with Support Enforcement Division's records for persons under order of judgement to pay monthly child support and who are in arrears according to ORS 25.750(a), (b) and/or (c).

(6) The Health Licensing Office shall suspend the license, if the Support Enforcement Division or the district attorney identifies the license holder as being in arrears with respect to any judgement or order requiring the payment of child support and that the case is being enforced under the provisions of ORS 25.080.

(7) Pursuant to ORS 25.762 or 25.765, the Health Licensing Office shall notify the license holder of the suspension status and refer the person to the Support Enforcement Division or the district attorney for resolution.

(8) Upon notification by the Support Enforcement Division or district attorney and receipt of a release notice that the conditions resulting in the suspension no longer exist, the Health Licensing Office shall reinstate the license upon compliance with any qualifications for renewal or reactivation.

(9) In accordance with ORS 305.385, upon request the Health Licensing Office shall provide the Department of Revenue with licensing information to determine if the holder has neglected or refused to file any return or to pay any tax without filing a petition with the department as stated in ORS 305.385(4)(a).

(10) The Health Licensing Office shall propose to take action against a license holder identified by the Department of Revenue. Where the Health Licensing Office proposes to refuse to issue, renew or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.480 for contested cases.

(11) Upon notification by the department and receipt of a notice of release issued by the department that the license holder is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate, the Health Licensing Office shall renew, reactivate or release from suspension the license upon compliance with any qualifications for renewal or reactivation.

Stat. Auth.: ORS 688.830
 Stats. Implemented: ORS 25.750 - ORS 25.783, ORS 183, ORS 305.385 & ORS 348.393 - ORS 348.399
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-715-0030

Professional Standards

(1) Respiratory care practitioners shall be guided by the highest standards of honesty and professional conduct. The Board recognizes and adopts the American Association of Respiratory Care (AARC) Statement of Ethics and Professional Conduct effective December 1994 and Role Model Statement for Respiratory Care

Practitioners effective March 1990 as its professional standards model. A copy of these documents are on file at the Board office for review.

(2) At minimum, practitioners shall be subject to directives and policies established by the medical facilities, businesses or agencies by which they are employed or regulated.

(3) Respiratory care practitioners shall observe the Standard Precautions adopted by the Centers for Disease Control as defined in Oregon Administrative Rule 437 Division 2, Subdivision Z, and OAR 331-705-0050(17) when providing services to patients.

(4) Practitioners shall not work under the influence of alcohol or any drugs, including prescription medications, which may impair performance, and shall seek professional assistance through a diversion program if necessary to achieve and maintain freedom from substance abuse.

Stat. Auth.: ORS 688.830
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-715-0040

Diversion Program

(1) There is established a Diversion Program for chemically dependent respiratory care practitioners. The Board may enter into contractual agreements with licensed individuals who specialize in addiction medicine to provide assessment, intervention, evaluation, reporting and follow up services regarding licensees who may be chemically dependent. Information about the process and the names of evaluators are available at the Board office.

(2) In addition to or in lieu of disciplinary action, the Board shall refer a licensee who may be chemically dependent to the Diversion Program. Any licensee who voluntarily participates in the Diversion Program and successfully completes treatment and follow up shall not be subject to disciplinary investigation and action unless it is determined the individual poses an immediate threat to public safety or there is evidence the licensee acted in violation of the law and rules.

Stat. Auth.: ORS 688.830(5)
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-715-0050

Diversion Program Procedures

The following describes the Diversion Program and related processes:

(1) An individual may enter the Program voluntarily, or as required by the Board based on:

- (a) A written complaint;
- (b) Correspondence from an employer, coworker, family, or the public; or
- (c) Published record of driving under the influence (DUI), other drug or alcohol related court actions, or information provided on application for licensure.

(2) Individuals required to be assessed must comply within 30 days after receipt of notification by providing information on the date initial assessment is scheduled.

