

Chapter 331 Oregon Health Licensing Agency

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DIVISION 1

AGENCY PROCEDURAL RULES

331-001-0000 Notice of Proposed Rulemaking

(1) Prior to the adoption, amendment or repeal of any rule, the Oregon Health Licensing Agency shall give notice of its intended action;

(a) In the manner established by rule adopted by the agency under ORS 183.341(4), which provides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

(b) In the Secretary of State's bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

(c) By delivery of notice to persons on the agency mailing list, at least 28 days before the effective date of the rule, pursuant to ORS 183.335;

(d) By delivery of notice to certain legislators, at least 49 days before the effective date of the rule, pursuant to ORS 183.335;

(2) To the Associated Press and Capitol Building Press Room, and other members of the media who have requested notification;

(3) To persons, organizations, or publications, where the agency determines that such persons, organizations, or publications, would have an interest in the subject matter of the proposal based on applicability to each agency program, board or council.

(4) Delivery of notice of an intended action under subsection (1)(a), (c) and (d) of this section shall be in accordance with ORS 183.335(2)(e). Delivery of notice of an intended action under subsection (1)(b), (2) and (3) of this section may be provided by regular U.S. Postal Service mail, electronic mail, facsimile transmission, or other delivery of printed copy.

(5) A copy of proposed rules and permanently filed rules shall be posted on the agency's Web site, and program mini-sites accessed at <http://www.oregon.gov/OHLA/index.shtml> and http://www.oregon.gov/OHLA/Laws_and_Rules.shtml.

(6) Persons may obtain a printed copy of rules or related documents upon written request and payment of appropriate fee for copies of agency documents as specified in OAR 331-010-0030.

(7) The agency may update the mailing list established pursuant to ORS 183.335(8) annually by requesting persons to confirm that they wish to remain on the mailing list. If a person does not respond to a request for confirmation within 28 days of the date the agency sends the request, the agency will remove the person from the mailing list. Any person removed from the mailing list will be immediately returned to the mailing list upon request, if the person provides a mailing address to which notice may be sent.

Stat. Auth.: ORS 183, 676.605, 676.615

Stats. Implemented: ORS 183, 676.605, 676.615

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-001-0010

Model Rules of Procedure

Pursuant to ORS 183.341, the Oregon Health Licensing Agency adopts the Model Rules of Procedures as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act as amended and effective January 1, 2008.

Stat. Auth.: ORS 183 & 676.605

Stats. Implemented: ORS 183 & 676.605

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-001-0020

Applicability of Agency Rules

The provisions of OAR 331-001-0000 through 331-030-0030 shall apply in the administration and regulation of all programs administered by the agency except as otherwise specifically provided.

Stat. Auth.: ORS 676.615 & OL 2003, Ch. 547

Stats. Implemented: ORS 676.615 & OL 2003, Ch. 547

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04

DIVISION 10

AGENCY GENERAL ADMINISTRATION RULES

331-010-0000

Definitions

Unless the context requires otherwise, the following definitions shall apply to OAR Chapter 331.

(1) "Agency" means the Oregon Health Licensing Agency.

(2) "Authorization" means the official document, i.e. certificate, license, permit or registration, issued by the agency, for any program administered under ORS 676.606, as prima facie evidence of the right to practice in accordance with the laws and rules of the regulatory programs administered by the agency.

(3) "Director" means, pursuant to ORS 676.610, the individual who has sole responsibility for the administrative, fiscal, human resource and regulatory functions of the agency.

(4) "Oregon Health Licensing Agency" means the agency assigned to carry out the administrative, programmatic and daily operations, and regulatory functions of the Boards, Councils and Programs listed in ORS 676.606.

(5) "Practitioner" means the individual issued a certificate, license, permit or registration by the agency who has received authorization within their defined field of practice.

(6) "Program" means the office and staff designated to carry out the daily functions of the Body Piercing Licensing Program as defined in ORS 690.500 to 690.570; or as the context requires, "program" may also be used to refer to the collective boards, councils and programs administered by the agency.

(7) "Regulatory authority" means a recognized governing body of a city, county, state or country that has been charged with the responsibility for overseeing the administration and regulation of an occupation or profession.

Stat. Auth.: ORS 676.615

Stats. Implemented: ORS 676.606, 676.615

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-010-0010

Fees

(1) Payments made to the Health Licensing Office should be made for the exact amount of the transaction.

(2) Transactions conducted with the agency where either the payment or required documentation is incomplete or incorrect may be returned to the payer for correction before being processed by the agency.

(3) Fees will be applied as directed by the applicant, authorization holder or payer. Fees misapplied may be corrected by written request specifying the certificate, license, permit or registration number(s) affected and the action requested, subject to conditions in OAR 331-010-0020(2).

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

(5) Payments received by the agency without indication as to purpose or intent or as an amount of overpayment will first be applied toward any outstanding civil penalty balance or administrative processing fee owed.

(6) Fee schedules are published in the administrative rules for each Board, Council or Program administered by the agency.

(7) Dishonored Check or Electronic Payment. Pursuant to ORS 30.701, whenever a bank check, credit or debit transaction in payment of an obligation due for fees, penalties, copies of records or materials, or other services to the agency, is dishonored by the bank upon which the check is drawn, the applicant or authorization holder will be assessed and must pay an administrative processing fee in the amount of \$25. The agency may take any other disciplinary action against an authorization holder or payer and may seek other legal remedies in pursuing to effect collection of the returned items. If a check is returned for NSF or uncollected funds the agency will attempt to collect payment electronically.

Stat. Auth.: ORS 30.701, 676.625 & OL 2003, Ch. 547 Sec.10, 14, 22, 30, 50, 61, 69, 86, 100

Stats. Implemented: ORS 30.701, 676.625 & OL 2003, Ch. 547 Sec.10, 14, 22, 30, 50, 61, 69, 86, 100

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04

331-010-0020

Refund of Payments

(1) The Oregon Health Licensing Agency will not refund any payment, which includes fees, penalties or other charges, unless the agency is in error. Information not known by the agency because the authorization holder or payer supplied the incorrect information is not considered an error.

(2) The agency will comply with ORS 291 and 293 and the Oregon Accounting Manual regarding administration of public funds pertaining to assessment of fees, charges and refunding monies.

(3) Application fees will not be refunded. The agency will retain the application fee if an applicant withdraws the application for a certificate, license, permit, or registration before the issuance of the authorization, or fails to complete the application process.

(4) The agency may refund fees paid for a scheduled examination on a case-by-case basis. In making its determination, the agency will consider an applicant's individual set of circumstances when the applicant fails to appear for a scheduled examination.

(5) The agency will not refund fees paid for agency scheduled diversion or infection control standards training if the applicant fails to appear and complete the prescribed training; however, the fees may be applied toward any civil fine imposed for violations of laws or rules.

(6) The agency shall determine, on a case-by-case basis, the individual set of circumstances noted in subsections (4) and (5) of this rule, such as a medical emergency, personal hardship or unforeseen event that impedes the individual from appearing for an agency-scheduled examination or training. The agency may request documentation from the individual to validate the circumstance cited and may refund the fees or reschedule an examination or training as appropriate.

Stat. Auth.: ORS 30.701, 293.445, 676.625
Stats. Implemented: ORS 30.701, 293.445, 676.625
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-010-0030

Fees for Public Records and Publications

(1) All requests for copies of public records pertaining to the Oregon Health Licensing Agency, or any program it administers, shall be submitted in writing, electronic mail, or by completion of an electronic form provided by the agency. Requests are subject to disclosure according to the Public Records Law, ORS 192.410 to 192.505, and rules adopted thereunder.

(2) The agency may charge a fee reasonably calculated to reimburse the agency for costs of providing and conveying copies of public records. Fees shall not exceed the cost of locating, compiling, making available for inspection, preparing copy in paper, audio, computer disk, and delivering public records. All estimated fees and charges must be paid before public records will be made available for inspection or copies provided.

(3) The agency shall notify a requestor of the estimated costs of making records available for inspection or providing copies of records to the requestor. If the estimated costs exceed \$25, the agency shall provide written notice and shall not act further to respond to the request unless and until the requestor confirms that the requestor wants the agency to proceed with making the public records available.

(4) Charges to the general public shall be payable in cash, cashier's check, money order, or credit card. Payment by personal check for copies of official documents is not accepted.

(5) The agency shall charge 25¢ per page for the first 20 pages and 15¢ per page thereafter to recover the costs of photocopying and normal and reasonable staff time to locate, separate, photocopy and return document(s) to file and to prepare/mail public record(s) to requestors. If, for operational or other reasons, the agency uses the services of an outside facility or contractor to photocopy requested records, the agency shall charge the actual costs incurred.

(a) "Page" refers to the number of copies produced. Staff will not reduce the copy size or otherwise manipulate records in order to fit additional records on a page, unless staff concludes that it would be the most effective use of their time. Consistent with ORS 192.240, all copies will be double-sided. A double-sided copy will be charged as two single pages.

(6) "Normal and reasonable" staff time is 20 minutes or less per request:

(a) Additional charges for staff time may be made when responding to record requests that require more than the "normal and reasonable" time for responding to routine record requests. Staff time shall be charged at the agency's staff hourly rate.

(b) These charges are for staff time in excess of 10 minutes spent locating, compiling, sorting and reviewing records to prepare them for inspection, as well as all time required to separate or remove exempt information or to supervise inspection of documents. The agency shall not charge for time spent in determining the application of the provisions of ORS 192.410 to 192.505.

(7) Charges for regular agency publications and media requests, such as computer disks, video cassettes, audio tapes or other types of public record formats, shall be available upon request and a price list shall be published on the agency Web site annually.

(8) The agency may charge individuals actual postage costs for mailing of records. When mailing voluminous records or responding to special requests, the agency shall charge for staff time required to prepare the records for mailing, in addition to actual postage.

(9) The agency shall charge \$27 per hour, with a \$7.50 minimum, for staff time required to fill public record requests that require electronic reproduction. Charges include time spent locating, downloading, formatting, copying and transferring records to media. Charges for reproduction media are available upon request.

(10) Due to the threat of computer viruses, the agency will not permit individuals to provide diskettes for electronic reproduction of computer records.

Stat. Auth.: ORS 197.410 - 192.505, 676.625
Stats. Implemented: ORS 197.410 - 192.505, 676.625
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-010-0040

Notification Requirements

Notification of a change in any authorization holder's licensing information must be submitted within 30 calendar days of the change to the agency by written notice given in person at the agency office, by regular U.S. Postal Service, facsimile transmission, Web-based interactive data collection or electronic mail. A change in information includes, but is not limited to the following:

(1) Authorization holders:

(a) Name — first or last. Approved documentation is required, such as marriage certificate, divorce decree, court judgment documents, or other agency approved documentation;

(b) Residential or mailing address;

(c) Area code and telephone number;

(d) Employment status; or

(e) Work location.

(2) Facility license holders:

(a) Facility name or Assumed Business Name as filed with Secretary of State, Corporations Division under 648.007;

(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.

(3) Independent contract registration holders:

(a) Facility name, physical address, telephone number and license number;

(b) General hours of operation;

(c) Changing permanent work location;

(d) Performing services at multiple licensed facilities on a permanent or temporary basis;

(e) Ceasing to operate as an independent contractor before expiration of the registration to avoid late renewal payment if reactivation may occur within one year of the expiration date.

Stat. Auth.: ORS 676.615
Stats. Implemented: ORS 676.615
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

DIVISION 20

AGENCY REGULATORY OPERATIONS RULES

331-020-0000

Contested Case Procedure

(1) Subject to the approval of the Attorney General, an officer or employee of the agency is authorized to appear on behalf of any Board, Council, or Program administered by the agency when the agency proposes to refuse to issue, renew, suspend, revoke, place on probation or impose a civil penalty on any applicant, licensee, registrant or other individual.

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

(a) "Legal argument" includes arguments on:

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

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

Stat. Auth.: ORS 183 & OL 2003, m Ch. 547, Sec. 4
Stats. Implemented: ORS 183 & OL 2003, m Ch. 547, Sec. 4
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04

331-020-0010

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

In addition to the requirements stated in OAR 137-003-0000 of the Attorney General's Model Rules of Procedure adopted under 331-001-0010, 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 331-020-0020 with the notice.

Stat. Auth.: ORS 183
Stats. Implemented: ORS 183
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04

331-020-0020

Hearing Requests and Answers; Consequences of Failure to Answer

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

(a) An admission or denial of each factual matter alleged in the notice; and

(b) A short, concise 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.: HLO 1-2004, f. & cert. ef. 2-13-04

331-020-0030

Inquiries; Filing a Complaint

(1) An individual may contact the Oregon Health Licensing Agency to inquire on the licensing record, status or employment of a person issued an authorization by the agency, or to comment on any issue concerning an individual regulated by the agency.

(2) Complaints against individuals practicing in one of the professions listed in ORS 676.606, may be filed with the agency. The complaint may be made on forms provided by the agency, which includes the following information:

(a) The name, address and telephone number of the person making the complaint;

(b) The name of the person or facility against which the complaint is being made;

(c) A concise description of the charge against the person or facility listing the date, time and circumstances of the alleged violation; and

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

Stat. Auth.: ORS 183, 676.605, 676.606
Stats. Implemented: ORS 183, 676.605, 676.606
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-020-0040

Complaint Processing and Investigation

Pursuant to ORS 676.608, complaints filed with the Oregon Health Licensing Agency will be handled as follows:

(1) The agency will determine if the complaint is related to a profession or occupation regulated and administered by the agency and the complaint falls within authority delegated to the agency by statute.

(2) The agency investigator(s):

(a) Will review the information and as applicable, interview parties and witnesses, and examine physical evidence relating to the complaint;

(b) Will advise on whether an authorization holder or other individual practiced within the acceptable standards of the particular program;

(c) May attempt to informally resolve the matter;

(d) Will make recommendations for agency action.

(3) After receiving advice from the investigator(s), the agency will determine what action will be taken in accordance with ORS 676.608.

Stat. Auth.: ORS 183, 676.605, 676.608, 676.615
Stats. Implemented: ORS 183, 676.605, 676.608, 676.615
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-020-0050

Response to Inquiry

Any person subject to a complaint involving conduct or service performed or provided may be required by the agency to respond. The person must respond to the agency within 20 calendar days from the date of the request, in the form and manner requested by the agency.

Stat. Auth.: ORS 183
Stats. Implemented: ORS 183
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04

331-020-0060

Civil Penalty Considerations

(1) Pursuant to ORS 676.992, any person who violates any provision of law or rules of a regulated profession administered by the Oregon Health Licensing Agency and listed in ORS 676.606, may incur, in addition to any other penalty provided by law, a civil penalty in an amount not to exceed \$5,000 for each violation.

(2) In establishing the amount of the penalty for each violation, the agency will consider and evaluate each case on an individual basis. The agency will consider, but not be limited to factors listed in ORS 676.992, in determining the amount of the penalty.

Stat. Auth.: ORS 676.615, 676.992
Stats. Implemented: ORS 676.615, 676.992
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-020-0070

Discipline

(1) The Oregon Health Licensing Agency may discipline authorization holders for violations of laws and rules, in accordance with ORS 676.612 and 676.992.

(2) Failure to cooperate with the agency or its agent is unprofessional conduct and is subject to disciplinary sanctions, which may include suspension or revocation and refuse to issue or renew or place on probation and assessment of civil penalties. Failure to cooperate with the agency or its agent includes, but is not limited to, the following:

(a) Failing to provide information within the specified time allotted and as requested by the agency;

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

(c) 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 agency;

(d) Interference, use of threats or harassment which delays or obstructs the agency in carrying out its functions under individual programs administered and regulated by the agency as listed in ORS 676.606 and rules adopted thereunder; or

(e) Deceiving or attempting to deceive the agency regarding any matter under investigation including altering or destroying any records.

(3) The agency, at its discretion, may require supplemental training in an appropriate area of study as determined by the agency, board or council, as a disciplinary sanction. Supplemental training may be in addition to assessment of a monetary penalty or the agency, board or council may waive or reduce a penalty, in cases requiring supplemental training.

Stat. Auth.: ORS 676.607, 676.612, 676.992
Stats. Implemented: ORS 676.607, 676.612, 676.992
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-020-0080

Sanctions

(1) CHILD SUPPORT IN ARREARS: In accordance with ORS 25.750 to 25.783, the Oregon Health Licensing Agency will provide

the Support Enforcement Division of the Department of Justice with authorization 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).

(2) The agency will suspend the authorization, if the Support Enforcement Division or the district attorney identifies the authorization 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.

(3) Pursuant to ORS 25.750 to 25.785, the agency will notify the authorization holder of the suspension status and refer the person to the Support Enforcement Division or the district attorney for resolution.

(4) 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 agency will reinstate the authorization upon compliance with all qualifications for renewal or reactivation.

(5) **DEFAULT TAX FILING OR PAYMENT:** In accordance with ORS 305.385, upon request the agency will provide the Department of Revenue with authorization 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).

(6) The agency will propose to take action against an authorization holder identified by the Department of Revenue. If the agency proposes to refuse to issue, renew or suspend an authorization, opportunity for hearing will be accorded as provided in ORS 183.413 to 183.470 for contested cases.

(7) Upon notification by the department and receipt of a notice of release issued by the department that the authorization holder is in good standing with respect to any returns due and taxes payable to the department as of the date of the notice of release, the agency will renew, reactivate or release from suspension the authorization upon compliance with any qualifications for renewal or reactivation.

Stat. Auth.: ORS 25.080, 25.750 - 25.785, 183.310 - 183.470,
305.385, 348.393 - 348.399, 676.606, 676.612, 676.615
Stats. Implemented: ORS 25.080, 25.750 - 25.783, 183.310 - 183.470,
305.385, 348.393 - 348.399, 676.612 Hist.: HLO 1-2004, f. & cert. ef. 2-13-04
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; Renumbered from 331-030-0030, HLA
1-2009, f. & cert. ef. 6-1-09

DIVISION 30

CERTIFICATION, LICENSURE AND REGISTRATION REQUIREMENTS

331-030-0000

Application Requirements

(1) An applicant who has been the subject of any disciplinary action, including the imposition of a civil or criminal penalty, is not considered qualified for an Oregon authorization to practice until the Oregon Health Licensing Agency determines the scope, applicability and finality of the disciplinary action as it relates to the applicant's fitness to be issued an authorization to practice or use a professional title under a program listed in ORS 676.606. The disciplinary record may include, but not be limited to, actions imposed from the following:

(a) An Oregon health professional regulatory board as defined in ORS 676.160;

(b) A regulatory authority in Oregon or another state;

(c) A regulatory authority in another country or territory.

(2) Pursuant to ORS 181.534, 676.612 and OAR 331-030-005, the agency may require an applicant to complete a fingerprint check through the Oregon Department of Oregon State Police. The agency may also conduct a criminal background check of convictions to determine whether the applicant has been convicted of a crime that may affect the applicant's fitness to practice in accordance with ORS 670.280.

(3) Material misrepresentation or material errors of fact on an application for or renewal of an authorization are grounds for disqualification of examination, refusal to issue or revocation of the authorization. Refer to ORS 676.612.

(4) Application for an authorization issued for any program administered by the agency under ORS 676.606 shall be made on forms prescribed and furnished by the agency.

(5) To be accepted and processed, an application must contain:

(a) Applicant's current name, address and telephone number;

(b) Applicant's date of birth;

(c) Applicant's signature and date of application;

(d) Applicant's Social Security or Individual Taxpayer Identification number.

(e) Applicant's ethnicity (optional);

(f) Applicant's gender (optional);

(g) Disclosure of any active or inactive disciplinary action, voluntary resignation of a certificate, license, permit or registration or sanction related to authorization imposed upon the applicant by any state or country regulatory authority;

(h) Disclosure of any active or inactive certificate, license, permit or registration issued by Oregon or another state;

(i) Payment for the exact amount of required fees; and

(j) All additional information required by the particular Board, Council or Program for which application is made.

(6) Applicants must list their Social Security or Individual Taxpayer Identification number on a form prescribed by the agency at the time of initial application and renewal for certification, licensure, permit or registration. The authority for this requirement is ORS 25.785, 305.385, 42 USC § 405(c)(2)(C)(i), and 42 USC § 666(a)(13).

(7) Failure to provide the Social Security or Individual Taxpayer Identification number will be a basis to refuse to accept the application or to issue an authorization. This information will be used for child support enforcement and tax administration purposes, unless the applicant authorizes other uses of the number. The authority for this requirement is ORS 25.785, 305.385, 42 USC § 405(c)(2)(C)(i), and 42 USC § 666(a)(13).

(8) Upon request by the agency an applicant must provide two forms of acceptable original identification issued by a federal, state or local government agency of the United States. The agency will consider other forms of identification if the procedures used in issuing the identification are sufficient to prove the applicant's identity and the identification contains security features that are sufficient to prevent alteration or counterfeiting. Acceptable identification includes, but is not limited to:

(a) An original or certified copy of birth certificate issued by a U.S. Territorial government or the government of a state or political subdivision of a state of the United States. OHLA will not accept a hospital-issued birth certificate, hospital card or birth registration or baptismal certificate.

(b) United States passport, not expired more than five years.

(c) United States passport card, not expired more than five years.

(d) U.S. Territory passport not expired more than five years.

(e) Tribal ID card from a federally recognized tribe located in Oregon or a federally recognized tribe with an Oregon affiliation if OHLA determines:

(A) The procedures used in issuing the card are sufficient to prove the applicant's identity; and

(B) The card contains security features that are sufficient to prevent alteration or counterfeiting of the card.

(f) Certificate of Citizenship (N560 and N561).

(g) Certificate of Naturalization (N550, N570 and N578).

(h) U.S. Citizen Identification Card (I-197 and I-179).

(i) U.S. Military documents including:

(A) Military or Armed Forces ID card;

(B) Military Common Access Card; or

(C) U.S. Uniform Services ID and Privileges card (DD1173 and DD1173-1).

(j) Resident Alien card

(k) Permanent Resident card (I-551).

(l) Out-of-state, District of Columbia, U.S. Territorial government or, instruction permit or identification card, that contains the applicant's photograph, not expired more than one year unless hole-punched or marked "Not Valid as ID."

(m) Valid Oregon driver license, temporary driver license, instruction permit, or identification card. For the purposes of this subsection, OHLA will not accept a driver license that was issued without a photograph.

(n) Oregon Concealed Weapon Permit/Concealed Handgun License, not expired more than one year.

(o) Social Security card or other documentation issued by the Social Security Administration.

(9) OHLA will not accept a document as proof of identity and date of birth if OHLA has reason to believe the document is not valid. The agency may request an applicant present additional documentary proof of identity if the document presented does not establish the applicant's identity to the satisfaction of OHLA.

(10) At least one form of identification provided from the approved list in subsection (8) of this rule must be photographic.

[Publications: Forms referenced are available from the agency.]

Stat. Auth.: ORS 25.785, 305.385, 42 USC § 405(C)(2)(C)(i), and 42 USC § 666(a)(13), 670.280, 676.605 & 676.615

Stats. Implemented: ORS 25.785, 305.385, 42 USC § 405(C)(2)(C)(i), 42 USC § 666(a)(13), 670.280, 676.605 & 676.615

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 12-2008(Temp), f. 11-28-08, cert. ef. 12-1-08 thru 4-30-09; Administrative correction 5-20-09; HLA 1-2009, f. & cert. ef. 6-1-09

331-030-0004

Fingerprinting, State and Nationwide Criminal Background Checks, Fitness Determinations

(1) The Oregon Health Licensing Agency may conduct and require completion of a fingerprint and criminal background check to determine fitness of individuals applying for an authorization issued or renewed by the agency. These will be provided on prescribed forms provided by the agency. At the discretion of the agency, background checks may be conducted for any of the programs administered by the agency pursuant to ORS 676.606.

(2) Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the agency. The agency will forward fingerprints to the Department of Oregon State Police for checks against state and national data sources. Any original fingerprint cards will subsequently be destroyed by the department.

NOTE: An applicant must pay the department any fees assessed for conducting the fingerprint service. An applicant must arrange for the report of the fingerprint check to be mailed directly to the Oregon Health Licensing Agency, Regulatory Operations Division.

(3) These rules are to be applied when evaluating the criminal history of all licensees and applicants listed in paragraph (1) of this section, and conducting fitness determinations based upon such history. The fact that the applicant has cleared the criminal history check does not guarantee the granting of an authorization.

(4) Except as otherwise provided in section (1), in making the fitness determination the agency shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's right to practice in any present or proposed position, services, and employment, that is authorized upon the issuance or renewal of the certificate, license, permit or registration; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, certificate, license, permit or registration. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(5) The agency may require fingerprints of any authorization holders or applicant listed in paragraph (1) of this section, who is the subject of a complaint or investigation, under authority of ORS 676.612(3)(c), for the purpose of requesting a state or nationwide criminal records background check.

(6) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.

(7) Additional information required. In order to conduct the Oregon and national criminal history check and fitness determination, the

agency may require additional information from the authorization holder or applicant as necessary. Information requested may include but is not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(8) All Oregon and national criminal history checks, confidentiality, and dissemination of information received, shall be in accordance to and as applicable with ORS 181.534 through 181.560 and OAR 257, division 10.

(9) The agency will permit the individual for whom a fingerprint-based criminal records check was conducted, to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(10) The agency shall determine whether an individual is fit to be granted, hold or renew an authorization, listed in paragraph (1) of this section, based on the criminal records background check, or any false statements made by the individual regarding criminal history of the individual, or any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as a part of an investigation. If an individual is determined to be unfit, then the individual may not be granted an authorization. The agency may make fitness determinations conditional upon applicant's acceptance of probation, conditions, or limitations, or other restrictions placed upon the authorization.

(11) The agency may also consider any arrests and court records that may be indicative of a person's inability to perform as an authorization holder with care and safety to the public.

(12) If the agency determines an applicant or authorization holder is unfit, the individual is entitled to a contested case process pursuant to ORS 183. Challenges to the accuracy or completeness of information provided by the Oregon State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(13) If the applicant discontinues the application process or fails to cooperate with the criminal history background check the agency considers the application incomplete.

Stat. Auth.: ORS 25.785, 305.385, 42 USC § 405(C)(2)(C)(i), 42 USC § 666(a)(13), 670.280, 676.605, 676.615

Stats. Implemented: ORS 25.785, 305.385, 42 USC § 405(C)(2)(C)(i), 42 USC § 666(a)(13), 670.280, 676.605, 676.615

Hist.: HLA 1-2009, f. & cert. ef. 6-1-09

331-030-0010

Procedure for Issuing and Renewing Certificates, Licenses and Registrations

(1) Subject to ORS 676.612, authorizations issued by the Oregon Health Licensing Agency will be issued to qualified applicants after conducting fitness determinations and upon compliance with all requirements established by rules adopted by the agency.

(2) With the exception of temporary or demonstration permits, all authorizations will expire on the last day of the month, two years from the date the authorization was issued.

(3) The authorization will state the holder's name, address, authorization number, expiration date and bear the signature of the holder. The authorization will be mailed to the place of residence or mailing address recorded on the application and may substantiated through acceptable identification listed in OAR 331-030-0000.

(4) The agency may mail notice of expiration to the authorization holder, sending the notice to the last known address on file. The authorization holder is responsible for submitting a timely application for renewal whether or not a renewal form was mailed by the agency.

(5) Application for renewal shall be made in advance of the expiration date, and shall be submitted together with the required fee(s) and documentation, as the individual program stipulates for renewal. Payment must be postmarked or received by the agency during regular business hours on or before the expiration date. An authorization may be renewed using the agency's online renewal system accessed at <http://www.oregon.gov/OHLA/online renewals.shtml>.

(6) An application for renewal and payment received by the agency or postmarked after the expiration date may be assessed delinquent

renewal fee(s) according to requirements stipulated in each individual program's rules for certificate, license or registration renewal.

(7) Notwithstanding subsection (1) of this rule, the agency may vary the renewal date of an authorization by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

Stat. Auth.: ORS 676.605 & 676.615

Stats. Implemented: ORS 676.605 & 676.615

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 12-2008(Temp), f. 11-28-08, cert. ef. 12-1-08 thru 4-30-09; Administrative correction 5-20-09; HLA 1-2009, f. & cert. ef. 6-1-09

331-030-0020

Authorization; Replacements

(1) An individual shall not display a sign or in any way advertise or purport to be an authorization holder or to be engaged in practice, or use a professional title, without first obtaining an authorization in the manner required according to statute and rules of a program administered by the Oregon Health Licensing Agency under ORS 676.606.

(2) The agency shall issue only one original authorization.

(3) The possession or posting of more than one of the same current authorization (original or replacement) is prohibited.

(4) All authorization holders must have immediate access to photographic identification as listed in OAR 331-030-0000 whenever performing services or open for business. Authorization holders must provide agency representatives with the appropriate identification immediately upon request.

(5) If for any reason a person is mistakenly issued a document that contains a material error and superseded by a corrected document, the agency has the authority to demand surrender of the incorrect authorization document issued by the agency. The individual must surrender the document requested within the time determined by the agency.

(6) The agency may issue a replacement authorization document, if:

(a) A written request for a replacement is submitted to the agency which contains the authorization holder's name, authorization number, address, telephone number, employment information, and a statement attesting that the original authorization has been lost, stolen or destroyed;

(b) The authorization is valid, current and not expired, suspended or revoked;

(c) Payment of the replacement fee accompanies the request;

(d) The authorization holder is not subject to any outstanding civil penalties or other disciplinary action.

Stat. Auth.: ORS 675.410, 676.605, 676.615, 690.015, 680.505,

687.415, 690.355, 694.025, 688.805, 700.020

Stats. Implemented: ORS 675.410, 676.605, 676.615, 690.015, 680.505, 687.415, 690.355, 694.025, 688.805, 700.020

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

331-030-0025

Emergency Response

Practice in Oregon by out-of-state authorization holders in the event of an emergency:

(1) In the event of a disaster or emergency declared by the Governor of Oregon, the Oregon Health Licensing Agency shall allow authorization holders who are licensed in another state, performing services in a field of professional practice regulated by the agency under ORS 676.606, to practice in Oregon under special provisions during the period of the declared disaster or emergency, subject to such limitations and conditions as the Governor may prescribe.

(2) The out-of-state authorization holder must submit the following information to the agency:

(a) Verification of a permanent, current, and unrestricted authorization to practice in another state which is not the subject of a pending investigation or disciplinary action by a state board, or another state or federal agency; and

(b) Current federal or state photo identification, i.e., driver license or passport.

(3) The authorization holder shall provide the agency documentation demonstrating a request to provide services by an agency recognized public health organization, Emergency Medical Service (EMS) agency, county, state or federal entity, or has otherwise made arrangements to provide services within the practitioner's scope of pro-

fessional practice in Oregon as the result of the declaration of a disaster or emergency.

(4) The authorization holder may not practice in Oregon under the special disaster or emergency provisions beyond the termination date of the declared disaster or emergency as prescribed by the Governor. Practice in Oregon beyond the termination date of the declared disaster or emergency requires licensure through the Oregon Health Licensing Agency.

Stat. Auth.: ORS 676.606, 676.612, 676.615

Stats. Implemented: ORS 676.606, 676.612, 676.615

Hist.: HLA 1-2009, f. & cert. ef. 6-1-09

331-030-0030 [Renumbered to 331-020-0080]

331-030-0040

Affidavit of Licensure

(1) "Affidavit of Licensure" means an original document or other approved means of verifying an authorization to practice (certification, licensure or registration) status and history, including information disclosing all unresolved or outstanding penalties and/or disciplinary actions. The agency shall determine the method used to verify an applicant's authorization to practice using one or more of the following:

(a) An applicant shall arrange for the originating regulatory authority to forward directly to the agency a current and original "Affidavit of Licensure" document, signed by an authorized representative of the regulatory authority and affixed with an official seal or stamp to the document. The document is issued and signed by the regulatory authority in the state which issued the authorization with an official seal or stamp affixed to the document; it is not the certificate, license or registration form issued which authorizes the holder to practice. The applicant is responsible for payment of any service fee the originating state may assess for producing the affidavit.

(b) The agency may verify an applicant's authorization to practice in another state through accessing the regulatory entity's Web site and using on-line licensing verification systems to validate information required to determine an applicant's qualifications and fitness to practice in a program administered under ORS 676.606. The agency will assess a charge for obtaining a verification of licensure from another state by means of computer based data system.

(c) The document may be electronically transmitted to the agency from the originating state. The applicant is responsible for payment of any service fee the originating state may assess for producing the affidavit.

(2) An Affidavit of Licensure document hand delivered or mailed by the applicant and not mailed directly or transmitted through an approved means to the agency from the originating state will invalidate qualification for certification, scheduling and examination.

NOTE: The Affidavit of Licensure may be referred to as a "Verification of Licensure" or "License Verification" by other regulatory entities. Both terms have the same purpose in disclosing an applicant's licensing status and history.

Stat. Auth.: ORS 676.606, 676.612, 676.615

Stats. Implemented: ORS 676.606, 676.612, 676.615

Hist.: HLA 1-2009, f. & cert. ef. 6-1-09

DIVISION 105

BOARD OF ATHLETIC TRAINERS: GENERAL ADMINISTRATION

331-105-0020

Definitions

The following definitions apply to OAR 331-105-0000 through 331-125-0020.

(1) "Accredited" means fully accredited and approved to offer degrees at the specified level by an agency or association recognized as an accreditor by the U.S. Secretary of Education, under the 1965 Higher Education Act as amended at the time of recognition, or having candidacy status with such an accrediting agency or association whose pre-accreditation is also recognized specifically for HEA purposes by the Secretary of Education, or the foreign equivalency of such accreditation as determined in consultation with the Office of Degree Authorization.

(2) "Board" means, pursuant to ORS 688.705, the entity that advises the agency in matters relating to the practice of athletic training, including practice standards, education and training requirements,

and advises the agency on all disciplinary issues in accordance with ORS 688.709 and 688.734. The agency director controls the regulatory operations and has decision-making authority on all substantive matters.

(3) "Board of Certification for an Athletic Trainer" (BOC) means the national organization that provides a certification program for the entry-level athletic trainer and establishes requirements for maintaining status as a certified athletic trainer.

(4) "Athletic Trainer" means a person who is registered by the Board of Athletic Trainers to practice athletic training as defined in ORS 688.701.

(5) "Date of registration" means the date upon which the applicant has met all requirements for registration and is issued a valid current registration document.

(6) "Director" means the individual who is responsible for the performance of the Oregon Health Licensing Agency as defined in ORS 676.610. The director appoints all subordinate officers and employees to carry out the duties of the agency.

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

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

(9) "Oregon Health Licensing Agency" means the central licensing department assigned to carry out the administrative, programmatic and daily operations, and regulatory functions of the Boards, Councils and Programs listed in ORS 676.606.

(10) "Registration" means the document issued by the agency authorizing the holder to practice athletic training and use the title "Athletic Trainer, Registered."

Stat. Auth.: OL 1999, Ch. 736, Sec. 5

Stats. Implemented: OL 1999, Ch. 736, Sec. 5

Hist.: HD 8-1994, f. & cert. ef. 3-15-94; HDLB 2-1996, f. 12-13-96, cert. ef. 2-1-97, Renumbered from 333-315-0010; HDLP 1-2000(Temp), f. 2-14-00, cert. ef. 2-15-00 thru 8-11-00; HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06

331-105-0030

Fees

(1) Applicants and registrants are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:

(A) Registration: \$100.

(B) Registration by reciprocity: \$150.

(b) Examination — Oregon laws & rules: \$50.

(c) Original issuance of registration (including by reciprocity): \$450.

(d) Permits and waivers: \$150.

(e) Renewal of registration: \$450.

(f) Delinquent (late) renewal of registration: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.

(g) Reinstatement: \$150.

(h) Replacement of registration, including name change: \$25.

(i) Duplicate registration document: \$25 per copy with maximum of three.

(j) Affidavit of licensure: \$50.

(k) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: 1999 OL Ch. 736, Sec. 5(3) & (4) & Sec. 10

Stats. Implemented: 1999 OL Ch. 736, Sec. 5(3) & (4) & Sec. 10

Hist.: HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; HDLP 1-2000(Temp), f. 2-14-00, cert. ef. 2-15-00 thru 8-11-00; Administrative correction 3-16-00; HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06; HLA 3-2008, f. 9-15-08, cert. ef. 10-1-08

DIVISION 110

BOARD OF ATHLETIC TRAINERS APPLICATION AND QUALIFICATION REQUIREMENTS

331-110-0005

Training/Education Requirements

At the time of application for Oregon registration, an applicant is required to provide adequate documentation of a bachelor's degree from an accredited four-year college or university pursuant to ORS 688.720 and satisfactory completion of one of the following training/education qualification pathways:

(1) Official documentation of a passing score of the BOC or documentation of successful completion of an equivalent examination approved or recognized by the Board. The applicant must provide official documentation verifying current certification by the BOC at the time of application for Oregon registration. The applicant assumes responsibility for payment of fees assessed by BOC in obtaining required official documentation; or

(2) Official documentation verifying completion of course work, education and practical work experience as follows:

(a) Graduation from an entry-level Commission on Accreditation of Allied Health Education Programs (CAAHEP) curriculum in athletic training; or

(b) Successful completion of approved course work, by means of official transcripts submitted directly from the education institution by mail to the Oregon Health Licensing Agency. At least one course must be completed in each of the following areas: health (i.e. nutrition, drugs/substance abuse, health education, personal health and wellness), human anatomy, kinesiology/biomechanics, human physiology, physiology of exercise, basic athletic training, and advanced athletic training or in related subject areas approved by the board. Completion of at least 1500 hours of practical work experience in athletic training under the supervision of a qualified athletic trainer or other qualified professional approved by the Board. Practical work experience must meet the following requirements and criteria:

(A) Experience must be gained over a period of the previous two calendar years;

(B) At least 1000 hours must be attained in a traditional athletic training setting at the interscholastic, intercollegiate, or professional sports level.

(C) The remaining balance of practical hours, not to exceed 500 hours, may be attained from an allied clinical setting and/or sports camp setting under the supervision of a qualified athletic trainer or other qualified professional as approved by the Board.

(D) At least twenty-five percent of the hours obtained must be in actual on-location practice and/or game coverage with one or more of the following sports: football, soccer, hockey, wrestling, basketball, gymnastics, lacrosse, volleyball, rugby, rodeo or other high risk sport approved by the Board.

(3) Applicants who hold a current athletic training licensing credential issued from another state, territory, or country must arrange for a completed Affidavit of Registration, issued from the credentialing state, to be mailed directly to the Agency. The Affidavit must attest to the applicant's registration record and indicate successful completion of an examination by an entity recognized or sanctioned by the Board.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(2), (3) & (6) & Sec. 8

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(2), (3) & (6) & Sec. 8

Hist.: HDLP 1-2000(Temp), f. 2-14-00, cert. ef. 2-15-00 thru 8-11-00; HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HDLP 4-2000, f. 11-17-00, cert. ef. 11-20-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06

331-110-0010

Application Requirements

(1) Individuals applying for registration to practice athletic training must meet the requirements of OAR 331-030-0000 in addition to the provisions of this rule.

(2) Applicants must be at least 18 years of age and provide a copy of their birth certificate, driver's license, passport, or school/military/governmental record with age documented.

(3) Applicants must submit a completed application form prescribed by the agency, which shall contain the information listed in OAR 331-030-0000 and be accompanied by payment of the application and registration fees and include the following:

(a) Disclosure of all information pertaining to degree from a four year accredited college or university;

(b) Information pertaining to satisfactory completion of competency examination, including examination type, source, date, location and score(s); and

(c) A copy of a cardio-pulmonary resuscitation certification (CPR). The CPR course must include adult CPR techniques from a source approved by the Board. A valid emergency medical technician certification is an acceptable alternative for satisfying the CPR requirement; and

(d) Documentation verifying completion of required training/education according to the provisions of OAR 331-110-0005.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(3) & (6) & Sec. 8

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(3) & (6) & Sec. 8

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; HDLP 1-2000(Temp), f. 2-14-00, cert. ef. 2-15-00 thru 8-11-00; HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06

331-110-0055

Registration Required; Exception

(1) To practice athletic training in the state of Oregon, individuals must be registered in accordance with ORS 688.718.

(2) Athletic trainers or other designated persons from another state, or territory, who are performing services for their respective team or for a sponsoring organization and only during the course of that team's stay or the duration of a sponsored event in this state, are not required to hold an Oregon registration or to apply for a waiver if the time in Oregon is less than 60 days in one calendar year.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(3) & Sec. 6(2)(e)

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(3) & Sec. 6(2)(e)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06

DIVISION 115

ATHLETIC TRAINER REGISTRATION

331-115-0020

Registration Issuance

(1) Registrants are subject to the provisions of OAR 331-030-0010 regarding issuance and renewal of a registration, and to the provisions of OAR 331-030-0020 regarding authorization to practice, identification and requirements for issuance of a duplicate authorization document.

(2) Registration must be documented under the applicant's legal name. When a name is changed, the following items must be submitted so the agency's records reflect the new name:

(a) A signed change of name notification;

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

(c) Return of the registration form issued and payment of replacement fee if a corrected registration is requested prior to the scheduled renewal date.

Stat. Auth.: Ch. 736, OL 1999

Stats. Implemented: Ch. 736, OL 1999

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; HDLP 1-2000(Temp), f. 2-14-00, cert. ef. 2-15-00 thru 8-11-00; HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 331-110-0020; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04

331-115-0030

Registration Renewal; Reinstatement

(1) A registration renewal application received by the agency, or postmarked, after the registration has expired but within one year from the expiration date, may be renewed upon payment of the renewal and delinquency fees and submitting the required attestation of having obtained the required number of continuing education credits. Refer to OAR 331-125-0010.

(2) A registration which has been expired for more than one year but less than two may be reinstated if the applicant completes the following requirements:

(a) Submits verification of a valid cardiopulmonary resuscitation certification;

(b) Pays registration renewal and reinstatement fees; and

(c) Provides documentation of continuing education during the period while the registration was in expired, suspended or probationary status.

(3) Registrations that have been expired beyond two years are not renewable. An individual may apply for a new registration by meeting the requirements of OAR 331-110-0010.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(3), Sec. 5(2) & Sec. 9

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(3), Sec. 5(2) & Sec. 9

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; HDLP 1-2000(Temp), f. 2-14-00, cert. ef. 2-15-00 thru 8-11-00; HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 331-110-0020; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04

331-115-0060

Registration Display and Posting Requirements

(1) Registrants must show proof of valid registration with the Board upon request or post the registration document in public view at the athletic trainer's primary workplace.

(2) The registrant's address printed on the registration document may be concealed from public view.

(3) Registrants must carry the registration identification card (pocket card) with them, or post in plain view, the official registration anytime services are being provided.

Stat. Auth.: OL 1999, Ch. 736, Sec. 5(1) & (2)

Stats. Implemented: OL 1999, Ch. 736, Sec. 5(1) & (2)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 120

PRACTICE STANDARDS

331-120-0000

Profession Statement

(1) The purpose of the Oregon Board of Athletic Trainers is to protect the health, safety, and welfare of Oregon's citizens by granting or withholding the privilege of practicing athletic training in accordance with strict standards for education and conduct; to regulate the use of that privilege in such a way that the public is protected from the practice of athletic training by unauthorized or unqualified persons from unprofessional conduct by Board registrants; and to build and encourage athletic training excellence in Oregon.