(3) The person making the assessment will notify the Board in writing whether those practitioners who were referred for assessment will be required to participate in diversion. Those persons required to participate shall enter into a formal agreement with the Diversion Program.

(4) Initial evaluation shall include urine analysis. Persons who participate in the Diversion Program shall be subject to a minimum of 12 random urine analyses per year during the course of treatment and follow up. Additional analyses may be required, at the discretion of the addiction medicine specialist.

(5) All individuals shall be required to pay for the initial evaluation, any required treatment including urine analyses, and follow up evaluations.

(6) Failure or refusal to schedule or attend an initial evaluation when required by the Board, participate in diversion treatment, complete diversion treatment, follow up evaluations, obtain

urine analysis as directed or fail to meet the terms of the diversion program shall result in disciplinary action.

(7) All Diversion Program records and related documents are confidential and shall not be subject to public disclosure.

Stat. Auth.: ORS 688.830(5)
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

DIVISION 720

**RESPIRATORY THERAPIST LICENSING BOARD
 CONTINUING EDUCATION**

331-720-0000

Purpose

(1) To ensure continuing efforts on the part of Oregon licensed respiratory care practitioners to remain current with new developments in the respiratory therapy and health care field and to encourage diversified training and qualifications in the profession continuing education is required as a condition of licensure.

(2) Continuing Education requirements apply whether the renewal applicant is living or working within Oregon or outside of the state so long as Oregon licensure is maintained.

Stat. Auth.: ORS 688.830(7)
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-720-0010

Continuing Education Requirements

(1) Each respiratory care practitioner is required to complete 15 hours of Board approved continuing education every two years. At least two-thirds of the required continuing education hours shall be related to clinical practice of respiratory care.

(2) To renew the license, each licensee shall report compliance with the continuing education requirement through attestation on license renewal document.

(3) Continuing education is acceptable if provided by:

(a) A medical organization or association accredited by the Oregon Medical Association, the Oregon Osteopathic Association, the American Medical Association Continuing Medical Education, the American Osteopathic Association, the American Nurses Association, the American Association for Respiratory Care, and its affiliates, to provide continuing education to physicians, nurses, or respiratory care practitioners;

(b) A hospital not accredited to provide continuing education but the continuing education provided meets the following requirements:

(A) The content of the course or program shall be relevant to the scope of practice of respiratory care as defined in ORS 688.800(4);

(B) The faculty shall be knowledgeable in the subject matter as evidenced by a degree from an accredited college or university and verifiable experience in the subject matter or teaching and clinical experience in the same or similar subject matter;

(C) Educational objectives shall be listed;

(D) The teaching methods shall be described, e.g., lecture, seminar, audiovisual, simulation;

(E) Evaluation methods shall document that the objectives have been met.

(c) An institution of higher education accredited by the Northwest Association of Secondary and Higher Schools or its successor, or the State Board of Higher Education, providing the course(s) meet the requirements of paragraph (a) of this subsection. Five (5) hours of continuing education credit per course, and up to two-thirds of the continuing education requirement, can be obtained by successfully completing the course(s) with a grade "C" or above, or a "pass" for a pass/fail course;

(d) A respiratory care educational program accredited by the American Medical Association Committee on Allied Health Education and Accreditation in collaboration with the Committee On Accreditation for Respiratory Care, or its successor, or the Com-

mission on Accreditation for Allied Health Education Programs offering an Associate Degree in Respiratory Care;

(e) The NBRC through passing the examination for initial certification as an Registered Respiratory Therapist (RRT), or Perinatal/Pediatric Respiratory Care Specialist (PPRCS), or the NBRC through passing the re-credentialing examination for a Certified Respiratory Therapist Technician (CRTT), RRT, or PPRCS. Fifteen (15) hours of continuing education can be obtained by passing these certification and re-credentialing examinations;

(f) The NBRC through passing the examination for initial certification as a Certified Pulmonary Function Technician (CPFT), or Registered Pulmonary function Technician (RFPT). Seven and one-half (7.5) hours of continuing education can be obtained by passing these certification examinations;

(g) Publication in a peer reviewed journal as the author or co-author of a clinical paper or abstract. A total of 5 credit hours will be accepted per biennium for the publication of articles or abstracts in professional journals.