(2) In addition to its licensing function, the Oregon Health Licensing Agency conducts investigations, imposes disciplinary actions, and in collaboration with the Board supports rehabilitation education and initiatives, which further the Board's legislative mandate to protect the citizens of Oregon.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(5)

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(5)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06

331-120-0010

Scope of Practice

The scope of practice of athletic training by a registered athletic trainer shall consist of the following:

(1) The education, instruction, application and monitoring of facts and circumstances required to protect the athlete from athletic injury, including but not limited to:

(a) The identification, through physical examinations or screening processes, of preexisting

physical conditions that may pose a risk of injury to an athlete.

(b) The supervision and maintenance of athletic equipment to assure safety.

(2) The recognition, evaluation and immediate care of injuries occurring during athletic events or in the practice for athletic events including the following:

(a) Performance of strength testing using mechanical devices or other standard techniques;

(b) Application of tape, braces and protective devices to prevent injury;

(c) Administration of standard techniques of first aid;

(d) Use of emergency care equipment to aid the injured athlete by facilitating safe transportation to an appropriate medical facility;

(e) Determination of the level of functional capacity of an injured athlete in order to establish the extent of an injury;

(3) The gathering and accurate recording of all information required in the assessment of athletic injuries.

(4) The development and implementation of an appropriate course of rehabilitation and/or reconditioning by the use of therapeutic modalities, including but not limited to: water, cold, heat, electrical, mechanical and acoustical devices, massage, manual techniques, gait training exercise, and physical capacity functional programs which are determined to be needed to facilitate recovery, restore athletic function and/or performance;

(5) Athletic Trainers may dispense only non-scheduled medications under the supervision of a physician. Athletic Trainers shall not perform invasive procedures. Athletic Trainers may dispense and apply topical non-prescription medication;

(6) The determination and implementation of a plan for appropriate health care administration.

(7) Referral of an athlete to appropriate medical personnel as needed.

(8) Organization of a medical care service delivery system for athletes when needed.

(9) Establishment of plans to manage an athlete's medical emergencies;

(10) The education and/or providing of athletic training guidance to injured athletes for the purpose of facilitating recovery, function and/or performance of the athlete.

Stat. Auth.: OL 1999, Ch. 736, Sec. 1(4)

Stats. Implemented: OL 1999, Ch. 736, Sec. 1(4)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HDLP 4-2000, f. 11-17-00, cert. ef. 11-20-00

331-120-0020

Standards of Practice

Athletic trainers shall adhere to the following standards of professional conduct.

(1) Physician Collaboration: Athletic trainers are required to collaborate with a physician in the treatment of an athletic injury as provided in OAR 331-120-0030.

(2) Registered Athletic Trainers shall be responsible for the conduct and performance of student assistants under their supervision.

(3) Documentation: Athletic trainers are required to accept responsibility for recording details of the athlete's health status and include details of the injured athlete's medical history, including name, address and legal guardian if a minor, referral source, all assessments, test results, database by date of service provided, treatment plan and estimated length for recovery, record all methods used, results achieved, any changes in the treatment plan, record the date that the treatment plan is concluded and provide a summary, sign and date each entry.

(4) Confidentiality: Athletic trainers are required to maintain confidentiality and in a timely manner communicate assessment results, treatment program plans, or periodic progress reports with any other person involved in the injured athlete's treatment.

(5) Initial Assessment: Prior to treatment, athletic trainers are required to assess the athlete's history and level of functioning.

(6) Treatment Program Planning: The treatment program objectives must include goals, expectations and measures to determine the effectiveness of the program.

(7) Athletic trainers are required to observe the Standard Precautions adopted by the Centers for Disease Control as defined in Oregon Administrative Rules 437 division 2, when providing services to clients.

(8) Working under the influence of alcohol or any drugs, including prescription medications, which may impair performance, is prohibited. Athletic trainers are required to seek professional assistance through a diversion program if necessary to achieve and maintain freedom from substance abuse.

(9) Sexual misconduct in the practice of athletic training is prohibited.

(10) Practicing athletic training or offering to perform services beyond the scope of practice permitted by law and defined in ORS 688.701, is prohibited.

(11) Performing services which have not been authorized by the consumer or his/her legal representative is prohibited.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(5)

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(5)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HDLP 4-2000, f. 11-17-00, cert. ef. 11-21-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06

331-120-0030

Collaboration Between Athletic Trainers and Physicians

(1) "Collaboration" as used in this section means consultation, correspondence, or referral between an athletic trainer and a physician. Collaboration may be initiated by the athletic trainer or physician, and consists of oral or written communication between the parties or an appropriate representative of the physician. "Collaboration" as used in OAR 331-120-0020 and this section, does not mean providing care on behalf of, jointly, or in concert with one another.

(2) "Consultation" as used in this section means discussing and/or sharing information with another health care provider that is consistent with the requirements of state and federal law regarding confidentiality for the purposes of obtaining information or recommendations for the provision of care to the athlete.

(3) "Referral" as used in this section means directing the athlete to other resources for purposes of care, treatment, assessment or intervention.

(4) An athletic trainer must consult with or refer an athlete to a physician when the athletic injury is beyond the athletic trainer's scope of practice or expertise, or in those instances where the injury is not responding to treatment. Specific conditions requiring referral to a physician should include:

(a) Any suspected fracture;

(b) Limb malalignment;

(c) Joint instability;

(d) Bone deformity;

(e) A concussion with symptoms lasting more than 15 minutes or any loss of consciousness;

(f) Injury that is not improving within expected amount of time;

(g) Any life threatening injury;

(h) Any suspected damage to internal organs;

(i) Any unresolving or recurrent neurological injury.

(5) The athletic trainer must appropriately record collaboration with a physician regarding an athlete or athletic injury in an acceptable manner, such as notation on injury reports, medical records, and/or progress reports.

(6) Nothing in this section or these rules shall be construed to prevent a physician from employing, directing, supervising, establishing protocols for, or otherwise assisting a registered athletic trainer in the practice of athletic training consistent with the scope of practice and professional standards of each practitioner.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(10)

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(10)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HDLP 4-2000, f. 11-17-00, cert. ef. 11-20-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 125

CONTINUING EDUCATION

331-125-0000

Continued Competency

(1) To ensure continuing efforts on the part of Oregon registered athletic trainers to remain current with new developments in athletic training and to encourage diversified training and qualifications in the profession continuing education is required as a condition of registration.

(2) Continuing education experiences are programs beyond the basic education required to obtain registration which are designed to promote and enrich knowledge, improve skills, and develop attitudes for the enhancement of the practices of registered athletic trainers, thus improving athletic training care to the public.

(3) Continuing education requirements apply whether the applicant renewing registration is living or working within Oregon or outside of the state, so long as Oregon registration is maintained.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(8)

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(8)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04

331-125-0010

Continuing Education Requirements

(1) Registrants must complete 75 clock hours of continuing education coinciding with BOC's three-year reporting period. The three-year period is independent of the date of first registration. Reporting

periods begin January 1 and end December 31 in three-year increments.

(2) Required continuing education will be pro-rated according to the date initial Oregon registration occurs within BOC's continuing education three-year reporting period. Requirements are as follows:

(a) Registrations issued during the first year of a three-year reporting period require completion of 50 clock hours of continuing education within the reporting period.

(b) Registrations issued during the second year of a the three-year reporting period require completion of 25 clock hours of continuing education within the reporting period.

(c) Registrations issued during the third year of the three-year reporting period do not require completion of any clock hours of continuing education to be eligible for a first renewal of a registration.

(3) Continuing education obtained by a registrant will be approved if the content or experience falls within at the scope of practice for athletic training identified in OAR 331-120-0010.

(4) The Board recognizes, as its approved criteria in determining qualification for registration renewal, BOC's January 1, 2006, adopted continuing education requirements and current guidelines, including pre-approved courses and providers, continuing education categories A through E, contact hour requirements and limitations for awarding credit based on category type and source. Continuing education must be obtained from the following sources: Symposiums, seminars, workshops, conference; speaker or panelist at allied health care professional setting; author, co-author, contributing author, or editor of publication, such as journal, article or textbook; approved home study, such as video, audio tapes, software program or on-line course; post certification education at college or university; and cardiopulmonary resuscitation. A copy of BOC's January 1, 2006, adopted continuing education requirements is available for review at the agency and on-line at BOC's website www.bocatc.org.

(5) Continuing education acquired from sources identified in BOC's Category E adopted in January 1, 2006, will be reviewed on a case-by-case basis to determine Board approval. Education must be pertinent to the scope of practice for athletic training listed in OAR 331-120-0010. Documentation for approval of continuing education must address the following criteria:

(a) Relevance of the subject matter to increase or support the development of skill and competence in athletic training;

(b) Objectives of specific information or skill to be learned;

(c) Subject matter, educational methods, materials, and facilities utilized, including the frequency and duration of sessions and the adequacy to implement learner objectives; and

(d) Sponsorship and leadership of programs, including the name of the sponsoring individual(s) or organization(s), and program leaders or faculty if different from sponsors and contact person.

(6) Credit for completion of continuing education will be limited according to course work type, source and categories identified by BOC and adopted in January 1, 2006. A copy of contact hour requirements is available for review at the agency and on-line at BOC's website www.bocatc.org.

(7) Continuing education credit will not be awarded to registrants for the following activities:

(a) Education incidental to the regular professional activities of a registrant, such as learning occurring from experience or research;

(b) Professional organization activity, such as serving on committees or councils or as an officer;

(c) Activities, with the exception of CPR, which have been completed more than once during the continuing education period; or

(d) Performance of duties that are routine job duties or requirements.

(8) Continuing education hours earned in excess of those required for the reporting period may not be carried forward for credit toward meeting future requirements.

(9) Documentation of continuing education hours earned must be furnished to the Board only when selected for audit.

(10) At the time of application for renewal, registrants must submit the completed renewal form, affix their signature attesting to completion of required continuing education, and pay appropriate fees.

(11) Documentation supporting compliance with continuing education requirements must be maintained for a period of two years following the last day of any reporting period and be available to the agency upon request.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(8)

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(8)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HDLP 4-2000, f. 11-17-00, cert. ef. 11-20-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06

331-125-0020

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Health Licensing Office will audit a select percentage of licensee records determined by the Board to verify compliance with continuing education requirements. Audit will commence within six months after the end of a NATABOC reporting period.

(2) Licensees notified of selection for audit of continuing education shall submit to the agency, within 30 calendar days from the date of notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-125-0010.

(3) Documentation of attendance at a program or course provided must include either a copy of the current valid NATABOC certification or all of the following:

(a) Name of sponsoring institution/association or organization;

(b) Title of presentation and description of content;

(c) Name of instructor or presenter;

(d) Date of attendance and duration in hours;

(e) Course agenda;

(f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.

(4) If documentation of continuing education is invalid or incomplete, the practitioner must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(5) Misrepresentation of continuing education or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include but is not limited to, assessment of a civil penalty and suspension or revocation of the registration.

Stat. Auth.: OL 1999, Ch. 736, Sec. 4(8)

Stats. Implemented: OL 1999, Ch. 736, Sec. 4(8)

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 135

DISCIPLINE; CIVIL PENALTIES

331-135-0000

Investigative Authority

The Oregon Health Licensing Agency may initiate and conduct investigations of matters relating to the practice of athletic training, pursuant to ORS 676.608, and may take appropriate disciplinary action in accordance with the provisions of 676.612 and 688.734.

Stat. Auth.: OL 1999, Ch. 736, Sec. 5(8), 6(1) & 11

Stats. Implemented: OL 1999, Ch. 736, Sec. 5(8), 6(1) & 11

Hist.: HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06

DIVISION 205

BODY PIERCING LICENSING PROGRAM GENERAL ADMINISTRATION

331-205-0020

Definitions

The following definitions apply to OAR chapter 331, divisions 200 through 225:

(1) "Acceptable" means satisfactory or adequate; fulfilling the needs or requirements of a specified rule, provision or policy.

(2) "Agency" means the Oregon Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(3) "Antiseptic" means product used to stop or inhibit the growth of bacteria.

(4) "Approved" means acceptable to the Oregon Health Licensing Agency.

(5) "Clean" means the absence of soil and dirt.

(6) "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 (a transmittable form of "contact dermatitis");
 - (i) Rubella;
 - (j) Scabies;
 - (k) Staphylococcal skin infection (boils, infected wounds);
 - (l) Streptococcal infections (Strep throat);
 - (m) Tinea (ring worm);
 - (n) Tuberculosis.
- (7) "Completed procedure" means a piercing which has been finished.

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

(9) "Director" means the individual who is responsible for the performance of the agency as defined in ORS 676.610. The director appoints all subordinate officers and employees to carry out the duties of the agency.

(10) "Earlobe" means the lowest part of the auricle; it consists of fat and fibrous tissue not reinforced by the auricular cartilage.

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

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

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

(14) "Facility" means an establishment in which technicians perform the act of body piercing, and includes all areas used by a body-piercing technician and clients, including but not limited to treatment area and waiting/reception area.

(15) "Health Licensing Office" means the agency.

(16) "High-level disinfectant" means a chemical agent, which has demonstrated tuberculocidal activity and is registered with the EPA or approved by the FDA.

(17) "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.

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

(19) "Low-level disinfectant" means a chemical agent, which has demonstrated bactericidal, germicidal, fungicidal and limited virucidal activity and is registered with the EPA.

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

(21) "Operator" 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 discreet 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, workstation and/or chair independent of any other retail or merchandise activities.

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

(23) "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 includes 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.

(24) "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.

(25) "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 action to create a permanent hole. The tool is made of plastic, stainless steel or other material that can be disinfected.

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

(27) "Premises" means the entire area of the facility where body-piercing services are provided.

(28) "Program" means established within the agency with no advisory board.

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

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

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

(32) "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.

(33) "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 "Bio-hazard" symbol.

(34) "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.

(35) "Standard Precautions" means a set of guidelines and controls, 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 as published by the Centers for Disease Control (CDC).

(36) "Sterilization" means destruction of all forms of macrobiotic life, including spores.

Stat. Auth.: ORS 690.540, 690.560 & 690.570 (1995 OL Ch. 562)

Stats. Implemented: ORS 676.605, 676.615 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04; HLA 4-2008, f. 9-15-08, cert. ef. 10-1-08

331-205-0030 Fees

(1) Applicants, licensees and registrants are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:

(A) Technician registration — earlobe piercing: \$25.

(B) Technician registration — body piercing: \$50.

(C) Facility license: \$200.

(b) Examination — Oregon laws and rules: \$50.

(c) Original issuance of authorization to practice:

(A) Technician registration — earlobe piercing: \$50.

(B) Technician registration — body piercing: \$100.

(C) Facility license: \$350.

(d) Renewal of authorization to practice:

(A) Technician registration — earlobe piercing: \$50.

(B) Technician registration — body piercing: \$100.

(C) Facility license: \$350.

(D) Expired technician registration — earlobe piercing: \$75.

(E) Expired technician registration — body piercing: \$150

(F) Expired facility license: \$500.

(e) Replacement of license or registration, including name change: \$25.

(f) Duplicate registration document: \$25.

(g) Affidavit of licensure: \$50.

(h) An addition \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for the payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.615, 690.550 & 690.570 (1995 OL Ch. 562, effective 9-9-95)

Stats. Implemented: ORS 676.605, 676.615, 690.550 & 690.570 (1995 OL Ch. 562, effective 9-9-95)

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HLO 2-2003, f. 5-6-03, cert. ef. 5-15-03; HLO 7-2004, f. 6-29-04, cert. 7-1-04; HLA 4-2008, f. 9-15-08, cert. ef. 10-1-08

DIVISION 210

BODY PIERCING LICENSING PROGRAM APPLICATION FOR LICENSURE AND REGISTRATION

331-210-0000

Facility Licensure; Criteria

The Health Licensing Office will issue a facility license to qualified persons as provided in OAR 331-030-0010, and if the applicant:

(1) Is at least 18 years of age, if a natural person. If the applicant is an entity other than a natural person, the entity must be formed and operated in accordance with Oregon law.

(2) Provides current government issued photographic documentation confirming date of birth, such as a driver's license, passport or school/military/governmental records;

(3) Has successfully completed four years of standard high school education or the equivalent. Acceptable documentation includes, but is not limited to: a high school diploma, a letter from any school verifying completion of high school equivalency; military records verifying completion of a high school equivalency; or GED passing scores;

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

(5) Submits application on a form prescribed by the agency accompanied by payment of the application and licensing fees and submission of the required documentation. Required documentation includes the completed application form and documentation which contains the following:

(a) Name of owner;

(b) Corporation or partnership;

(c) Facility address and mailing address (if different from physical location);

(d) Area code and telephone number;

(e) Applicant's autoclave make, model and serial number; and

(f) A copy of the spore test results from applicant's autoclave, or submission of a signed attestation requesting an exemption under OAR 331-220-0010 based on one of the following existing conditions:

(A) Exclusive use of prepackaged sterile body and ear piercing equipment, including needles; or

(B) Exclusive use of prepackaged sterile ear piercing equipment that utilizes an encapsulated single use stud with clasp mechanism designed for an earlobe piercing gun as defined in OAR 331-205-0020(25).

(6) Certifies that application information is correct;

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

(8) Provides a list of registered technicians providing services on the premises of facility;

(9) Complies with all applicable rules and regulations of the agency 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. These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

NOTE: These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Stats. Implemented: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

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 Health Licensing Office as a body-piercing technician;

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

(c) Be responsible for notifying the agency 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 agency 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 the Health Licensing Office for clients to contact regarding services, licensing issues or complaints;

(g) Provide a disclosure statement prescribed by the Health Licensing Office to all clients on risks involved in body-piercing services, and aftercare instructions;

(h) Allow an agency enforcement officer 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) Arrange for the agency to inspect the premises if a year has elapsed since the last inspection and/or the agency has notified the licensee that it has attempted and been unable to conduct 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) Acquiring a Facility: 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 administrative rules of the agency concerning health, safety, infection control and sterilization requirements.

(4) Relocating a Facility: 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 administrative rules of the agency concerning health, safety, infection control and sterilization requirements.

(5) Closing a Facility: Facility owners closing their facilities shall inform the agency in writing by fax, mail, electronic 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, the owner must inform the agency prior to resuming business.

(6) All premises where services are performed by body-piercing technicians must be licensed as a facility.

Stat. Auth.: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Stats. Implemented: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-210-0020

Body Piercing Technician Registration Qualification

(1) Body-piercing technicians must be registered with the Health Licensing Office before providing services. Registered body-piercing technicians must comply with all applicable health, safety, infection control and sterilization rules and regulations of the agency and other state agencies.

(2) To qualify for registration with the agency as a body-piercing technician, an applicant must:

(a) Be at least 18 years of age and provide a current government issued photographic documentation confirming date of birth. Acceptable documentation includes, but is not limited to a driver's license, passport or school/military/governmental records;

(b) Have successfully completed four years of standard high school education or the equivalent. Acceptable documentation includes, but is not limited to: a high school diploma, a letter from any school verifying completion of high school equivalency; military records verifying completion of a high school equivalency; or GED passing scores; and

(c) Provide satisfactory evidence of successful completion of training in the courses listed in (A) through (C) of this rule subsection. Training 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 recognized by the agency.

(A) Basic First Aid;

(B) Blood borne pathogens; and

(C) Aftercare procedures.

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

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

Stat. Auth.: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Stats. Implemented: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-210-0021

Application Requirements

(1) Individuals applying for registration to practice body piercing must meet the requirements of OAR 331-030-0000 in addition to the provisions of this rule.

(2) Applicants must submit a completed application form prescribed by the agency, which shall contain the information listed in OAR 331-030-0000(5), be accompanied by payment of the application and registration fees, provide the documentation required in 331-210-0020 and include the following:

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

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

Stat. Auth.: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Stats. Implemented: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Hist.: HLO 7-2004, f. 6-29-04, cert. 7-1-04

DIVISION 215

BODY PIERCING LICENSING PROGRAM: LICENSURE AND REGISTRATION ISSUANCE; RENEWAL CRITERIA

331-215-0000

Issuance and Renewal of Facility Licenses

(1) Issuance and renewal of a facility license is subject to the provisions of OAR 331-030-0010.

(2) 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;

(c) Area code and telephone number; and

(d) A list of registered technicians currently providing services on the premises of facility.

(3) Failure to renew a license requires payment of the facility license expired renewal fee in order to renew the license. Refer to OAR 331-205-0030(2)(d).

(4) Failure to renew a license after one year from the expiration date requires reapplication, meeting all requirements of OAR 331-210-0000 and payment of the application and two-year license fees in order to obtain licensure.

Stat. Auth.: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Stats. Implemented: ORS 690.520, 676.605, 676.615, 690.550, & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04; HLA 4-2008, f. 9-15-08, cert. ef. 10-1-08

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. Issuance and renewal of a technician registration is subject to the provisions of OAR 331-030-0010.

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

(a) Applicant's name and current residential and mailing address;

(b) Applicant's registration number and expiration date;

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

(3) Failure to renew a registration before the expiration date requires payment of the technician registration expired renewal fee in order to renew the registration. Refer to OAR 331-205-0030.

(4) Failure to renew a registration after one year from the date of expiration requires reapplication and payment of the application and registration fees in order to obtain a registration.

Stat. Auth.: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Stats. Implemented: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04; HLA 4-2008, f. 9-15-08, cert. ef. 10-1-08

331-215-0020

Document Issuance

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

(2) Facility owners and technicians are subject to the provisions of OAR 331-030-0010 regarding issuance and renewal of a license or registration, and to the provisions of 331-030-0020 regarding the authorization to practice, identification and requirements for issuance of a duplicate authorization.

Stat. Auth.: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Stats. Implemented: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-215-0030

Posting of Licenses, Registrations, Disclosure Statement and Notice

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

(1) All facility licenses and technician registrations;

(2) A disclosure statement prescribed by the Health Licensing Office, advising of the risks and possible consequences of body-piercing services; and

(3) A notice containing the address of the agency and the procedure for filing a complaint.

Stat. Auth.: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Stats. Implemented: ORS 690.520, 676.605, 676.615, 690.550 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

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 licensed body-piercing facilities.

(3) Upon submission of a written request to the Health Licensing Office, body-piercing services may be conducted at locations other than the physical site of a licensed facility solely for the purpose of product demonstration, industry trade shows or events where the sole purpose is education and not providing services to the general public. Written authorization from the agency shall be required prior to providing piercing services.

(4) Body-piercing services offered or provided at fairs or other events must be licensed as a facility by the agency prior to assuming operation of the business.

(5) A body piercing technician may provide services outside the premises of a licensed facility on a person residing in a health care

facility or confined to their residence through medical disability or restriction.

(6) Upon application, qualification and payment of fees the agency may issue a facility license for fairs, carnivals or bazaars provided compliance with safety, infection control and sterilization practices and facility requirements under OAR 331, division 220, Safety and Infection Control Standards, are met and maintained.

(7) All persons providing body-piercing services at fairs or other locations listed in subsection (3) and (4) of this rule must be registered by the agency prior to providing services.

(8) All technicians providing body-piercing services at locations listed in subsection (3) and (4) of this rule or at more than one business location must carry their registration with them and post it in public view while working.

Stat. Auth.: ORS 676.615 & 690.570

Stats. Implemented: ORS 676.615 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

DIVISION 220

BODY PIERCING LICENSING PROGRAM SAFETY AND STERILIZATION STANDARDS

331-220-0000

Compliance with All Applicable Regulations

(1) Facility license holders and registered technicians shall observe and be subject to all 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. Violations found in the common area may be cited against all facility license holders.

(4) Facilities and registered technicians 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 can be disinfected;

(b) Single-use stainless steel needles;

(c) Sterilization bags with color strip indicator;

(d) Protective disposable gloves;

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

(f) Sharps container; and

(g) Approved equipment for cleaning and sterilizing instruments.

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

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

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

(8) A high-level disinfectant or bleach solution, used according to the manufacturer's instructions, shall be used to disinfect surfaces contaminated by blood or bodily fluids.

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

(10) Clean, sterilized re-usable instruments shall be stored in clean, sterilized containers and must be stored separately from used or soiled tools or instruments.

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

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

(13) Clean towels and linens shall be stored in a clean area.

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

(15) Used linens shall be laundered either by regular commercial laundering or by a non-commercial laundering process which includes use of commercial laundry detergent manufactured for the

purpose of cleaning clothes, linens or other washable fabric, and immersion in hot water during the hot water wash/rinse operation.

(16) Facilities and registered technicians 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 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 and 433.990.

(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 to fish in aquariums or nonpoisonous reptiles in terrariums.

(21) Waste disposal container used to store cigar or cigarette ashes, cigar or cigarette butts, or other tobacco waste shall be a metal or fire-retardant container.

Stat. Auth.: ORS 676.605, 676.615 & 690.570

Stats. Implemented: ORS 676.605, 676.615 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-220-0010

Approved Sterilization Modes; Procedures

(1) All piercing instruments, which have or may come into direct contact with a client's skin or be exposed to blood or bodily fluid must be sterilized.

(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 U.S. Food and Drug Administration, which is used, cleaned and maintained according to the manufacturer's directions;

(b) Sterilization equipment that has been approved, registered and listed with the U.S. Food and Drug Administration, which is used, cleaned and maintained according to the manufacturer's directions; or

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

(4) Facility license holders where sterilization is conducted shall conduct routine tests for the effectiveness of sterilization at least monthly using biological monitoring (commercial preparation of spores). Testing shall be conducted as follows:

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

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

(5) Chemical and biological test indicators shall be available at the business premises at all times and test results available for inspection by the Health Licensing Office Enforcement Officers. Facilities who contract for use of sterilization equipment shall make copies of the test results available to the agency upon request. Biological test results must be on laboratory letterhead and must contain the test date, and the name, model and serial number of the unit tested. Biological test results must be retained for a two-year period.

(6) 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.

(7) Instruments approved for re-use in providing piercing services shall be cleaned according to subsection (3) of this rule and placed in sterile bags or containers, with color strip indicators, sterilized by exposure to one cycle of an approved sterilizer and handled using sterile techniques.

Stat. Auth.: ORS 676.605, 676.615 & 690.570

Stats. Implemented: ORS 676.605, 676.615 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-220-0020**Earlobe Piercing Services**

Facilities and registered technicians who provide earlobe piercing services exclusively, shall be subject to the following standards:

(1) Facilities and registered technicians shall use a piercing instrument or gun that pierces an individual's earlobe using a sterile, encapsulated single-use stud with clasp earlobe piercing system. A pre-packaged sterilized ear-piercing stud must be inserted into the earlobe simultaneously with piercing.

(2) The piercing gun shall be made of material which can be disinfected. All parts of the gun in direct contact with the client's skin shall be disinfected with a high-level disinfectant before being used on a client.

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

(4) Single use piercing instruments must be discarded in a medical waste container immediately after use.

(5) Facilities and registered technicians providing earlobe-piercing services exclusively using a manufactured earlobe piercing gun and single-use prepackaged sterilized ear studs are exempted from use of an autoclave.

(6) Earlobe 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.

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

(8) Facilities and registered technicians shall comply with the licensing, registration and safety/infection control regulations of OAR 331, divisions 200 through 225.

Stat. Auth.: ORS 676.605, 676.615 & 690.570

Stats. Implemented: ORS 676.605, 676.615 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04; HLA 4-2008, f. 9-15-08, cert. ef. 10-1-08

331-220-0030**Handling Disposable Materials**

(1) Disposable materials coming into contact with blood and/or bodily 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 676.605, 676.615 & 690.570

Stats. Implemented: ORS 676.605, 676.615 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-220-0040**Communicable and Blood Borne Diseases**

Facility owners and registered technicians 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 a communicable or transmissible disease. Refer to OAR 331-205-0020(6).

(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(6).

(3) A technician providing service or working in a facility after diagnosis of immunodeficiency disease or condition or Hepatitis B, C, 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. These standards shall also apply to technicians or employees providing services to clients who have been diagnosed with having an immunodeficiency disease or condition or Hepatitis B, C, or D.

NOTE: It is the position of the Health Licensing Office that human immun-

odeficiency 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 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 Agency. 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 Agency to require blood tests prior to registration 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 or HBV, HCV and/or HDV in a facility setting.

Stat. Auth.: ORS 676.605, 676.615 & 690.570

Stats. Implemented: ORS 676.605, 676.615 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-220-0050**Serving Clients**

Facility owners and registered technicians 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 bodily 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 U.S. Food and Drug Administration 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) Aftercare shall be administered to each client following service. Aftercare 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.

(8) As a standard 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 possible while providing services.

(10) Disposable materials that come in contact with blood or bodily fluids 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.

(11) Disposable cups shall be available for customers' use if beverages are served in facilities, and disposed of after use by the same methods as other waste materials.

Stat. Auth.: ORS 676.605, 676.615 & 690.570

Stats. Implemented: ORS 676.605, 676.615 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-220-0060**Client Records**

(1) Facilities shall maintain client records. The record shall include the following for each client:

- (a) Name, address, telephone number and date of birth of client;
- (b) Date of each service, body location and type of service performed on client;

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(c) Name and registration number of the technician providing service and special instructions or notations relating to the client's medical or skin conditions;

(d) Complete list of the client's sensitivities to medicines or topical solutions;

(e) History of the client's bleeding disorders;

(f) Description of complications during procedure(s);

(g) Copy of signed statement that the client has received educational material and aftercare instructions;

(h) Proof of age consisting of one of the following:

(A) Copy of current government issued photographic identification;

(B) Written record of the type of current government issued photographic identification presented with the identification number; or

(C) If client is a minor, written parental consent. As stated in OAR 331-220-0080(1)(d)(B) written parental consent must be submitted in person to the facility for piercing services on a minor. Parent or legal guardian must present current government issued photographic identification at the time of written consent.

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

(3) Records shall be kept at facility premises for a minimum of two years and must be made available immediately upon request from an enforcement officer of the Health Licensing Office.

(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. Aftercare instructions shall be given to the client both verbally and in writing after every service.

(5) Client records must be typed or printed in a legible format. Client records, which are not readable by enforcement officers, will be treated as incomplete. Incomplete records may subject the facility to civil penalties.

Stat. Auth.: ORS 676.605, 676.615, 690.530 & 690.570

Stats. Implemented: ORS 676.605, 676.615, 690.530 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-220-0080

Prohibitions

(1) 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, communicable skin diseases or disorders such as open lesions, rashes, and 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 must be submitted in person to the facility for piercing services on a minor. Parent or legal guardian must present current government issued photographic identification at time of written consent.

(2) Use of personal client jewelry or any apparatus or 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.

(3) Use of piercing guns shall be limited to piercing of the earlobe as defined in OAR 331-205-0020(10) exclusively. No other part of the body or ear shall be pierced by use of a piercing gun.

(4) Piercing with a manual loading spring operated piercing gun is prohibited.

(5) Piercing the earlobe with any type of piercing gun which does not use the presterilized encapsulated stud and clasp system is prohibited.

Stat. Auth.: ORS 676.605, 676.615, 690.507, 690.530 & 690.570

Stats. Implemented: ORS 676.605, 676.615, 690.507, 690.530 & 690.570

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0000

Investigative Authority

The Health Licensing Office may initiate and conduct investigations of matters relating to the practice of body piercing, pursuant to ORS 676.608 and 676.618, and may take appropriate disciplinary action in accordance with the provisions of 676.612 and 690.515.

Stat. Auth.: ORS 676.605, 676.608, 676.612, 676.615, 676.992, 690.515 & 690.570

Stats. Implemented: ORS 676.605, 676.608, 676.612, 676.615, 676.992, 690.515 & 690.570

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0020

Schedule of Penalties for Facility Licenses Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following facility license laws and rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Operating a facility by a registered technician without first filing a facility application, paying the fees, and receiving a facility license is a violation of ORS 690.507(2) and OAR 331-210-0010(6) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license.

(2) Operating a facility with an expired license is a violation of ORS 690.507(2), 690.520(4) and OAR 331-030-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license.

(3) Operating a facility without a facility license by a person who is not registered or is suspended is a violation of ORS 690.507(2) and OAR 331-215-0040(1) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license.

(4) Allowing an unregistered person to provide services in a licensed facility is a violation of ORS 676.612(1)(i), 690.507(1) and OAR 331-210-0010(1)(a) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license.

(5) Failing to allow the agency to inspect the premises when the facility is open or obstructing or hindering the normal progress of the inspection, threatening or exerting physical harm, or enabling another individual to impede the inspection progress is a violation of OAR 331-210-0010(1)(h) and/or (i) and ORS 676.612(1)(h) and/or (o) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(6) Allowing an employee to provide services with an expired registration is a violation of ORS 676.612(1)(i), 690.507(1) and OAR 331-210-0010(1)(a) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license.

(7) Failing to meet the specifications and standards required under OAR 331-210-0000(9) in a facility is a violation of 331-220-0000(1) and shall incur immediate suspension of the facility license until the violation is corrected.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 676.992 & 690.515

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0030

Schedule of Penalties for Registration Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following registration laws and rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation.

(1) Operating with an expired technician registration is a violation of ORS 690.507(1), OAR 331-030-0010(4) and 331-210-0020(1) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a registration.

(2) Performing services without a registration, with a registration issued to another person, or a suspended registration is a violation of ORS 676.612(1)(d) or 676.612(4) or 690.507(1) and OAR 331-210-0020(1) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a registration.

(3) Providing services as a registrant in an unlicensed facility is a violation of ORS 690.507(2) and OAR 331-215-0040(2) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: \$1,000.

(4) Failing as a registrant to inform the agency within 30 calendar days of a change of employment with a facility is a violation of OAR 331-010-0040(1)(d) and/or 331-020-0040(1)(e) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$150.

(5) Failing to notify the agency of a move or a change of home address within 30 calendar days of the change is a violation of OAR 331-010-0040(1) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$150.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 676.992 & 690.515

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0040

Schedule of Penalties for License/Registration Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following license/registration laws and rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Altering a facility license and/or technician registration issued by the agency is a violation of ORS 676.612(1)(a), (c), and (j) and OAR 331-020-0070(2)(e) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(2) Failing to post a facility license and/or technician registration in a publicly visible place within the facility is a violation of ORS 690.520(5) and/or 690.510(4) and OAR 331-215-0030(1) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration. Posting of photocopies, reproductions, and pocket identification cards will be cited as failure to post.

(3) Failing to return or surrender a facility license and/or technician registration upon demand by the agency is a violation of OAR 331-030-0020(5) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(4) Failing to provide appropriate photographic identification upon request by the agency is violation of OAR 331-030-0020(4) and ORS 676.612(1)(o) and shall incur the following penalties:

(a) For 1st offense: \$300;

(b) For 2nd offense: \$500;

(c) For 3rd offense: \$1,000.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 676.992 & 690.515

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0050

Schedule of Penalties for Water Supply and Disposal Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to have immediate access to both hot and cold running water is a violation of OAR 331-220-0000(17) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(2) Failing to have a water supply that meets state pressure and purity requirements is a violation of OAR 331-220-0000(1) and shall incur the following penalty for any offense: Referral of the violation to the appropriate building code authority and immediate suspension of the facility license until the violation is corrected.

(3) Improperly disposing of liquid waste from a facility is a violation of OAR 331-220-0000(1) and shall incur the following penalty for any offense: Referral of the violation to the appropriate building code authority and immediate suspension of the facility license until the violation is corrected.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0060

Schedule of Penalties for Towels and Linens Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to use clean towels or linens for each client is a violation of OAR 331-220-0000(13); and/or failing to launder towels and

linens as required is a violation of 331-220-0000(16), and shall incur the following penalties for each violation:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$300.

(2) Failing to store clean towels and linens in a clean area is a violation of OAR 331-220-0000(14) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$300.

(3) Failing to deposit soiled towels in a covered container is a violation of OAR 331-220-0000(15) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$150.

Stat. Auth.: ORS 676.992 & 690.515
Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0070

Schedule of Penalties for Waste Disposal Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to immediately deposit all waste materials in a closed container at the conclusion of each service is a violation of OAR 331-220-0000(19) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$300.

(2) Failing to store cigarette ashes, butts, etc. in a fire-retardant container is a violation of OAR 331-220-0000(22) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$150.

(3) Failing to dispose of disposable material coming into contact with blood or other bodily fluids in a sealable plastic bag is a violation of OAR 331-220-0030(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(4) Failing to dispose of disposable sharp-edged material coming into contact with blood or other bodily fluids in a sealable rigid container is a violation of OAR 331-220-0030(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(5) Failing to have sealable plastic bags and sealable rigid containers available for use at all times services are being performed is a violation of OAR 331-220-0030(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.992 & 690.515
Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0080

Schedule of Penalties for Earlobe Piercing Facility Requirements

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule

shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to use a piercing gun in accordance to manufacturer's design and specifications is a violation of OAR 331-220-0020(1), 331-220-0080(3), (4) and

(5) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(2) Failing to use a high-level disinfectant according to manufacturer's instructions to disinfect a piercing gun prior to use on a client, is a violation of OAR 331-220-0020(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(3) Failing to use single-use prepackaged sterilized ear-piercing studs for each client is a violation of OAR 331-220-0020(3) and 331-220-0080(2) and shall incur the following penalties:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(4) Failing to separate earlobe-piercing operation areas from other business activities is a violation of OAR 331-220-0020(6) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license.

(5) Failing to store disinfected piercing gun(s) from soiled or used guns, tools or instruments is a violation of OAR 331-220-0020(7) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0090

Schedule of Penalties for Sterilization Requirements of Tools and Implements Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to sterilize all piercing instruments that come in contact with client's skin or are exposed to body fluids is a violation of OAR 331-220-0010(1) and shall incur the following penalties:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(2) Using a piercing needle to provide more than a single piercing is a violation of OAR 331-220-0010(2) and shall incur the following penalties:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(3) Failing to sterilize equipment using an approved mode or to use pre-packaged sterilized instruments is a violation of OAR 331-220-0010(3) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(4) Failing to conduct required tests of sterilization modes is a violation of OAR 331-220-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(5) Failing to provide the results of the required tests on the sterilization

modes upon demand by a state inspector is a violation of OAR 331-220-0010(5)

and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(6) Failing to properly clean instruments prior to sterilization process is a violation of OAR 331-220-0010(6) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(7) Failing to properly sterilize reusable instruments prior to use on clients is a violation of OAR 331-220-0010(7) and shall incur the following penalties:

(a) For 1st offense: \$300;

(b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0100

Schedule of Penalties for Cleanable/Non-Absorbent Surfaces Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to have cleanable, non-absorbent surfaces on all equipment in all areas of a facility where services are performed is a violation of OAR 331-220-0000(8) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$300.

(2) Failing to use and maintain appropriate equipment in a facility is a violation of OAR 331-220-0000(5) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(3) Using products and/or instruments in a manner disapproved by the agency or the U.S. Food and Drug Administration is a violation of OAR 331-220-0000(6) and shall incur the following penalties:

(a) For 1st offense: \$300;

(b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(4) Failing to disinfect surfaces or blood spills using a high level disinfectant is a violation of OAR 331-220-0000(9) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0110

Schedule of Penalties for Clean Conditions Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to keep a restroom located on the premises of a facility clean and sanitary is a violation of OAR 331-220-0000(18) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(2) Failing to keep the facility clean, orderly and the equipment in good repair is a violation of OAR 331-220-0000(7) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(3) Failing to keep disposable products in clean closeable containers is a violation of OAR 331-220-0000(10) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(4) Failing to keep or store sterilized instruments in a sterile package/container is a violation of OAR 331-220-0000(11) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(5) Failing to use clean single use products for each client is a violation of OAR 331-220-0000(13) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0120

Schedule of Penalties for Client Health and Safety Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to provide disposable drinking cups when beverages are served in a facility is a violation of OAR 331-220-0050(11) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(2) Failing to wear single-use disposable protective gloves while performing any service on a client is a violation of OAR 331-220-0050(8) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(3) Performing services while diagnosed with a communicable disease, open sores, bleeding lesions or condition in a transmittable form is a violation of OAR 331-220-0040(1) and/or 331-220-0050(7) and shall incur immediate suspension until the disease or condition is no longer communicable.

(4) Treating any disease or knowingly serving any client having a communicable disease or condition is a violation of OAR 331-220-0040(2) and shall incur the following penalties:

- (a) For 1st offense: \$250;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(5) Performing services without washing one's hands immediately before and after serving each client is a violation of OAR 331-220-0050(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(6) Failing to properly prepare client's skin prior to providing a service is a violation of OAR 331-220-0050(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(7) Failing to have an operatory or designated service area is a violation of OAR 331-220-0000(4) and/or 331-220-0020(6) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(8) Failing to prepare skin prior to marking or use of an improper marking pen is a violation of OAR 331-220-0050(4) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0130

Schedule of Penalties for Safe Working Conditions Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Unless a waiver has been obtained, failing to meet the requirements of the Oregon Indoor Clean Air Act is a violation of OAR 331-210-0010(1)(b), 331-220-0000(1) and ORS 433.835 through 433.990 and will be referred to the Department of Human Services, Health Services.

(2) Having frayed electrical wiring or overloading the electrical circuits in a facility is a violation of OAR 331-210-0010(1)(b) and 331-220-0000(1) and will be referred to the appropriate authority:

(3) Having non-permitted pets in facilities, is a violation of OAR 331-220-0000(21) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$300.

(4) Failing to wear eye goggles, shields or mask in performing services on a client where the probability of splattering is present is a violation of OAR 331-220-0050(9) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$300.

(5) Using a styptic pencil or alum solid to control blood flow is a violation of OAR 331-220-0050(5) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0140

Schedule of Penalties for Chemical or Product Use and Storage Violations

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failing to store chemicals safely to avoid fire, explosion and/or bodily harm to clients and registrants is a violation of OAR 331-210-0010(1)(b) and 331-220-0000(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Dispensing chemicals or substances in a manner that contaminates the unused portion is a violation of OAR 331-220-0050(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$300.

(3) Failure to store chemicals in a labeled closed container is a violation of OAR 331-220-0000(12) and shall incur following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$300.

Stat. Auth.: ORS 676.992 & 690.515

Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0150

Schedule of Penalties for Required Information and Client Records

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Failure to post in public view required disclosure statement of risks is a violation of OAR 331-210-0010(1)(e) and 331-215-0030(2) and shall incur the following penalty:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000.

(2) Failure to post agency's address and procedure for filing a complaint is a violation of OAR 331-210-0010(1)(f) and 331-215-0030(3) and shall incur the following penalties:

GENERAL ADMINISTRATION

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000.

(3) Failure to properly complete client records or include the required information is a violation of OAR 331-220-0060(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(4) Failure to maintain complete client records at the facility premises is a violation of OAR 331-220-0060(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license.

(5) Failure to provide required pre-service information to the client is a violation of OAR 331-210-0010(1)(g) and 331-220-0060(4) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$1,000.

(6) Failure to provide required aftercare information both verbally and in writing to the client is a violation of OAR 331-210-0010(1)(g), 331-220-0050(6) and 331-220-0060(4) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$1,000.

Stat. Auth.: ORS 676.992 & 690.515
Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-225-0160**Schedule of Penalties for Performing Prohibited Services**

The Health Licensing Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 will apply. Imposition of a civil penalty under the following schedule does not preclude the agency from imposing any other sanction authorized by law, including refusing to issue a facility license or technician registration revocation, suspension or probation:

(1) Piercing other than the earlobe with a piercing gun is a violation of OAR 331-220-0080(3) and shall incur the following penalty:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(2) Providing a piercing service that is prohibited is a violation of OAR 331-220-0080 and ORS 676.612(1)(j) and shall incur the following penalty:

- (a) For 1st offense: \$1,000;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

(3) Using personal client jewelry for initial piercing is a violation of OAR 331-220-0080(2) and shall incur the following penalty:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: A penalty and/or the proposed revocation, suspension or refusal to issue a license and/or registration.