(4) To ensure adequate proof of continuing education course completion is available for audit or investigation by the Health Licensing Office, practitioners shall maintain a record of attendance for two years following renewal;

(5) The documentation retained by the course participant shall be issued by the course provider and must include the participant's name, the name of the sponsoring institution/association or organization, title of presentation or program, date of course, duration in hours, and certificate or state of attendance or completion provided by the sponsor. Effective July 1, 1998, for future renewal requirements, continuing education documentation must include the address of the sponsoring institution/association or organization, name of instructor or presenter, and a description of continuing education content, e.g. program brochure or course objectives.

(6) Respiratory care practitioners who instruct continuing education courses may obtain the same number of continuing education hours for each initial course taught during the biennium, in which the course is initially presented, as granted to course participants.

(7) Practitioners shall be awarded continuing education credit once for completion of the initial certification course for Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS) courses, and Neonatal Resuscitation Program (NRP). Up to four (4) hours of continuing education credit may be obtained for each recertification in ACLS, PALS, or NRP courses.

(8) Continuing education credit will not be granted for completion of the Basic Life Support (BLS) course.

Stat. Auth.: ORS 688.830(7)
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-720-0020

Continuing Education: Audit and Sanctions for Non-Compliance

(1) The Health Licensing Office shall audit a random sample of licensees for compliance with the continuing education requirement.

(2) If documentation of the continuing education is improper, the licensee shall correct the deficiency. Failure to correct the continuing education documentation within sixty days (60) shall constitute grounds for disciplinary action.

(3) Misrepresentation of compliance shall constitute grounds for disciplinary action.

(4) Documentation supporting compliance with continuing education requirements shall be available to the Board upon request for at least two years following date license was renewed.

Stat. Auth.: ORS 688.830(7)
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

DIVISION 725

**RESPIRATORY THERAPIST LICENSING BOARD
COMPLAINT PROCESSING AND RESOLUTION**

331-725-0000

License to Practice

Pursuant to ORS 688.805(1) an individual shall not display a sign or in any way advertise or purport to be a license holder or to be engaged in the practice of respiratory care without first obtaining a license under ORS 688.815.

Stat. Auth.: ORS 688.830
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-725-0010

Procedure for Filing a Complaint

Complaints against individuals practicing respiratory care may be filed with the Board. The complaint may be made on forms provided by the Board and shall include the following information:

- (1) The name of the person making the complaint;
- (2) The name of the person, license holder or temporary licensee against whom the complaint is being made;
- (3) A concise description of the charge against the person, license holder or temporary licensee, giving dates, time, circumstances of the alleged violation; and
- (4) The signature of the person making the complaint.

Stat. Auth.: ORS 688.830(2)
 Stats. Implemented: ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-725-0020

Complaint Processing and Investigation

The Health Licensing Office shall investigate complaints made regarding the practice of respiratory care. Complaints filed with the Board regarding the practice of respiratory care, services offered or performed, shall be handled as follows:

- (1) The Health Licensing Office determines that the complaint is related to the practice of respiratory care as defined in ORS 688.800(4) or services performed, and the complaint falls within Board authority.
- (2) The complaint and any other pertinent information will be given by the Health Licensing Office to one or more Health Licensing Office's investigators or other qualified person(s), or person(s) selected by the Board from a list of licensed respiratory care practitioners approved by the Board.
- (3) The investigator(s):
 - (a) Reviews the information and as applicable, interviews parties and witnesses, and examines physical evidence relating to the complaint;
 - (b) Advises on whether the license holder or individual practiced within the acceptable standards;
 - (c) May attempt to informally resolve the matter; and
 - (d) Makes recommendations for Board action.
- (4) Following advice from the investigator(s), the Health Licensing Office, in consultation with the Board, will determine what action will be taken.
- (5) A report of all investigations and Health Licensing Office action will be presented to the Board during Executive Session, subject to provisions of ORS 192.660.