Stat. Auth.: ORS 676.992 & 690.515
Stats. Implemented: ORS 690.560

Hist.: HDLP 4-2001, f. & cert. ef. 11-1-01; HLO 7-2004, f. 6-29-04, cert. 7-1-04

331-405-0020**Definitions**

The following definitions apply to OAR chapter 331, divisions 400 through 430:

(1) “Affidavit of Licensure” means an original document verifying licensing history and status, including information disclosing all unresolved or outstanding penalties and disciplinary actions. The document is issued and signed by the regulatory 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.

(2) “Agency” means the Oregon Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(3) “Board” means — The State Board of Denture Technology.

(4) “Clinical procedures” means the tasks and activities that are set forth in ORS 680.500(5)(b).

(5) “Contact hours” means actual academic, classroom, or course work time, including but not limited to workshops, symposiums, seminars, or laboratory exercises. Contact hours do not include travel time to or from the training site, registration or check-in periods, breaks or lunch periods.

(6) “Dentist” as used in 680.545, OAR 331-410-0000 and 331-410-0010 means a person licensed to practice in the jurisdiction in which the practice occurred.

(7) “Direct supervision” means that the supervisor is present in the facility for the purpose of providing oversight and training and is responsible for guiding and monitoring the performance of the individual supervised. Training under the direct supervision of a school means under the indirect supervision of a teacher employed by the school.

(8) “Director” means the Director of the Oregon Health Licensing Agency.

(9) “Employed by” means other than independent contractor relationship and does not require remuneration.

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

(11) “Examination”, as used in Oregon laws 2005, Chapter 415, Section 2 and OAR 331-410-0020 and 331-410-0030, means a denture technology written or practical examination administered by the Oregon Health Licensing Agency, or a denture technology examination administered by another licensing authority that has been recognized and approved by the Board as being equivalent to the Oregon examination.

(12) “Informed Consent” means the consent obtained following a thorough and easily understood explanation to the patient, or patient’s guardian, of the proposed procedures, any available alternative procedures and any risks associated with the procedures. Following the explanation, the licensee shall ask the patient, or the patient’s guardian, if there are any questions. The licensee shall provide thorough and easily understood answers to questions asked.

(13) “Laboratory procedures” means those tasks and activities that are set forth in ORS 680.500(5)(a).

(14) “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 agency 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.

(15) “Oral pathology” means the pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases.

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

(17) "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.

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

(19) "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 and not more than two years pursuant to ORS 680.510(3), with a minimum of 400 hours devoted to clinical procedures. The 1,000 hours under direct supervision shall include construction of no less than 40 units of upper or lower dentures, with a set counting as two units, and must include at least one each of the following: full, immediate, removable partial, removable implant and over-denture.

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

(21) "Valid license" means the authority to practice pursuant to ORS 680 that has not been revoked, suspended, or expired without renewal.

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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06

331-405-0030

Fees

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:

(A) License: \$350.

(B) License by reciprocity: \$450.

(C) Training registration: \$200.

(b) Examination:

(A) Oregon laws & rules: \$50.

(B) Written: \$350.

(C) Practical: \$650.

(c) Original issuance of license (including by reciprocity): \$700.

(d) Renewal of license: \$700.

(e) Delinquent (late) renewal of license: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.

(f) Replacement of license, including name change: \$25.

(g) Duplicate license document: \$25 per copy with maximum of three.

(h) Affidavit of licensure: \$50.

(i) An additional \$25 Administrative Processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.615 & 680.525

Stats. Implemented: ORS 676.605, 676.615 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 3-2003, f. 5-6-03, cert. ef. 5-15-03; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06; HLA 5-2008, f. 9-15-08, cert. ef. 10-1-08

331-405-0045

Allocation of Responsibility

As set forth in ORS 680.556, the State Board of Denture Technology advises the Oregon Health Licensing Agency on matters relating to the practice of denture technology. The Director controls the regulatory operations and has decision-making authority on all substantive matters and is responsible for the performance of the agency as defined in 686.610.

Stat. Auth.: ORS 676.605, 676.615 & 680.525

Stats. Implemented: ORS 676.605, 676.615 & 680.525

Hist.: HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06

DIVISION 410

LICENSURE

331-410-0000

Training

(1) Training, or formal education, required for licensure is a planned sequence of instruction of specific content, pursuant to ORS 680.515, 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 agency pursuant to ORS 680.515(2) in consultation with the Board, shall meet the curriculum objectives as established by the agency. Current lists of the curriculum objectives and approved training courses are available at the agency during regular business hours.

(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 agency 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 agency shall retain a copy of the approved curriculum on file as part of the official permanent record;

(c) 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 agency shall incur any reasonable duplication costs associated with complying with the provisions mandated in ORS 680.515.

(4) To qualify as "equivalent supervised experience" under ORS 680.515(1)(b) or as an "approved work experience program" under 680.515(1)(c), experience must be under the direct supervision of an approved school, of a dentist, or of a denturist. If the work experience is under the direct supervision of a dentist or denturist, the supervising dentist or denturist must:

(a) Apply in advance on a form approved by the agency, and obtain approval from the agency, before beginning the direct supervision;

(b) Hold a valid license to practice and have been in practice for at least the last three years;

(c) Hold an oral pathology endorsement, if the supervisor is a denturist;

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

(e) Certify in writing to the agency that the facility where the training will take place complies with OAR chapter 331, division 420, Practice Standards;

(f) Supervise no more than two denturist trainees at a time;

(g) Disclose to the agency all prior disciplinary action by their licensing board and, if previously disciplined by their licensing board, obtain Board approval prior to any supervising dentist trainee;

(h) Provide no more than two years of direct supervision to any individual dentist trainee undergoing the initial training required in ORS 680.515(1)(b), or no more than one year of direct supervision to any applicant undergoing additional clinical training required in ORS 680.515(1)(c);

(i) Obtain signed informed consent from a client or patient before a dentist trainee may perform services for the client or patient;

(j) Ensure that a dentist trainee is clearly identified as a trainee to clients and patients.

(5) Credit for courses completed within the five years immediately prior to making application, which cover those subjects listed in ORS 680.515(1)(a), may be counted toward completion of schooling requirements for a denture technology program.

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

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

(a) Official transcripts from the approved school, and 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 procedures and laboratory procedures.

(8) 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 676.605, 676.615 & 680.515

Stats. Implemented: ORS 676.605, 676.615 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06

331-410-0010

Documentation of Experience

(1) Applicants shall document satisfactory completion of at least 1,000 hours of required work experience in the practice of denture technology pursuant to ORS 680.515(1)(b), under the direct supervision of an approved school, a licensed dentist or a licensed dentist, while employed by the dentist or dentist.

(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 of 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 dentist, a statement on forms provided by the Oregon Health Licensing Agency of verification of employment and practice from the dentist or dentist 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 dentist and the individual who received training. The statement shall be mailed or delivered from the dentist or dentist to the agency.

(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 & 680.565

Stats. Implemented: ORS 680.515 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06

331-410-0020

Application Requirements

(1) An applicant for a license to practice denture technology must:

(a) Comply with the requirements of OAR 331-030-0000;

(b) Submit a completed application on a form prescribed by the agency;

(c) Pay the fees required by OAR 331-405-0030; and

(d) Submit documentation establishing completion of the requirements of one of the three pathways described in this rule.

(2) PATHWAY ONE Approved Education and Training with an Oregon Examination. An applicant may qualify for licensure by demonstrating:

(a) Completion of a program of education that has been approved by the agency under OAR 331-410-0000;

(b) Completion of 1,000 hours of practice in denture technology under direct supervision of an approved school or the equivalent supervised experience described in OAR 331-410-0000(4); and

(c) Successful completion of the Oregon written and practical examination described in OAR 331-410-0030.

(3) PATHWAY TWO Approved Education and Training with an Examination Recognized or Approved by the Board. An applicant may qualify for licensure by demonstrating:

(a) Completion of a program of education that has been approved by the agency under OAR 331-410-0000;

(b) Completion of 1,000 hours of practice in denture technology under direct supervision of an approved school or the equivalent supervised experience described in OAR 331-410-0000(4); and

(c) Successful completion of a written and practical examination approved or recognized by the Board pursuant to ORS 680.515(1)(c).

(4) PATHWAY THREE License by Credential. An applicant who is licensed to practice denture technology in another state may qualify for licensure in Oregon by:

(a) Satisfying the requirements of Oregon Laws 2005, chapter 415, section 2;

(b) Submitting a signed and completed form prescribed by the agency to document the hours of practice required by Oregon Laws 2005, chapter 415, section 2(4);

(c) Arranging for the licensing authority of the state in which the applicant is licensed to send directly to the agency an original "Affidavit of Licensure" that:

(A) Verifies that the applicant holds a current valid license in good standing to practice denture technology in that state;

(B) Describes the applicant's history of discipline by the licensing authority, including a description of all prior disciplinary actions, all unresolved complaints, and all pending disciplinary actions; and

(C) Is signed before a notary by the person preparing the "Affidavit of Licensure" and sealed with the official seal or stamp of the licensing authority.

(5) The "Affidavit of Licensure" described in paragraph (4)(c) of this rule may be transmitted electronically to the agency so long as the affidavit is transmitted directly from the licensing authority of the other state. The applicant must pay any fee charged by the licensing authority of the other state for producing and transmitting the affidavit.

(6) Any application that is not successfully completed within two years of the initial application date or the date on which the last examination was taken, whichever is later, will be treated by the agency as withdrawn, and the applicant must submit a new application, new supporting documentation, and new application fees to apply for licensure.

Stat. Auth.: ORS 680.515 & 680.565

Stats. Implemented: ORS 680.515 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HDLP 1-2002, f. 5-31-02, cert. ef. 6-1-02; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06

331-410-0030

Examinations

(1) The agency will notify qualified applicants of their eligibility to take the Oregon written and practical licensing examinations. Applicants must take both parts of the examination on their initial attempt, unless the applicant has previously completed and passed a

board approved practical examination before submitting application for Oregon licensure.

(2) The Oregon licensing examination consists of two parts: a written examination and a practical examination:

(a) The written examination is comprised of multiple-choice questions covering subject areas specified in ORS 680.515(1)(a) and questions on the Oregon laws and rules regulating the practice of denture technology.

(b) The practical examination requires the applicant to demonstrate skills required to practice denture technology, including but not limited to: patient evaluation, maxillary and mandibular custom tray and final impressions, maxillary and mandibular preliminary and final cast evaluation, evaluation of maxillary and mandibular wax-up on an articulator and evaluation of maxillary and mandibular functional wax try-in.

(3) Practical Exam Requirement: To be scheduled for an Oregon practical examination, applicants must submit documentation and pay required fees at least 30 calendar days prior to the examination date. A schedule of practical examination dates is available at the Oregon Health Licensing Agency.

(4) The Health Licensing Office will notify each applicant, 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.

(5) 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.

(6) Passing score for the written examination is 70 percent or higher. The practical examination is scored on a pass or fail basis. The portions will be scored individually, not added or averaged together.

(7) Passing scores will be maintained towards meeting licensure requirements only for the periods set forth in OAR 331-410-0020(6).

(8) Applicants taking the examination will be required to present government issued photographic identification such as a driver's license and their original Social Security card at the examination.

(9) Additional Clinical Training: As required in ORS 680.515(1)(c), the Board will prescribe additional hours of clinical and laboratory training in an approved work experience program for applicants who fail the Oregon practical examination.

(a) Additional hours of clinical and laboratory training must meet requirements of OAR 331-410-000(4).

(b) Notwithstanding any other rule, the applicant must complete the additional clinical and laboratory training within one year from the date of the failed practical examination.

(10) An applicant, who fails to pass the written or practical examination on the third attempt, must apply to the Board and receive authorization before application for re-examination will be approved. The Board may require the applicant to undergo additional training before taking the examination a fourth or subsequent time.

(11) Notwithstanding ORS 680.515(1)(c), failed sections of the examination may be retaken at the next available examination date and time as scheduling allows. Retaking a failed examination requires the applicant to register for the examination and submit payment of the examination fees.

Stat. Auth.: ORS 680.520 & 680.565
Stats. Implemented: ORS 680.520 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HDLP 5-2001, f. & cert. ef. 12-14-01; HDLP 1-2002, f. 5-31-02, cert. ef. 6-1-02; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06

331-410-0040

Examination Conduct; Disqualification

(1) Examinations conducted in Oregon are held in a designated area with restricted access. An applicant must obtain authorization from the agency before bringing any material or electronic equipment or devices into the examination. Receiving, attempting to receive, giving, or attempting to give 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 will result in forfeiture of the examination and fees.

(2) Examination Disqualification: A candidate may 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. Reexamination will be scheduled at a date, time and place determined by the Director following the date of disqualification.

Stat. Auth.: ORS 680.520 & 680.565
Stats. Implemented: ORS 680.520 & 680.565
Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06

331-410-0050

Examination Review and Appeal

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. Practical examination results are not challengeable.

(1) Computer Examination Segment: Review of the written examination, conducted by use of a touch screen computerized system, is provided at the conclusion of each examination question/answer selection, or at the next available date and time as scheduling allows.

(2) Written Examination Segment: Review of failed written examination question/answer selections, conducted by use of paper/pencil and score sheet, is provided upon submitting written request to the agency within seven calendar days of the examination date.

(3) Procedures for reviewing a failed written examination may be obtained from the agency.

Stat. Auth.: ORS 680.520 & 680.565
Stats. Implemented: ORS 680.520 & 680.565
Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

331-410-0060

Licensure Issuance

(1) Pursuant to ORS 680.505, a person shall not practice denture technology or claim to be a denturist including that a person 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 680.515.

(2) Licensees are subject to the provisions of OAR 331-030-0010 regarding the issuance and renewal of a license, and to the provisions of 331-030-0020 regarding the authorization to practice, identification and the requirements for issuance of a duplicate authorization.

Stat. Auth.: ORS 676.605, 676.615, 680.525, 680.530 & 680.565
Stats. Implemented: ORS 676.605, 676.615, 680.525, 680.530 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HDLP 1-2002, f. 5-31-02, cert. ef. 6-1-02; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

331-410-0065

License Renewal

(1) RENEWAL: The following are prerequisites to license renewal:

(a) The completed application for renewal submitted in advance of the license expiration date;

(b) The renewal fee; and

(c) Attestation of having obtained required continuing education pursuant to OAR 331-415-0010.

(2) **LATE RENEWAL:** Renewal applications received in the Health Licensing Office, or postmarked, within one year after the expiration date may be approved upon payment of the renewal and delinquency fees and required attestation of having obtained sufficient continuing education.

(3) **RESTORATION:** A person who submits a completed renewal application after one year but within three years from the date of expiration, may be granted a license upon payment of restoration and license fees, and submission of evidence of sufficient continuing education as required in OAR 331-415-0010. A person who does not meet continuing education requirements within the three-year reporting cycle, must reapply and meet all requirements for licensure in place at the time of application.

(4) **RE-APPLICATION/QUALIFICATION:** A person 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), as applicable, and submission of evidence of clinical competence satisfactory to the Health Licensing Office as follows:

(a) Documentation, showing the person engaged in active practice of denture technology in another state or territory during at least two of the last three years preceding reapplication, verifying construction of no less than 40 units of upper or lower dentures (a set counting as two units), and must include at least one each of the following: full, immediate, removable partial, removable implant and over-denture. Documentation must include verification of work experience/employment and copies of patient treatment records; or

(b) Attain a passing score on the written and practical examination conducted by the Health Licensing Office, as prescribed by the Board.

(5) A person who previously held an Oregon dentist license without an oral pathology endorsement does not qualify for licensure under reapplication provisions in subsection (4) of this rule. A person must meet all requirements of OAR 331-410-0010 and 331-410-0020 to qualify for an Oregon dentist license.

Stat. Auth.: ORS 676.605, 676.615, 680.525, 680.530 & 680.565
Stats. Implemented: ORS 676.605, 676.615, 680.525, 680.530 & 680.565
Hist.: HDLP 1-2002, f. 5-31-02, cert. ef. 6-1-02; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

331-410-0080 Oral Health Certificate

(1) Denturists licensed prior to January 1, 2004, who have not received an oral pathology endorsement as described in ORS 680.545 may not treat any person without a valid Oral Health Certificate for the person stating the person'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 Health Licensing Office, signed by a licensed dentist or physician (M.D. or D.O.) stating that the person's cavity is substantially free from disease and mechanically sufficient to receive a denture, and show an examination of the oral cavity took place within 30 days of the date of commencing treatment.

(3) Oral Health Certificate forms are available at the agency.
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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

331-410-0090 License Display

Denturists shall post their current license to practice denture technology in public view.

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; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 415

CONTINUING EDUCATION

331-415-0000 Purpose

(1) To ensure continuing efforts on the part of Oregon licensed denturists 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 two years, even if the dentist 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; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 5-2008, f. 9-15-08, cert. ef. 10-1-08

331-415-0010 Continuing Education Requirements

(1) Each dentist must complete 20 contact hours of continuing education every two years from the date of licensure to qualify for renewal of the dentist's license. Four of the required 20 hours must be directly related to partial denture services.

(2) Each dentist shall report compliance with the continuing education requirement through attestation on the license renewal document. Licensees shall be subject to the provisions of OAR 331-415-0020 pertaining to the 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(1)(a), 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 Oregon Health Licensing Agency.

(5) Proof of participation in required continuing education is the responsibility of the dentist. To ensure that adequate proof of attainment of required continuing education is available for audit or investigation by the agency, denturists shall maintain a record of attendance for two years following the two-year continuing education cycle and renewal of the dentist license.

(6) Hours obtained in excess of the 20 contact hours required each two-year period will not be carried forward as credit for the succeeding two-year continuing education requirement.

Stat. Auth.: ORS 676.605, 680.530 & 680.565
Stats. Implemented: ORS 676.605, 680.530 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 5-2008, f. 9-15-08, cert. ef. 10-1-08

331-415-0020 Continuing Education: Audit, Required Documentation and Sanctions

(1) The Health Licensing Office will audit a select percentage of licensee records determined by the Board to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation shall submit to the agency, within 30 calendar days from the date of issuance of the notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-415-0010.

(3) Documentation of a certificate of completion of attendance at a program or course provided by the sponsor must include:

- (a) Name of sponsoring institution/association or organization;
 - (b) Title of presentation and description of content;
 - (c) Name of instructor or presenter;
 - (d) Date of attendance and duration in hours;
 - (e) Course agenda;
 - (f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.
 - (4) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.
 - (5) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include but is not limited to assessment of a civil penalty and suspension or revocation of the license.
- Stat. Auth.: ORS 680.565
 Stats. Implemented: ORS 680.565
 Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98; HDLP 1-2002, f. 5-31-02, cert. ef. 6-1-02; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 420

PRACTICE STANDARDS

331-420-0000

Practice Standards

Licensed denturists shall adhere to the following practice standards:

(1) Oral Health Certificate. Denturists must either have an oral pathology endorsement on their license, or if they have not qualified for and received the endorsement, must comply with requirements for obtaining an Oral Health Certificate as described in ORS 680.545 and OAR 331-410-0080.

(2) Patient Documentation. Licensed denturists must record, update and maintain documentation for each patient relevant to health history, clinical examinations and treatment, and financial data. Documentation shall be written or computerized. Records should include the following information:

(a) Patient data, including name, address, date and description of examination;

(b) Evidence of informed consent (may be in the form of an acronym such as "PARQ" to denote procedure, alternatives, risks and questions);

(c) Date and description of treatment or services rendered, and any treatment complications;

(d) Health history as applicable; and

(e) Any other information deemed appropriate to patient care.

(3) Clinical Examination. Licensed denturists must conduct and record a clinical examination of each patient that will include at a minimum, information relative to:

(a) Appearance of gingiva, oral mucosal membranes, pharynx, tongue and all other oral soft tissue; and

(b) Oral conditions that may affect successful denture construction and use.

(4) Record Retention. Patient documentation, written or archived electronically by computer, must be retained for a minimum of seven years and available upon request by the agency.

(5) Minimum Standards of Acceptable Patient Care. Licensees must adhere to the following practice standards in rendering acceptable patient care:

(a) Maintain accurate patient records;

(b) Provide goods and services within a reasonable amount of time;

(c) Seek consultation/referral if indicated;

(d) Make accurate representation to the patient on services or denture functionality;

(e) Provide or arrange for continuity of care or emergency treatment for a patient currently receiving treatment;

(f) Employ current denture technology practices and materials;

(g) Adhere to appropriate use of quality materials;

(h) Adhere to Centers for Disease Control infection control standards and the Board's clinical requirements;

(i) Provide a copy of the patient record in a reasonable amount of time for a reasonable amount of money as requested by the patient.

(6) Minimum Standards of Acceptability for Full Dentures: Licensees must adhere to the following practice standards in constructing full dentures that provide appropriate function. Acceptability is measured against the following criteria:

(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 relation, 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 have anatomic or nonanatomic detail, and masticatory forces are evenly distributed;

(j) Occlusal disharmony is not present; 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) Any deviation from the standards outlined in subsection (6)(a) through (k) of this rule, must be based on the patient's individual physiology, in the best interest of the patient, and in conformance with generally accepted standards of patient care. On such occasion, the denturist must document the reasons for the deviation in the patient record. Failure to document the reasons for deviation from stated standards creates a presumption that the deviation was not in the best interest of the patient.

(8) Violation of Standards. Violation of any practice standard in OAR 331-420-0000 shall constitute grounds for discipline.

Stat. Auth.: ORS 676.605, 676.615, 680.550 & 680.565

Stats. Implemented: ORS 676.605, 676.615, 680.550 & 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 333-020-0090 and 333-020-0100; 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; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

331-420-0010

Business Premise Requirements

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

(1) All areas of the business premises where denture technology is practiced shall be kept clean and in good repair.

(2) Denturists shall be subject to all Oregon Department of Human Services, Health Services and other city, county, state and federal regulations pertaining to public health and safety. Compliance with building, state fire, plumbing and electrical regulations is required.

(3) When an employee/employer relationship exists, denturists shall comply with ORS 654 and the Oregon Safe Employment Act, and adhere to all Oregon Occupational Safety and Health Codes (OR-OSHA), and Centers for Disease Control (CDC) infection control standards.

(4) Pets or other animals shall not be permitted in the business premises. This prohibition does not apply to registered therapy animals, trained guide animals for the disabled, sightless or hearing impaired, or fish in an aquarium.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 680.550 & 680.565

Stats. Implemented: ORS 680.550 & 680.565

Hist.: HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92, Renumbered from 333-020-0085(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; HLO 1-2003, f. 1-21-03 cert. ef. 2-1-03

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.

(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 FDA approved chemical sterilant, and used according to the manufacturer's instructions.

(3) Mechanical sterilizing devices shall be tested for functionality on a quarterly basis by means of a biological monitoring system that indicates the destruction of micro-organisms, and chemical indicators (color change) to assure sufficient temperature and correct functioning of equipment during each sterilization cycle.

(4) Chemical and biological test results shall be available at the business premises at all times for inspection by the Health Licensing Office enforcement officers. Biological test results must be on laboratory letterhead and must contain the test date, and the name, model and serial number of the unit tested. Biological test results shall be retained for a two year period.

(5) Environmental surfaces that are contaminated by blood or saliva shall be disinfected with a high-level disinfectant, which is tuberculocidal and labeled accordingly, or bleach solution, used according to manufacturer's instructions.

(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) All contaminated wastes and sharps shall be disposed of according to governmental requirements, specifically ORS 459.386 through 459.405 and OAR 333-056-0020. "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.

(8) All procedures performed shall be in such a manner as to avoid cross contamination of blood borne pathogens.

Stat. Auth.: ORS 676.605, 676.615, 680.550 & 680.565
 Stats. Implemented: ORS 676.605, 676.615, 680.550 & 680.565
 Hist.: HD 3-1992, f. & cert. ef. 3-25-92, Renumbered from 333-020-0085(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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 425

COMPLAINT PROCESSING AND RESOLUTION

331-425-0010

Procedure for Filing a Complaint

The Health Licensing Office may initiate and conduct investigations of matters relating to the practice of denture technology, pursuant to ORS 676.608, and may take appropriate disciplinary action in accordance with the provisions of ORS 676.612 and 680.535.

Stat. Auth.: ORS 676.608, 676.615, 676.992, 680.535 & 680.565
 Stats. Implemented: ORS 676.608, 676.615, 676.992, 680.535 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 430

DISCIPLINE; CIVIL PENALTIES

331-430-0000

Disciplinary Action

(1) The Health Licensing Office 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 agency 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 dentist, to the extent that such use or condition impairs or prevents the denturists ability to perform competently.

(3) The agency 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 agency 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 agency regarding a complaint;

(b) Failing to provide information to the agency in response to a written inquiry, 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 agency 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 agency;

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

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

(6) When the Health Licensing Office 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 agency 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.: ORS 680.530 & 680.565
 Stats. Implemented: ORS 680.535 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01

331-430-0030

Establishing Civil Penalty Amounts

The Health Licensing Office has adopted the following presumptive penalty schedule for the first and second violations of the following laws and rules. The following scheduled shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For subsequent violations the provisions of OAR 331-020-0060 will apply.

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

(2) Licensed denturists who allow non-licensed persons to perform clinical procedures is a violation of ORS 680.505 and may incur a penalty of \$5,000.

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

(4) 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 may incur a penalty of \$2,000.

(5) Failing to notify the agency within 30 days of a change in business related information or license status, is a violation of OAR 331-010-0040, and may incur a penalty of \$200.

(6) Advertising in a manner, which would deceive or mislead the public or that is untruthful is a violation of ORS 676.612(1)(b), and may incur a penalty of \$2,000.

(7) 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 may incur a penalty of \$1,000.

(8) Failing to meet minimum standards of acceptability for full dentures according to OAR 331-420-0000(6), or to meet standards for partial dentures as determined by the board may incur a penalty of \$5,000.

(9) Failing to maintain clean floors, walls and ceilings in the clinical area of the premises is a violation of OAR 331-420-0010(1), and may incur a penalty of \$1,000.

(10) Failing to disinfect surfaces or blood spills by using an Environmental Protection Agency registered disinfectant is a violation of OAR 331-420-0020(5), and may incur a penalty of \$1,000.

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

(12) Failing to test all sterilizing devices on a quarterly basis is a violation of OAR 331-420-0020(3), and may incur a penalty of \$1,000.

(13) Failing to have both biological and chemical test results available at the facility for inspection by the agency enforcement officers is a violation of OAR 331-420-0020(4), and may incur a penalty of \$1000.

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

(16) Failing to perform procedures in such a manner as to avoid cross contamination of blood borne pathogens is a violation of OAR 331-420-0020(8), and may 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 333-056-0020 is a violation of 331-420-0020(7) and may incur a penalty of \$1,000.

(18) Allowing pets or other animals on the premises of the business facility other than trained guide animals or fish in an aquarium, is a violation of OAR 331-420-0010(4), and may incur a penalty of \$500.

Stat. Auth.: ORS 680.565 & 680.572

Stats. Implemented: ORS 680.565 & 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; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 505

GENERAL ADMINISTRATION

331-505-0000

Definitions

The definitions of terms used in ORS 690.350 to 690.430 and 690.992 and the rules of OAR chapter 331, divisions 500 through 590, are:

(1) "Advisory Council" means, pursuant to ORS 690.425, the entity that advises the agency in matters relating to the practice of electrology, permanent coloring and tattooing in accordance with 690.430. The agency director controls the regulatory operations and has decision-making authority on all substantive matters.

(2) "Agency" means the Oregon Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based

outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(3) "Antiseptic" means product used to stop or inhibit the growth of bacteria.

(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) "Director" means the individual who is responsible for the performance of the agency under ORS 676.610. The director appoints all the subordinate officers and employees to carry out the duties of the agency.

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

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

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

(10) "Facility" means an establishment in which a licensee(s) performs electrolysis, permanent coloring or tattooing, or any combination thereof.

(11) "Health Licensing Office" means agency.

(12) "High-level disinfectant" means a chemical agent, which has demonstrated tuberculocidal activity and is registered with the Environmental Protection Agency.

(13) "Incompetence" includes, but is not limited to, a demonstrated lack of ability or fitness to perform.

(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 and is registered with Environmental Protection Agency.

(16) "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. The transcript must be mailed or delivered directly from the school to the agency by one of the following methods:

(a) Regular USPS mail service;

(b) Recognized mail service provider, such as UPS or FEDEX;

(c) Authorized courier;

(d) Electronic or facsimile transmission to specified agency email address and/or FAX number.

(17) "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.

(18) "Operatory" means isolated area where treatment or services are provided.

(19) "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.

(20) "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 personal information pertaining to the individual, a photograph and signature.

(21) "Place or places of business" means the physical location where services are performed or will be performed.

(22) "Premises" means the entire building or structure within which services are performed.

(23) "Probation" means continuation of licensure under conditions set by the agency.

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

(25) "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.

(26) "Reactivate" means to change an expired license to an active license.

(27) "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 agency.

(28) "Renew" means to extend a current license for two years beyond expiration or to bring an expired license to current, active status.

(29) "Residence address or place(s) of business" means a street, route or location address, not a post office box.

(30) "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.

(31) "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.

(32) "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.

(33) "Sterilization" means destruction of all forms of microbotic life, including spores.

(34) "Suspend" refers to two distinct meanings defined by statute: ORS 690.385(2) pertaining to voluntary license expiration, and ORS 676.612 pertaining to disciplinary action.

(35) "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 676.615 & 690.405(9)

Stats. Implemented: ORS 676.615 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 10-2008, f. 9-15-08 & cert. ef. 10-1-08

331-505-0010

Fees

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:

(A) Practitioner license — Permanent color and tattoo: \$100.

(B) Practitioner license — Electrology: \$50.

(C) Practitioner license by reciprocity — Permanent color and tattoo: \$150.

(D) Practitioner license by reciprocity — Electrology: \$150.

(E) Facility license — Permanent color and tattoo: \$150.

(F) Facility license — Electrology: \$100.

(G) Temporary facility license: \$100.

(H) Demonstration permit: \$100.

(b) Examination:

(A) Permanent color and tattoo — Oregon laws & rules: \$50.

(B) Permanent color and tattoo — Written: \$50.

(C) Permanent color and tattoo — Skills assessment: \$100.

(D) Electrology — Oregon laws & rules: \$50.

(E) Electrology — Written: \$50.

(F) Electrology — Practical: \$100.

(c) Original issuance of authorization to practice:

(A) Practitioner license — Permanent color and tattoo (including by reciprocity): \$125.

(B) Practitioner license — Electrology (including by reciprocity): \$50.

(C) Facility license — Permanent color and tattoo: \$125.

(D) Facility license — Electrology: \$100.

(d) Permits:

(A) Temporary facility: \$50.

(B) Demonstration: \$50.

(e) Renewal of authorization to practice:

(A) Practitioner license — Permanent color and tattoo: \$100.

(B) Practitioner license — Electrology: \$38.

(C) Facility license — Permanent color and tattoo: \$100.

(D) Facility license — Electrology: \$100.

(f) Other administrative fees:

(A) Delinquent (late) renewal of license: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.

(B) Replacement of license, including name change: \$25.

(C) Duplicate license document: \$25 per copy with maximum of three.

(D) Affidavit of licensure: \$50.

(E) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.615 & 690.415

Stats. Implemented: ORS 676.605, 676.615 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 8-2004(Temp), f. & cert. ef. 8-20-04 thru 2-16-05; HLO 9-2004, f. 10-25-04, cert. ef. 11-1-04; HLA 2-2007, f. & cert. ef. 3-30-07, cert. ef. 4-1-07; HLA 10-2008, f. 9-15-08 & cert. ef. 10-1-08

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(5) also called wires or probes.

Stat. Auth.: ORS 676.615 & 690.405(9)

Stats. Implemented: ORS 676.615 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 515

ELECTROLOGY: QUALIFICATIONS FOR LICENSURE

331-515-0000

Approval of Schools

The Health Licensing Office shall recognize a school of electrolysis that 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 agency 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 agency and the facility satisfactorily 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-515-0010

Approved Course of Study

To be approved by the agency, a course of study shall include, at least 600 hours of training instruction. The course shall include at least 235 hours of theory and at least 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) Infection control 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: 30 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 690.405 & 690.410
 Stats. Implemented: ORS 690.405 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 to the extent the agency determines that training and/or work experience obtained is equivalent to minimum requirements based on documentation of two years full-time or four years part-time active work experience in the field of electrolysis.

Stat. Auth.: ORS 690.365, 690.405 & 690.410
 Stats. Implemented: ORS 690.365, 690.405 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-515-0030

Application for Licensure

(1) Individuals applying for licensure to practice electrology must meet the requirements of OAR 331-030-0000 in addition to the provisions of this rule.

(2) Applicants must submit a completed application form prescribed by the agency, which shall contain the information listed in OAR 331-030-0000(5) and be accompanied by payment of the application, examination and license fees.

(3) 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.

(4) 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.

(5) The completed application must include submission of satisfactory evidence of equivalency as required by the agency pursuant to OAR 331-515-0020, or by one of the following pathways for licensure:

(a) **OFFICIAL TRANSCRIPT:** The document shall be mailed directly to the agency from a licensed or accredited school or an equivalent institution recognized by the agency, showing completion of the prescribed course of study, listed in OAR 331-515-0010 or its equivalent approved by the agency, 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 agency, 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 or transmitted directly to the agency or delivered in person in a sealed envelope by an authorized courier.

(b) **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 regulatory authority where the applicant is currently licensed, and mailed directly to the agency office by the regulatory authority.

(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 & 690.405
 Stats. Implemented: ORS 690.365 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 520

ELECTROLOGY: EXAMINATIONS

331-520-0000

Examination Authorization

(1) The agency will conduct examinations for licensure. Applicants will not be approved for an examination until all documentation and fee requirements have been completed.

(2) The agency 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 agency will mail notice to each applicant approved for the practical examination by U.S. Postal Service, at least 15 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 and their original Social Security card at the examination.

Stat. Auth.: ORS 690.370 & 690.405
 Stats. Implemented: ORS 690.370 & 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 333-305-0075 & 333-305-0080; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 200 multiple-choice questions. 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. 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 infection control, 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.

(8) 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.

Stat. Auth.: ORS 690.370, 690.405 & 690.430

Stats. Implemented: ORS 690.370, 690.405 & 690.430

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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 agency 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 agency 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 at the agency. If the agency is unable to accommodate the disability on-site, special arrangements will be arranged for an adequate test site.

Stat. Auth.: ORS 690.370 & 690.405

Stats. Implemented: ORS 690.370 & 690.405

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-520-0040

Examination Conduct; Disqualification

(1) Examinations are conducted in a designated area with restricted access. Authorization must be provided by the agency before bringing any material or electronic equipment or devices into the examination. 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 may 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.

(3) 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. Reexamination will be scheduled at a date, time and place determined by the Director following the date of disqualification. Re-examination will be conducted at the agency.

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; HLO

5-2004, f. 6-29-04, cert. ef. 7-1-04

331-520-0060

Examination Review Procedures

(1) Opportunity to review failed sections of the written examination, conducted by use of the electronic touch screen computer testing system, are provided at the conclusion of each examination question/answer selection, or immediately following conclusion of the entire examination. Review of failed examination sections at a later time or date is prohibited.

(2) Applicants retaking the examination must present photographic identification such as a driver's license and their original Social Security card as required by OAR 331-520-0000.

Stat. Auth.: ORS 676.615 & 690.405

Stats. Implemented: ORS 676.615 & 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 333-305-0100; HLO

5-2004, f. 6-29-04, cert. ef. 7-1-04

331-520-0070

Retake of Examination Sections; Additional Training

(1) Failed sections of the examination may be retaken at the next available examination date and time, as scheduling allows. Retaking a failed examination requires registration and payment of the examination fees.

(2) Applicants who fail the examination three times (first attempt plus two retakes) must 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 before they will be eligible to retake the examination.

(3) Prior to an applicant's fourth examination attempt, an official transcript must be received from an Oregon licensed career school which verifies that the applicant has satisfactorily completed the additional hours of instruction.

Stat. Auth.: ORS 690.370 & 690.405

Stats. Implemented: ORS 690.370 & 690.405

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; HLO 5-2004, f. 6-29-04, cert.

ef. 7-1-04

DIVISION 525

ELECTROLOGY: LICENSE ISSUANCE, RENEWAL AND REACTIVATION

331-525-0000

License Issuance; Renewal

(1) Licensees are subject to the provisions of OAR 331-030-0010 regarding issuance and renewal of a license, and to the provisions of 331-030-0020 regarding authorization to practice, identification and requirements for issuance of a replacement or duplicate authorization.

(2) Renewal payments received by the agency, or postmarked, after the expiration date but within three years of expiration, will be assessed delinquency (late) fees in addition to the renewal fee.

(3) Failure to meet continuing education requirements listed in OAR 331-530-0000 will require reapplication, submission of required fees and successfully passing all sections of the examination before a license will be reissued.

(4) Failure to renew or reactivate a license within three years from the date of expiration will require submitting a new application, required fees and successfully passing the qualifying examination according to provisions of OAR 331, divisions 515 and 520 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLA

10-2008, f. 9-15-08 & cert. ef. 10-1-08

331-525-0020

Display of License

The practitioner and facility license must be posted in public view.

Stat. Auth.: ORS 676.615 & 690.380

Stats. Implemented: ORS 676.615 & 690.380

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; HLO

5-2004, f. 6-29-04, cert. ef. 7-1-04

331-525-0035

Facility License Issuance and Renewal; Cooperation in Inspections

Beginning on October 1, 2004, all facilities must be licensed to provide electrolysis services prior to operating electrology facilities.

(1) The agency will issue a facility license to qualified persons, as provided in OAR 331-030-0010, if the applicant:

(a) Is at least 18 years of age, if the applicant is a natural person, as required in ORS 690.365(2). If the applicant is an entity other than a natural person, the entity must be formed and operated in accordance with Oregon law;

(b) Has registered with the Corporations Division and designated an assumed business name prior to applying for a facility license (unless doing business under the full name of the owner);

(c) Applies on a form prescribed by the agency and pays the required application and license fees;

(d) Complies with all applicable rules and regulations;

(e) Certifies that application information is correct; and

(f) Meets the specifications for building, fire and plumbing codes as specified in OAR 565-535-0000 and complies with exit and fire standards established by the Building Codes Agency and Office of the State Fire Marshal.

(2) Facility license applicant must provide a map or direction to the business premises if the facility is located in a rural or isolated area, and submit a copy of the spore test results from applicant's autoclave, or submit a signed attestation requesting an exemption under OAR 331-540-0020(2) based on exclusive use of prepackaged sterile electrolology equipment, including needles.

(3) A facility license holder must comply with the provisions of OAR 331-030-0010 regarding issuance and renewal of a facility license.

(4) Each facility license holder must:

(a) Allow the agency's enforcement officer to inspect the facility when it is open for business;

(b) Ensure employees cooperate with agency enforcement officers and refrain from impeding an inspection in any way;

(c) Contact the agency in writing to make arrangements for an inspection if the agency has been unable to perform an annual inspection because the facility was closed.

Stat. Auth.: ORS 676.615, 690.360(6) & 690.405(12)

Stats. Implemented: ORS 676.615, 690.360(6) & 690.405(12)

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-525-0038

Facility Located in Residence

A facility located in a residence must comply with the provisions of OAR 331-525-0035 in addition to:

(1) Have an identifying house number or a sign, which is easily visible from the street and indicates the location of the facility;

(2) Be equipped with the structures, accommodations, and equipment which the agency requires for all facilities;

(3) 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.

(4) Licensed electrologists operating in their residence prior to July 1, 2004, will not be subject to the requirements listed in subsection (3) of this rule, until such time as a change in the business location is made.

Stat. Auth.: ORS 676.615, 690.360(6) & 690.405(12)

Stats. Implemented: ORS 676.615, 690.360(6) & 690.405(12)

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-525-0040

Practicing at Location Other Than Named Place(s) of Business

(1) Licensees shall not practice at any location other than the place or places of business listed with the agency. However, licensees may provide services outside the premises of a licensed facility on persons residing in a health care facility or persons confined to their residence through medical disability or restriction.

(2) All licensees who perform services at locations listed in subsections (1) of this rule or at more than one business location shall carry their license with them and post it while working.

Stat. Auth.: ORS 676.615, 690.390 & 690.405(9)

Stats. Implemented: ORS 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-525-0055

Facility License Requirements

(1) A facility shall meet the requirements for a new facility (refer to OAR 331-525-0035) 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; or

(B) A partner(s) or co-owner(s) is removed due to the death of a facility owner(s).

(c) An existing facility moves or relocates to a new physical address. Facility licenses are not transferable from location-to-location.

(2) Facility owners closing their facilities shall:

(a) Submit written notice to the agency within five 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 agency prior to reopening the facility and resuming business operations/services.

Stat. Auth.: ORS 690.405

Stats. Implemented: ORS 690.405

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-525-0060

Demonstration Permit

(1) "Demonstration permit" is an authorization pursuant to ORS 690.405 to practice on a limited basis for a maximum of 30 consecutive calendar days.

(2) A person not licensed under ORS 690.365, who intends to demonstrate, teach or perform electrolysis services temporarily for educational purposes, where services are not performed upon the public, must first obtain a demonstration permit from the agency.

(3) To be granted a demonstration permit, a person must meet the following requirements:

(a) Submit an application on a form prescribed by the agency;

(b) Provide satisfactory evidence of holding a valid license in their state or country.

(c) Describes the purpose for which the permit is sought; and

(d) Pay the required application and permit fees.

(4) The demonstration permit shall specify the period during which the person is permitted to demonstrate, teach or perform services.

Stat. Auth.: ORS 676.615 & 690.405

Stats. Implemented: ORS 676.615 & 690.405

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-525-0065

Temporary Facility Permit

(1) "Temporary facility permit" is an authorization pursuant to ORS 690.405 to operate a facility on a limited basis, not to exceed 30 consecutive calendar days, at locations away from the primary facility, such as fairs, carnivals or bazaars.

(2) A person who intends to operate a facility on a limited basis away from a primary licensed facility must first obtain a temporary facility permit from the agency.

(3) To be granted a temporary facility permit, a person must meet the following requirements:

(a) Be 18 years of age or older, if the applicant is a natural person. If the applicant is an entity other than a natural person, the entity must be formed and operated in accordance with Oregon law;

(b) Apply on forms prescribed by the agency and provide the required information and application fees.

(4) A temporary facility must:

(a) Receive the permit and post the authorization in public view before opening for business;

(b) Comply with the rules of the agency concerning health, safety and infection control;

(c) Comply with the applicable health and safety laws and rules of the agency and any other state agencies;

(d) Pay the required permit fees.

(5) The temporary facility permit shall specify the period during which the permit is valid.

Stat. Auth.: ORS 676.615 & 690.405

Stats. Implemented: ORS 676.615 & 690.405

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 comply with the following continuing education requirements:

(1) Complete 15 clock hours of satisfactory continuing education courses either as one unit or combination of units, not less than one hour each, every two years.