Stat. Auth.: ORS 677.010 - ORS 677.335, ORS 688.830(2) & OL 1997, Ch. 792
 Stats. Implemented: ORS 677.010 - ORS 677.335 & ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

DIVISION 730

**RESPIRATORY THERAPIST LICENSING BOARD
DISCIPLINE; CIVIL PENALTIES**

331-730-0000

Grounds for Discipline Action

(1) The Respiratory Therapist Licensing Board may refuse to issue or renew, place on probation or place a limitation on the license of a practitioner, or may suspend or revoke a license to practice issued under ORS 688.800 to 688.830 in accordance with provisions of ORS 183.413 to 183.502, for the following reasons:

- (a) Failure to have completed successfully a Board approved course.
- (b) Use of fraud or deception in receiving a license.
- (c) Practicing skills beyond the scope of practice established by the Respiratory Therapist Licensing Board for the State of Oregon under ORS 688.800(6) and OAR 331-715-0030.
- (d) Rendering respiratory care service under an assumed name.
- (e) Impersonation of another respiratory care practitioner.
- (f) Any reason that renders the applicant unfit to perform the duties of a respiratory care practitioner.
- (g) Unprofessional conduct.
- (h) Obtaining a fee by fraud or misrepresentation.
- (i) Use of intoxicants or drugs, pursuant to provisions of OAR 331-715-0030(4).
- (j) Presence of a mental disorder that demonstrably affects a respiratory care practitioner's performance, as certified by two psychiatrists retained by the Board.
- (k) Subject to ORS 670.280, conviction of any criminal offense. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(l) Suspension or revocation of a respiratory care practitioner license issued by another state evidenced by a certified copy of the order of suspension or revocation.

- (m) Negligence in rendering respiratory care assistance.
- (n) Rendering respiratory care without being licensed except as provided in ORS 30.800.

(o) Rendering respiratory care without written authorization or standing orders from a supervising physician who has been approved by the Board of Medical Examiners in accordance with ORS 682.245.

(p) Refusing to participate in an informal interview with the Board as specified under subsection (3) of this rule.

(2) The Board may investigate any evidence which appears to show that a respiratory care practitioner licensed by the Board is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be mentally or physically unable to safely function as a respiratory care practitioner.

(3) If, in the opinion of the Board, it appears such information provided under provisions of this section is or may be true, the Board may request an informal interview with the respiratory care practitioner.

(4) The Board may revoke, suspend or refuse to issue the license, permit, or Affidavit of Licensure of any person, who fails to pay on demand a civil penalty which has become due and payable, provided that it first gives the person an opportunity for a hearing as outlined in ORS Chapter 183.

(5) An applicant who has an outstanding civil fine or action in another state, documented on the Affidavit of Licensure form, shall be prohibited from qualification for licensure until any and all fine(s) and/or action(s) are resolved and verification of resolution from the originating state has been received.

Stat. Auth.: ORS 677.010 - ORS 677.335, ORS 688.830 & OL 1997, Ch. 792
 Stats. Implemented: ORS 677.010 - ORS 677.335 & ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98;
 HDLP 2-1998, f. & cert. ef. 6-15-98

331-730-0010

Discipline; Civil Penalty

(1) The Board may discipline, as provided in this section, any person licensed as a respiratory care practitioner in this state who has committed an act which constitutes grounds for suspension or revocation of a license as set forth in OAR 331-730-0000 or has

violated the provisions of ORS 688.800 to 688.830 or the rules adopted thereunder.

(2) In addition to the action authorized by subsection (1) of this section, the Board may temporarily suspend a license without a hearing, simultaneously with the commencement of proceedings under ORS 183.413 to 183.502 if the Board finds that evidence in its possession indicates that a continuation in practice of the respiratory care practitioner constitutes an immediate danger to the public.