(2) Satisfactory continuing education courses shall fit into the approved curriculum objectives listed in ORS 690.410(1) and the courses of study outlined in OAR 331-515-0010 and must be obtained by:

(a) Participation or attendance at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, association or completion and certification by an approved national home study organization; or

(b) Self-study, participation, or attendance not covered by subsection (a) of this rule may comprise up to eight hours of the total requirement. Self-study may include continuing education obtained by means of the following:

(A) Correspondence courses;

(B) Review of publications, textbooks, printed material, or audio cassette(s);

(C) Viewing of films, videos, or slides; or

(c) Attendance at meetings of the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists may be credited for a maximum of three hours per meeting, totaling no more than four hours per two year period.

(3) Licensees shall report compliance with the continuing education requirement through attestation on the license renewal document. Licensees shall be subject to the provisions of OAR 331-530-0020 pertaining to periodic audit of continuing education.

(4) Continuing education requirements apply whether the applicant renewing a license is living or working within Oregon or outside of the state, if Oregon licensure is maintained.

(5) Hours of continuing education, in excess of the requirement for renewal every two years, will not be carried forward.

(6) Continuing education is required for renewal, every two years, even if the license has been inactive or suspended during that period.

(7) To ensure adequate evidence of attainment of required continuing education is available for audit or investigation by the agency, records of attendance must be maintained by licensees for two years following the two-year continuing education cycle and renewal of the electrologist license.

(8) Licensees failing to obtain 15 clock hours of continuing education every two 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 676.605, 676.615 & 690.385

Stats. Implemented: ORS 676.605, 676.615 & 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 & 333-305-0130; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04, Renumbered from 331-530-0010; HLA 10-2008, f. 9-15-08 & cert. ef. 10-1-08

331-530-0020

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Health Licensing Office will audit a select percentage of licenses determined by the Council to verify compliance with continuing education requirements.

(2) Practitioners notified of selection for audit of continuing education attestation shall submit to the agency, within 30 calendar days from the date of notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-530-0000.

(3) Documentation of attendance at a program or course provided by the sponsor must include:

(a) Name of sponsoring institution/association or organization;

(b) Title of presentation and description of content;

(c) Name of instructor or presenter;

(d) Date of attendance and duration in hours;

(e) Course agenda;

(f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.

(4) Documentation substantiating completion of continuing education through self-study, must show a direct relation to the subjects outlined in OAR 331-515-0010, be submitted on forms provided by the agency and include the following:

(a) Name of sponsor or source, type of study, description of content, date of completion and duration in clock hours;

(b) Name of approved correspondence courses or national home study issues;

(c) Name of publications, textbooks, printed material or audio-recorded material, including date of publication, publisher, and ISBN issued.

(d) Name of films, videos, or slides, including date of production, name of sponsor or producer and catalog number.

(5) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(6) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include, but is not limited to, assessment of a civil penalty and suspension or revocation of the license.

Stat. Auth.: ORS 676.605, 676.615, 690.385 & 690.405

Stats. Implemented: ORS 676.605, 676.615, 690.385 & 690.405

Hist: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 535

ELECTROLOGY: PRACTICE STANDARDS

331-535-0000

Compliance with all Applicable Regulations

(1) Electrologists shall observe all applicable 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 the Oregon Safe Employment Act.

(3) Electrologist shall observe and adhere to all Oregon Occupational Safety & Health Codes (OR-OSHA), OAR 437, 29 CFR 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 Centers 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 654, 676.605, 676.615, 690.390 & 690.405

Stats. Implemented: ORS 654, 676.605, 676.615, 690.390 & 690.405

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-535-0010

Electrologist Practice Standards: Restrictions

(1) Electrologists may provide clients with written information on electrolysis procedures, the purpose for asking specific questions regarding the client's general health, and that any recommendation for medical attention is not to be construed as a medical referral or diagnosis of a physical disease or ailment.

(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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 agency 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 infection control practices as required by the law and rules of the agency. 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 agency 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 676.605, 676.615 & 690.390

Stats. Implemented: ORS 676.605, 676.615 & 690.390

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-535-0030

Handwashing/Protective Gloves; Handling Disposable Materials

(1) **HAND WASHING:** Electrologists shall observe and adhere to the following hand washing 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.

(2) **PROTECTIVE GLOVES:** Electrologists shall observe and adhere to the following protective glove standards when serving clients:

(a) A new pair of disposable gloves must be worn during the treatment of each client;

(b) Hands must be washed in accordance with the hand washing standards stated in subsection (1) of this rule before putting on gloves and immediately after gloves are removed;

(c) If an electrologist uses low-powered gloves, the excess exterior powder must be removed to prevent powder contact with the client's skin during treatment;

(d) When a treatment session is interrupted:

(A) A protective covering must be used over the gloved hand/hands; or

(B) Gloves must be removed and discarded.

(e) When gloves are removed during a treatment session, hands must be washed and a fresh pair of gloves used;

(f) Gloves must be worn during the procedures of mechanical pre-cleaning, cleaning, rinsing, and drying of needles/probes and forceps/tweezers;

(g) Torn or perforated gloves must be removed immediately, and hands must 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(31);

(d) Electrologists shall have both sealable plastic bags and sealable rigid containers available at the facility.

(4) The client's skin shall be cleansed by applying an antiseptic or antibacterial solution prior to and following treatment.

Stat. Auth.: ORS 676.605, 676.615, 690.390 & 690.405

Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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 333-305-0210, 333-305-0215 & 333-305-0235; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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

Required Equipment

(1) All facilities shall have a treatment area or 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 be easily cleanable. Concrete blocks or other masonry used in wall construction shall be covered or made smooth and sealed for a washable surface.

(5) A high-level disinfectant or bleach solution, used according to the manufacturer's instructions, shall be used to disinfect surfaces contaminated by blood or bodily fluids.

(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 or to fish in aquariums.

(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 676.605, 676.615, 690.390 & 690.405(9)
 Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 the State Plumbing Code, OAR 918, division 750.

(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 448, 454, 676.605, 676.615, 690.390 & 690.405(9)
 Stats. Implemented: ORS 448, 454, 676.605, 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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.

Stat. Auth.: ORS 676.615, 690.390 & 690.405(9)
 Stats. Implemented: ORS 433.835 - 433.875, 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 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 requirements listed in subsection (1) of this rule.

(3) Outer surface of waste disposal containers shall be kept clean.

Stat. Auth.: ORS 676.615, 690.390 & 690.405(9)
 Stats. Implemented: ORS 676.615, 690.390 & 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 333-305-0240; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 agency shall authorize the use of disinfecting agents provided those agents meet the criteria set forth in OAR 331-505-0000(12) and (15).

Stat. Auth.: ORS 676.605, 676.615, 690.390 & 690.405
 Stats. Implemented: ORS 676.605, 676.615, 690.390 & 690.405
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 a 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 676.605, 676.615, 690.390 & 690.405
 Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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 333-305-0200 & 333-305-0205; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-540-0020

Approved Sterilization Modes

(1) Electrologists must sterilize instruments used in the practice of electrology by means of an approved sterilizing device registered and listed with the U.S. Food and Drug Administration, used, cleaned and maintained in accordance with the manufacturer's instructions. Approved sterilizing devices include an autoclave (steam or chemical) or dry heat unit.

(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.

(5) Biological test results must be on laboratory letterhead and must contain the test date, and the name, model and serial number of

the unit tested. Biological test results shall be retained for a two-year period and must be available for inspection at all times.

Stat. Auth.: ORS 676.605, 676.615, 690.390 & 690.405

Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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 333-305-0195; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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

Investigative Authority

The Health Licensing Office may initiate and conduct investigations of matters relating to the practice of electrolysis, permanent coloring or tattooing, pursuant to ORS 676.608 and 676.618, and may take appropriate disciplinary action in accordance with the provisions of 676.612 and 690.407.

Stat. Auth.: ORS 676.608, 676.618, 690.405 & 690.405

Stats. Implemented: ORS 676.608, 676.618, 690.405 & 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 333-305-0255; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-545-0020

Schedule of Penalties for Licensing Violations; Violation of Standards

The agency has adopted the following presumptive penalty schedule for the first and second violations of the following laws and rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For subsequent violations the provisions of 331-020-0060 will apply.

(1) Practicing or holding one's self out as available to practice, or using the title electrologist, without first receiving a current, valid license is a violation of ORS 690.355 and OAR 331-030-0020(1)(f) and may incur a penalty of \$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 is a violation of ORS 676.612(4), 690.355, OAR 331-030-0010(4) and/or 331-030-0020(1)(f) and may incur a penalty of \$1,000.

(3) Failing to post a current, valid license in public view is a violation of ORS 690.038(1) and OAR 331-525-0020 and may incur a penalty of \$200.

(4) Failing to provide appropriate photographic identification upon request by the agency is a violation of ORS 676.612(1)(o) and OAR 331-030-0020(4) and may incur a penalty of \$1,000.

(5) Failing to submit changes of required licensing information within the time frame set in rule is a violation of OAR 331-010-0040(1) and/or (2) and may incur a penalty of \$50.

(6) Practicing at location other than places of businesses designated to the agency, except as permitted by rule is a violation of OAR 331-525-0040(1) and may incur a penalty of \$500.

(7) Using a reproduction of a license in place of an original is a violation of OAR 331-030-0020(3) and may incur a penalty of \$50.

(8) Failing to allow inspection of the premises by the agency is a violation of ORS 676.612(1)(o), OAR 331-020-0070(2)(d) and/or 331-525-0035(4) and may incur a penalty of \$1,000.

(9) Failing to meet the facility or practice standards adopted by the agency is a violation of OAR 331-535-0000(1), 331-535-0010, ORS 676.612(1)(j) and 690.390 and may incur a penalty of \$500.

(10) Failing to provide a private or separate treatment area for clients is a violation of OAR 331-535-0050(1) and may incur a penalty of \$100.

(11) Except as provided by rule, allowing animals in the facility is a violation of OAR 331-535-0050(6) and may incur a penalty of \$100.

(12) Failing to maintain the required equipment or have approved test indicators at facility is a violation of ORS 690.390(1) and/or (2) and OAR 331-535-0050(7) and may incur a penalty of \$500 and/or suspension or revocation.

(13) Failing to use approved test indicators or mechanism as required to ensure proper sterilization is a violation of OAR 331-540-0020(3), (4) and/or (5) and may incur a penalty of \$500.

(14) Failing to sterilize instruments using an approved mode is a violation of ORS 690.390(1) and/or (2) and OAR 331-540-0020(1) and/or (2) and may incur a penalty of \$1,000.

(15) Failing to meet sterilization standards is a violation of ORS 690.390(1), (2) and OAR 331-540-0010(2), (3) and/or (4) and may incur a penalty of \$1,000.

(16) Failing to clean instruments prior to sterilization is a violation of ORS 690.390(1) and OAR 331-540-0010(1) and may incur a penalty of \$1,000.

(17) Failing to wash hands before and after treatment and/or wear protective gloves is a violation of OAR 331-535-0030(1) and/or (2) and may incur a penalty of \$500.

(18) Failing to prepare treatment area on a client in accordance with agency standards is a violation of OAR 331-535-0030(4) and may incur a penalty of \$500.

(19) Failing to meet cleanliness and/or storage standards for linens is a violation of 331-535-0040 and may incur a penalty of \$500.

(20) Failing to meet storage requirements for instruments, products or chemicals is a violation of 331-540-0030 and may incur a penalty of \$500.

(21) Failing to dispose of materials contaminated with blood or bodily fluids in a sealable container or appropriate sharps container, or failing to have appropriate containers available is a violation of OAR 331-535-0030(3) and may incur a penalty of \$1,000.

(22) Failing to have required covered waste receptacles is a violation of ORS 690.390(2) and OAR 331-535-0080(1) and may incur a penalty of \$100.

(23) Performing a restricted treatment(s) is a violation of ORS 676.612(1)(j) and OAR 331-535-0010(3) and/or (4) and may incur a penalty of \$1,000.

(24) Failing to have and maintain client case history records is a violation of ORS 690.390(3) and OAR 331-535-0010(2) and may incur a penalty of \$500.

Stat. Auth.: ORS 676.605, 676.615 & 690.407

Stats. Implemented: ORS 676.605, 676.615 & 690.407

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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 550

DEFINITIONS FOR THE PRACTICE OF PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS

331-550-0000

Permanent Coloring and Tattooing Definitions

In addition to definitions listed in OAR 331-505-0000, the following terms apply 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 on a live human being, 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 live human being;

(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 teacher is present and actively involved in direct oversight and training of students who are completing the training requirements of OAR 331-555-0010.

(4) "Instruments" means devices, tools and implements used in permanent coloring and tattooing services.

(5) "Needle" means the implement used to insert dyes or pigments into the dermis of the skin during permanent coloring 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 a teacher in the application of permanent coloring 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 676.615 & 690.405(9)

Stats. Implemented: ORS 676.615 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2007, f. & cert. ef. 3-30-07, cert. ef. 4-1-07

DIVISION 555

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: QUALIFICATIONS FOR LICENSURE

331-555-0010

Approved Course of Study

(1) To be approved by the Oregon Health Licensing Agency, a course of study shall include at least 360 hours of instruction. The course shall include at least 210 hours of theory and at least 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 of practical tattooing experience.

(3) The agency'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, Infection Control 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 must be completed prior to practical work being performed on the general public.

(5) 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 coloring technician and tattoo artist, registered as a teacher by the Department of Education, Private Career Schools.

(6) A registered teacher shall provide direct supervision of practical training on a one-to-one student/teacher ratio as defined in OAR 331-550-0000 for students performing practical training while the student is working on the general public. The Department of Education, Private Career Schools may waive the one-to-one student/teacher ratio in certain circumstances.

(7) Arrangements for the time, place and cost of education and training shall be arranged between the applicant and the school providing the training.

Stat. Auth.: ORS 690.405 & 690.410

Stats. Implemented: ORS 690.405 & 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; HDLP 2-1999, f. & cert. ef. 7-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04, Renumbered from 331-555-0020; HLA 2-2007, f. & cert. ef. 3-30-07, cert. ef. 4-1-07

331-555-0030

Experience Equivalency Standards

An applicant shall not be required to comply with the training requirements under OAR 331-555-0010 to the extent the agency determines that training and/or work experience obtained is equivalent to minimum requirements based on documentation of two years full-time or four years part-time active work experience in the field of permanent coloring or tattooing.

Stat. Auth.: ORS 690.365, 690.405 & 690.410

Stats. Implemented: ORS 690.365, 690.405 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-555-0040

Application Requirements

(1) Individuals applying for licensure to practice permanent coloring or tattooing must meet the requirements of OAR 331-030-0000 in addition to the provisions of this rule.

(2) Applicants must submit a completed application form prescribed by the agency, which shall contain the information listed in OAR 331-030-0000(5) and be accompanied by payment of the application, examination and license fees.

(3) 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.

(4) 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.

(5) The completed application must include submission of satisfactory evidence 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 agency from a licensed or accredited school or an equivalent institution recognized by the agency, showing completion of the prescribed course of study, listed in OAR 331-555-0010 or its equivalent, approved by the agency, 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 agency, 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 or transmitted directly to the agency or delivered in a sealed envelope by an authorized courier.

(b) **OUT OF STATE LICENSURE:** A professional practicing under a valid permanent color or tattoo license issued by a city, state,

or county which meets or exceeds Oregon standards must 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 regulatory authority where the application is currently licensed, and mailed directly to the agency by the regulatory authority.

(c) **EXPERIENCE EQUIVALENCY:** All other permanent color or tattoo professionals working in a city, county, state or country where the practice of permanent coloring and tattooing is unregulated, must provide documentation in the form of tax returns, authenticated by the federal Internal Revenue Service, verifying that the tax returns have been filed. Personal tax returns must substantiate that the individual acquired work experience through two years of active full-time practice in the field of permanent coloring or tattooing.

NOTE: The Division may request additional 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 & 690.405

Stats. Implemented: ORS 690.365 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 560

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: EXAMINATIONS

331-560-0000

Examination Authorization

(1) The Health Licensing Office will conduct examinations for licensure. A schedule of examination dates and times is available at the agency upon request. Applicants will not be eligible for an examination until all documentation and fee requirements have been completed.

(2) The agency 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 such as a driver's license and their original Social Security card at the time of the examination.

Stat. Auth.: ORS 690.370 & 690.405

Stats. Implemented: ORS 690.370 & 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 333-305-0075 & 333-305-0080; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-560-0010

Examination for Licensure

(1) Applicants for licensure must satisfactorily pass the written examination(s) that tests the applicant's knowledge of:

- (a) Basic principles of safety, infection control 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.

(2) The examination shall consist of two sections as follows:

- (a) 100 written multiple choice questions not to exceed one hour in duration; and
- (b) 50 written skill assessment questions not to exceed one hour in duration.

(3) Examination candidates must achieve a 75 percent or higher score on each section to pass the written examination.

(4) The examination will be conducted in English.

(5) 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.

Stat. Auth.: ORS 690.405 & 690.410(3)(b)

Stats. Implemented: ORS 690.405 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 agency 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 agency in advance of the scheduled examination date to make appropriate arrangements contingent upon the type of accommodation requested.

(4) All special examinations are conducted at the agency. If the agency is unable to accommodate the disability on-site special arrangements will be arranged for an adequate test site.

Stat. Auth.: ORS 690.370 & 690.405

Stats. Implemented: ORS 690.370 & 690.405

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-560-0030

Examination Conduct; Disqualification

(1) Examinations are conducted in a designated area with restricted access. Authorization must be provided by the agency before bringing any material or electronic equipment or devices into the examination. 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 may 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 that impedes the normal progress of the examination.

(3) 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. Reexamination will be scheduled at a date, time and place determined by the Director following the date of disqualification. Re-examination will be conducted at the agency.

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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-560-0040

Notification of Examination Results

Examination results will be issued following completion of each examination section as part of the agency's automated testing system. Applicants taking examinations conducted under special accommodation will be mailed results within seven calendar days following the date of examination.

Stat. Auth.: ORS 676.615, 690.370 & 690.405

Stats. Implemented: ORS 676.615, 690.370 & 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 333-305-0095; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-560-0050

Examination Review Procedures

(1) Opportunity to review failed sections of the examination, conducted by use of the electronic touch screen computer testing system, are provided at the conclusion of each examination question/answer selection, or immediately following conclusion of the entire examination. Review of failed examination sections at a later time or date is prohibited.

(2) Applicants retaking the examination must present photographic identification such as a driver's license and their original Social Security card, as required by OAR 331-560-0000.

Stat. Auth.: ORS 676.615 & 690.405

Stats. Implemented: ORS 676.615 & 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 333-305-0100; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-560-0060

Retake of Examination Sections; Additional Training

(1) Failed sections of the examination may be retaken at the next available examination date and time, as scheduling allows. Retaking a failed examination requires registration and payment of the examination fees.

(2) Applicants who fail to pass any section of the written examination after three attempts (initial examination plus two retakes) 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, infection control and sterilization, needles, machines, and equipment. Additional instruction must be obtained though 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 verifies that the applicant has satisfactorily completed the additional required hours of instruction.

Stat. Auth.: ORS 690.370 & 690.405

Stats. Implemented: ORS 690.370 & 690.405

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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 565

**PERMANENT COLOR TECHNICIANS AND
TATTOO ARTISTS: LICENSE ISSUANCE,
RENEWAL AND REACTIVATION**

331-565-0000

License Issuance; Renewal

(1) Licensees are subject to the provisions of OAR 331-030-0010 regarding issuance and renewal of a license, and to the provisions of 331-030-0020 regarding the authorization to practice, identification, and the requirements for issuance of a replacement or duplicate authorization.

(2) Renewal payments received by the agency, or postmarked, after the expiration date but within three years of expiration, will be assessed delinquency (late) fees in addition to the renewal fee.

(3) Failure to meet continuing education requirements listed in OAR 331-570-0000 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.

(4) Failure to renew or reactivate a license within three years from the date of expiration will require reapplication, submission required fees and successfully passing all sections of the examination before a license will be reissued.

Stat. Auth.: ORS 690.385 & 690.405

Stats. Implemented: ORS 690.385 & 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 333-305-0115; HDLP 2-1999, f. & cert. ef. 7-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 10-2008, f. 9-15-08 & cert. ef. 10-1-08

331-565-0020

Facility License Issuance and Renewal; Cooperation in Inspections

All facilities must be licensed to provide permanent color and tattoo services prior to operating permanent color and tattoo facilities.

(1) The agency will issue a facility license to a qualified person, as provided in OAR 331-030-0010, if the applicant:

(a) Is at least 18 years of age, if the applicant is a natural person, as required in ORS 690.365(2). If the applicant is an entity other than a natural person, the entity must be formed and operated in accordance with Oregon law;

(b) Has registered with the Corporations 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 on a form and with the information prescribed by the agency and pays the required application and license fees;

(d) Complies with all applicable rules and regulations;

(e) Certifies that application information is correct; and

(f) Meets the specifications for building, fire and plumbing codes as specified in OAR 331-580-0000 and complies with exit and fire standards established by the Building Codes Agency and Office of the State Fire Marshal.

(2) Facility license applicant must provide a map or direction to the business premises if the facility is located in a rural or isolated area, and submit a copy of the spore test results from applicant's autoclave, or submit a signed attestation requesting an exemption under OAR 331-585-0020(2) based on the exclusive use of prepackaged sterile tattooing equipment, including needles.

(3) A facility license holder must comply with the provisions of OAR 331-030-0010 regarding issuance and renewal of a facility license.

(4) Each facility license holder must:

(a) Allow the agency's enforcement officer to inspect the facility when it is open for business;

(b) Ensure employees cooperate with agency enforcement officers and refrain from impeding an inspection in any way;

(c) Contact the agency in writing to make arrangements for an inspection if the agency has been unable to perform an annual inspection because the facility was closed.