(3) If the Board places any respiratory care practitioner on probation as set forth in OAR 331-730-0000(1), the Board may determine, and may at any time modify, the conditions of the probation and may include among them any reasonable condition for the purpose of protection of the public and for the purpose of the rehabilitation of the respiratory care practitioner. Upon expiration of the term of probation, further proceedings shall be abated if the practitioner has complied with the terms of the probation.

(4) If a respiratory care practitioner licensed in this state is suspended, the holder of the license may not practice during the term of suspension.

(5) Whenever a respiratory care practitioner license is denied or revoked for any cause, upon written application and compliance with any and all qualifications by the person formerly licensed, the Board at its discretion, may issue or restore the practitioner license.

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

Stat. Auth.: ORS 183.430, ORS 677.010 - ORS 677.335, ORS 688.830(2) & OL 1997, Ch. 792
 Stats. Implemented: ORS 183.430(2), ORS 677.010 - ORS 677.335 & ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-730-0020

Civil Penalty Considerations

Any person who violates any provisions of ORS 688.805 to 688.815 or any rule adopted under ORS 688.830(2) shall incur, in addition to any other penalty provided by law, a civil penalty in an amount of not more than \$5,000 for each violation:

(1) In establishing the amount of the penalty for each violation, the Board shall consider, but not be limited to the following factors:

- (a) The gravity and magnitude of the violation;
- (b) The person's previous record of compliance with the provisions of ORS 688.805 to 688.815 or with the rules adopted under ORS 688.830;
- (c) The person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and
- (d) Such other considerations as the Health Licensing Office and/or Board may consider appropriate.

(2) The Board may revoke, suspend, place on probation or refuse to issue or renew the license of any person, who fails to pay on demand a civil penalty which has become due and payable, provided that it first gives the person an opportunity for a hearing as outlined in ORS Chapter 183.

Stat. Auth.: ORS 677.010 - ORS 677.335, ORS 688.830 & OL 1997, Ch. 792
 Stats. Implemented: ORS 183, ORS 677.010 - ORS 677.335 & ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-730-0030

Establishing Civil Penalty Amounts

In assessing civil penalties, the Board desires to be both consistent and equitable and to consider and evaluate each case on an

individual basis. The actual civil penalty assessed shall be based on the Board's consideration of the factors in OAR 331-730-0020, but the fine for any one violation of ORS 688.805 to 688.815 or the rules adopted under ORS shall not exceed \$5,000.

Stat. Auth.: ORS 677.010 - ORS 677.335, ORS 688.830 & OL 1997, Ch. 792
 Stats. Implemented: ORS 183, ORS 677.010 - ORS 677.335 & ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98

331-730-0040

Disciplinary Procedure; Rules and Orders; Judicial Review

(1) When the Board proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license or place a license on probation, opportunity for hearing shall be accorded as provided in ORS 183.413 to 183.502.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided by ORS 183.310 to 183.480.

(3) Subject to the approval of the Attorney General, an officer or employee of the Health Licensing Office is authorized to appear on behalf of the Board when the Board proposes to deny, suspend or revoke a license or impose a civil penalty.

(4) The agency representative may not make legal argument on behalf of the Board.

(a) "Legal argument" includes arguments on:

- (A) The jurisdiction of the Board to hear the contested case;
- (B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency or Board; and
- (C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

- (A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;
- (B) Comparison of prior actions of the agency in handling similar situations;
- (C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and
- (D) The admissibility of evidence or the correctness of procedures being followed.

(5) When an agency officer or employee represents the Board, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change the application of the law on waiver or the duty to make timely objections. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 183, ORS 677.010 - ORS 677.335, ORS 688.830 & OL 1997, Ch. 792
 Stats. Implemented: ORS 183, ORS 677.010 - ORS 677.335 & ORS 688.830
 Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HDLP 2-1998, f. & cert. ef. 6-15-98