Stat. Auth.: ORS 676.615, 690.360 & 690.405

Stats. Implemented: ORS 676.615, 690.360 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-565-0025

Facility Located in Residence

A facility located in a residence must comply with the provisions of OAR 331-565-0020 in addition to the following criteria:

(1) Have an identifying house number or a sign, which is easily visible from the street and indicates the location of the facility;

(2) Be equipped with the structures, accommodations, and equipment which the agency requires for all facilities; and

(3) 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.

Stat. Auth.: ORS 676.615, 690.360 & 690.405

Stats. Implemented: ORS 690.390 & 690.405

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-565-0030

Facility License Requirements

(1) A facility shall meet the requirements for 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; or

(B) A partner(s) or co-owner(s) is removed, including change in ownership status due to death of facility owner(s).

(c) An existing facility moves or relocates to a new physical address. Facility licenses are not transferable from location-to-

location unless the facility is licensed as a mobile facility under OAR 331-565-0085.

(2) Facility owners closing their facilities shall:

(a) Submit written notice to the agency within five 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 renewable or active status, the facility owner shall submit notice to the agency prior to reopening the facility and resuming business operations/services.

Stat. Auth.: ORS 676.615, 690.360 & 690.405

Stats. Implemented: ORS 676.615, 690.360 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2007, f. & cert. ef. 3-30-07, cert. ef. 4-1-07

331-565-0040

Display of License

All practitioner and facility licenses must be posted in public view.

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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 & 690.415

Stats. Implemented: ORS 690.405 & 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) Licensees shall not practice at any location other than the place or places of business listed with the agency. However, licensees may provide services outside the premises of a licensed facility on persons residing in a health care facility or persons confined to their residence through medical disability or restriction.

(2) All licensees who perform services at approved locations as listed in subsection (1) of this rule, or at more than one business location shall carry their license with them and post it while working.

(3) Licensees working in a mobile facility in accordance with OAR 331-565-0085 must comply with provisions of this rule.

Stat. Auth.: ORS 676.615, 690.390 & 690.405(9)

Stats. Implemented: ORS 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2007, f. & cert. ef. 3-30-07, cert. ef. 4-1-07

331-565-0075

Demonstration Permit

(1) "Demonstration permit" is an authorization pursuant to ORS 690.405 to practice on a limited basis for a maximum of 30 consecutive days.

(2) A person not licensed under ORS 690.365, who intends to demonstrate, teach or perform permanent coloring or tattooing services, temporarily for educational purposes or at artistic competitions, where services are not performed upon the public, must first obtain a demonstration permit from the agency.

(3) To be granted a demonstration permit a person must meet the following requirements:

(a) Submit an application on a form prescribed by the agency;

(b) Provide satisfactory evidence of holding a valid license in their city, state, or country;

(c) Describe the purpose for which the permit is sought; and

(d) Pay the required application and permit fees.

(4) The demonstration permit will specify the period during which the person is permitted to demonstrate, teach or perform services.

Stat. Auth.: ORS 676.615 & 690.405

Stats. Implemented: ORS 676.615 & 690.405

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-565-0080

Temporary Facility Permit

(1) "Temporary facility permit" is an authorization pursuant to ORS 690.405 to operate a facility on a limited basis, not to exceed 30 consecutive calendar days, at locations away from the primary facility, such as fairs, carnivals or bazaars.

(2) A person who intends to operate a facility on a limited basis away from a primary licensed facility must first obtain a temporary facility permit from the agency.

(3) To be granted a temporary facility permit, a person must meet the following requirements:

(a) Be 18 years of age or older, if the applicant is a natural person. If the applicant is an entity other than a natural person, the entity must be formed and operated in accordance with Oregon law;

(b) Apply on forms prescribed by the agency and provide the required information and application fees.

(4) A temporary facility must:

(a) Receive the permit and post the authorization in public view before opening for business;

(b) Comply with the rules of the agency concerning health, safety and infection control;

(c) Comply with the applicable health and safety laws and rules of the agency and any other state agencies;

(d) Pay the required permit fees.

(5) The temporary facility permit shall specify the period during which the permit is valid.

Stat. Auth.: ORS 676.615 & 690.405

Stats. Implemented: ORS 676.615 & 690.405

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-565-0085

Mobile Facility License

(1) "Mobile Facility License" means an authorization issued under ORS 690.380 to operate a facility outside of or away from a permanent physical location within an approved enclosed transportable vehicle, such as recreational vehicles or trailers, which has the ability to transport the business operation to multiple locations in the State of Oregon during specific approved periods of time.

(2) A mobile facility license holder is subject to and must comply with all requirements of OAR 331, divisions 565, 575, 580 and 585, unless otherwise specified in subsection (6) of this rule.

(3) To be granted a mobile facility license, a person must submit a mobile facility application to the agency, on an approved form prescribed by the agency, pay the required application and license fees, and meet requirements of OAR 331-565-0020. Applicants must provide satisfactory evidence of the following information:

(a) The make, model, year and license plate number of the vehicle that will be designated as the mobile facility;

(b) A permanent mailing address for the mobile facility license applicant or license holder;

(4) A mobile facility license holder must comply with the following requirements:

(a) Submit written notification to the agency on a prescribed Mobile Facility Service Location form for each new physical location where services will be provided. The notification form must be received by the agency before the first day of operation at the new physical location;

(b) The Mobile Facility Service Location form will be provided by the agency and may be submitted by regular United States Postal Service or by electronic mail to OHLA.info@state.or.us or in person at the office;

(c) The mobile facility must remain stationary while services are being provided to clients;

(d) The mobile facility shall not operate at any physical location for more than 15 consecutive days in one calendar month.

(5) To be eligible to renew a mobile facility license, the license holder must comply with provision of OAR 331-565-0020 and 331-030-0010, and must submit to the agency a minimum of one physi-

cal location change on a Mobile Facility Service Location form during the previous year where services were provided.

(6) The mobile facility license is not subject to the provisions of OAR 331-565-0030(1)(c) or 331-565-0060(1).

Stat. Auth.: ORS 676.615, 690.360, 690.380, 690.410, 690.415

Stats. Implemented: PRS 676.605, 676.615, 690.380

Hist.: HLA 2-2007, f. & cert. ef. 3-30-07, cert. ef. 4-1-07

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 comply with the following continuing education requirements:

(1) Complete 15 clock hours of satisfactory continuing education, either as one unit or combination of units, not less than one hour each, every three years.

(2) Satisfactory continuing education courses must fit into the approved course of study outlined in OAR 331-555-0010, and must be obtained as follows:

(a) Participation or attendance at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, or completion and certification by an approved national home study organization; or

(b) Self-study, participation, or attendance not covered by subsection (a) of this rule may comprise up to six hours of the total requirement. Self-study may include continuing education obtained by means of the following:

(A) Correspondence courses;

(B) Review of publications, textbooks, printed material, or audio cassette(s);

(C) Viewing of films, videos, or slides;

(c) Attendance at meetings of the Advisory Council for Electrolgists and Permanent Color Technicians and Tattoo Artists may be credited for a maximum of three hours per meeting, totaling no more than six hours per three year reporting period.

(3) Licensees must report compliance with the continuing education requirement through attestation on the license renewal document. Licensees will be subject to the provisions of OAR 331-570-0020 pertaining to periodic audit of continuing education.

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

(5) Hours of continuing education, in excess of the requirement for renewal every three years, will not be carried forward.

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

(7) To ensure adequate evidence of attainment of required continuing education is available for audit or investigation by the agency, records of attendance must be maintained for two years following the three-year continuing education cycle and renewal of the permanent coloring and tattooing license.

(8) 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 676.605, 676.615 & 690.385

Stats. Implemented: ORS 676.605, 676.615 & 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 & 333-305-0130; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04, Renumbered from 331-570-0010

331-570-0020

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Health Licensing Office will audit a select percentage of licenses determined by the Council to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation must submit to the agency, within 30 calendar days from the date of notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-570-0000.

(3) Documentation of attendance at a program or course provided by the sponsor must include:

(a) Name of sponsoring institution/association or organization;

(b) Title of presentation and description of content;

(c) Name of instructor or presenter;

(d) Date of attendance and duration in hours;

(e) Course agenda;

(f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.

(4) Documentation substantiating the completion of continuing education through self-study must show a direct relation to subjects outlined in OAR 331-555-0010, be submitted on forms provided by the agency and include the following:

(a) Name of sponsor or source, type of study, description of content, date of completion and duration in clock hours;

(b) Name of approved correspondence courses or national home study issues;

(c) Name of publications, textbooks, printed material or audio-cassette's, including date of publication, publisher, and ISBN issued.

(d) Name of films, videos, or slides, including date of production, name of sponsor or producer and catalog number.

(5) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(6) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include, but is not limited to assessment of a civil penalty and suspension or revocation of the license.

Stat. Auth.: ORS 676.615 & 690.405

Stats. Implemented: ORS 676.615 & 690.405

Hist.: HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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.

(3) 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, date of birth and address of the client,

and the date and duration of each service, type of service, special instructions, and medical history or client conditions, including:

- (a) Diabetes;
 - (b) Client sensitivities;
 - (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 or legal guardian consent, except when authorized or prescribed by a physician's statement exclusively for medical repigmentation as defined in OAR 331-550-0000(8).

(8) Proof of age must be documented in the client's record by one of the following:

(A) Copy of current government issued photographic identification; or

(B) Notation of the type of current government issued photographic identification presented with the identification number.

Stat. Auth.: ORS 676.605, 676.615, 690.390 & 690.405(9)
 Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 sharpened 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. The use of any clear plastic wrap for covering tattoos is prohibited.

(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 676.605, 676.615 & 690.390

Stats. Implemented: ORS 676.605, 676.615 & 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 333-305-0252; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-575-0030

Handwashing/Protective Gloves; Handling Disposable Materials

(1) **HAND WASHING:** Permanent color technicians and tattoo artists shall observe and adhere to the following hand washing 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 jelly, aerosol spray, foam, or pre-packaged hand wipes, immediately before and after serving each client as needed. Use of bar soap is prohibited;

(2) **PROTECTIVE GLOVES:** Permanent color technicians and tattoo artists shall observe and adhere to the following protective glove standards when serving clients:

(a) A new pair of disposable gloves must be worn during the treatment of each client;

(b) Hands must be washed in accordance with the hand washing standards stated in subsection (1) of this rule before putting on gloves and immediately after gloves are removed;

(c) If a practitioner uses low-powdered gloves, the excess exterior powder must be removed to prevent powder contact with the client's skin during treatment;

(d) When a treatment session is interrupted:

(A) A protective covering must be used over the gloved hand/hands; or

(B) Gloves must be removed and discarded.

(e) When gloves are removed during a treatment session, hands must be washed and a fresh pair of gloves used;

(f) Torn or perforated gloves must be removed immediately, and hands must 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.

(4) The client's skin shall be cleansed by applying an antiseptic or antibacterial solution prior to and following treatment.

Stat. Auth.: ORS 676.605, 676.615, 690.390 & 690.405
 Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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 333-305-0210, 333-305-0215 & 333-305-0235; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-575-0040

Communicable and Blood Borne Diseases

Licensees must observe the Centers for Disease Control and Prevention (CDC) Standard Precautions as defined in Oregon Administrative Rule 437-002-0360(25), and 29 CFR 1910.1030 standards, when providing services to consumers. CDC Standard Precautions describe an approach to infection control that assumes exposure to all human blood and specified human body fluids are infectious for HIV, HBV, and other blood borne pathogens. Precautions to reduce the likelihood of exposure include hand washing, gloving, using personal protective equipment, preventing injury, ensuring proper handling and disposal of needles and other sharp instruments and of products or equipment contaminated with blood and body fluids.

Stat. Auth.: ORS 676.605, 676.615 & 690.390
 Stats. Implemented: ORS 676.605, 676.615 & 690.390
 Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2007, f. & cert. ef. 3-30-07, cert. ef. 4-1-07

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 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 Codes (OR-OSHA), OAR 437 and 29 CFR 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.

[Publications: Publications referenced are available from the agency.]
 Stat. Auth.: ORS 654, 676.605, 676.615 & 690.390
 Stats. Implemented: ORS 654, 676.605, 676.615 & 690.390

Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-580-0010

Criteria for Facilities

(1) All facilities shall have a treatment area/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 be 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) A high-level disinfectant or bleach solution, used according to the manufacturer's instructions, shall be used to disinfect surfaces contaminated by blood or bodily fluids.

(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 to 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 676.605, 676.615, 690.390 & 690.405(9)
 Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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, the State Plumbing Code, OAR 437 and 918, division 750.

(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 448, 654, 676.605, 676.615, 690.390 & 690.405(9)
 Stats. Implemented: ORS 448, 654, 676.605, 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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.

Stat. Auth.: ORS 676.615, 690.390 & 690.405(9)
 Stats. Implemented: ORS 433.835 - 433.875, 676.615, 690.390 & 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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 585

PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS: SAFETY AND STERILIZATION STANDARDS

331-585-0000

Cleaning Requirements and Standards

(1) All items that come in direct contact with the client's skin that do not require disinfecting shall be clean.

(2) All items that 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 agency shall authorize the use of disinfecting agents provided those agents are EPA registered and meet the criteria set forth in OAR 331-505-0000(12) and (15).

Stat. Auth.: ORS 676.605, 676.615, 690.390 & 690.405
Stats. Implemented: ORS 676.605, 676.615, 690.390 & 690.405
Hist.: HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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 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 coloring 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 676.605, 676.615, 690.390 & 690.405
Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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 333-305-0200 & 333-305-0205; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-585-0020

Approved Sterilization Modes

(1) Licensees must sterilize instruments used in the practice of permanent coloring or tattooing by means of an approved sterilizing device registered and listed with the U.S. Food and Drug Administration, used, cleaned and maintained in accordance with the manufacturer's instructions. Approved sterilizing devices include an autoclave (steam or chemical) or dry heat unit.

(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.

(5) Biological test results must be on laboratory letterhead and must contain the test date, and the name, model and serial number of

the unit tested. Biological test results shall be retained for a two-year period and must be available for inspection at all times.

Stat. Auth.: ORS 676.605, 676.615, 690.390 & 690.405
Stats. Implemented: ORS 676.605, 676.615, 690.390 & 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 333-305-0195; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

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

Investigative Authority

The Health Licensing Office may initiate and conduct investigations of matters relating to the practice of electrolysis, permanent coloring or tattooing, pursuant to ORS 676.608 and 676.618, and may take appropriate disciplinary action in accordance with the provisions of 676.612 and 690.407.

Stat. Auth.: ORS 676.608, 676.618, 690.405 & 690.407
Stats. Implemented: ORS 676.608, 676.618, 690.405 & 690.407
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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

331-590-0020

Schedule of Penalties for Licensing Violations; Violation of Standards

The Health Licensing Office has adopted the following presumptive penalty schedule for the first and second violations of the following laws and rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referenced in OAR 331-020-0060. For subsequent violations the provisions of 331-020-0060 will apply.

(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 is a violation of ORS 690.355 and OAR 331-030-0020(1)(f) and may incur a penalty of \$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 is a violation of ORS 676.612(4) or 690.355 and may incur a penalty of \$1,000.

GENERAL ADMINISTRATION

331-601-0000

Definitions

The following definitions apply to OAR 331-610-0000 through 331-650-0010.

(1) "Advisory Council" means, pursuant to ORS 694.165, the entity that advises the agency in matters relating to the practice of hearing aid dispensing in accordance with 694.170. The agency director controls the regulatory operations and has decision-making authority on all substantive matters.

(2) "Agency" means the Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(3) "Application" means an original document provided by the agency, bearing an original signature of the applicant.

(4) "Application fee" means fee for processing application or reapplication for licensure, including administering an examination.

(5) "Assistive listening device" means a device that may meet the statutory definition of a hearing aid but has been determined by the agency not to be a hearing aid for the purposes of ORS 694 and OAR 331, divisions 610 through 650.

(6) "Audiologist" means a person licensed under ORS 681 and who practices audiology as defined by that statute.

(7) "Consummation of sale" means when the purchaser takes delivery or possession of the hearing aid after agreeing to purchase the hearing aid.

(8) "Demonstration instrument" means a hearing aid that has been worn by a prospective user as part of a bona fide hearing aid evaluation conducted in the presence of the hearing aid specialist.

(9) "Delivery" means, as used in ORS 694.042(2), acceptance and possession of the hearing aids by the consumer, which starts the 30 calendar day rescission right period. Hearing aids that have been out of the consumer's possession for a period of 72 hours or more for any alternation or adjustment during the 30 calendar day rescission right period restarts the 30 calendar day rescission right period. Delivery includes:

(a) The initial fitting and delivery of the hearing aid(s) must be performed in person by a licensed hearing aid specialist, including the acceptance and possession of the hearing aid(s);

(b) Return of hearing aid by the consumer to the specialist may be hand carried or mailed by certified mail to the official place of business of the hearing aid specialist.

(10) "Direct supervision" means the supervisor is present in the facility for the purpose of supervising and in view the procedures performed by a registered trainee who has not completed the training requirements stated in OAR 331-610-0010.

(11) "Director" means the individual who is responsible for the performance of the agency as defined in ORS 676.610. The director appoints all subordinate officers and employees to carry out the duties of the agency.

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

(13) "Facility" means physical place of business where services defined in ORS 694.015(4) are conducted, including but not limited to all areas used by hearing aid dealer specialist and client, i.e. testing location, waiting/reception area.

(14) "Health Licensing Office" means the agency.

(15) "Hearing aid" as defined in ORS 694.015(3) does not mean assistive listening devices as set forth in OAR 331-640-0000.

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

(17) "Indirect supervision" means the supervisor is not required to be on the premises while the procedures are performed by a temporary hearing aid specialist.

(18) "Licensed" means the authority to practice pursuant to ORS 694.025, which has not been revoked or expired without renewal.

(19) "Place or places of business" means the name, mailing address, telephone number and location where the licensee deals in hearing aids.

(3) Failing to post a current, valid license in public view is a violation of OAR 331-525-0020 and may incur a penalty of \$200.

(4) Failing to provide appropriate photographic identification upon request by the agency is a violation of ORS 676.612(1)(o) and OAR 332-030-0020(4) and may incur a penalty of \$1,000.

(5) Failing to submit changes of required licensing information within time frame set in rule is a violation of OAR 331-010-0040(1) and (2) and may incur a penalty of \$50.

(6) Practicing at location other than places of businesses designated to the agency, except as permitted by rule is a violation of OAR 331-565-0060(1) and may incur a penalty of \$500.

(7) Using a reproduction of a license in place of an original is a violation of OAR 331-030-0020(3) and may incur a penalty of \$50.

(8) Failing to allow inspection of the premises by the agency upon request is a violation of ORS 676.612(1)(o), OAR 331-020-0070(2)(d) and/or 331-565-0020(4) and may incur a penalty of \$1,000.

(9) Failing to meet the facility or practice standards adopted by the agency is a violation of ORS 676.612(1)(j), 690.390(1) and OAR 331-580-0000(1) and may incur a penalty of \$500.

(10) Failing to provide a private or separate treatment area for clients is a violation of OAR 331-580-0010(1) and may incur a penalty of \$100.

(11) Except as provided by rule, allowing animals in the facility is a violation of OAR 331-580-0010(6) and may incur a penalty of \$100.

(12) Failing to maintain the required equipment or have approved test indicators at facility is a violation of ORS 690.390(2) and OAR 331-575-0000 and may incur a penalty of: \$500 and/or suspension or revocation.

(13) Failing to use approved test indicators or mechanism as required to ensure proper sterilization is a violation of ORS 690.390(1) and OAR 331-585-0020(3), (4) and/or (5) and may incur a penalty of \$500.

(14) Failing to sterilize instruments using an approved mode is a violation of ORS 690.390(1) and (2), OAR 331-585-0020(1) and/or (2) and may incur a penalty of \$1,000.

(15) Failing to meet sterilization standards is a violation of ORS 690.390(1) and (2) and OAR 331-585-0010(2) and/or (3) and may incur a penalty of \$1,000.

(16) Failing to clean instruments prior to sterilization is a violation of OAR 331-585-0010(1) and may incur a penalty of \$1,000.

(17) Failing to wash hands before and after treatment and/or wear protective gloves is a violation of OAR 331-575-0030(1) and/or (2) and may incur a penalty of \$500.

(18) Failing to prepare treatment area on a client in accordance with agency standards is a violation of OAR 331-575-0030(4) and may incur a penalty of \$500.

(19) Failing to meet cleanliness and/or storage standards for linens is a violation of OAR 331-575-0050 and may incur a penalty of \$500.

(20) Failing to meet storage requirements for instruments, products or chemicals is a violation of OAR 331-585-0030 and may incur a penalty of \$500.

(21) Failing to dispose of materials contaminated with blood or bodily fluids in a sealable container or appropriate sharps container, or failing to have appropriate containers available is a violation of OAR 331-575-0030(3) and may incur a penalty of \$1,000.

(22) Failing to have required covered waste receptacles is a violation of ORS 690.390(3) and OAR 331-585-0040(1) and may incur a penalty of \$100.

(23) Performing a restricted treatment is a violation of ORS 676.612(1)(j) and OAR 331-575-0010(7) and may incur a penalty of \$1,000.

(24) Failing to have and maintain client case history records is a violation of ORS 690.390(3) and OAR 331-575-0010(1), (2), (3), (4) and/or (5) and may incur a penalty of \$500.

Stat. Auth.: ORS 676.605, 676.615 & 690.407

Stats. Implemented: ORS 676.605, 676.615 & 690.407

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; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04

(20) "Probation" means continuation of licensure under conditions set by the agency.

(21) "Public view" means open to view and easy for the public to see.

(22) "Purchase price" means:

(a) The total amount paid or agreed to be paid by or on behalf of the consumer includes the cost of the hearing aid(s) and related professional fees.

(b) Professional fees shall include fees charged for the actual fitting and sale of the hearing aid(s):

(A) The evaluation or measurement of the powers or range of human hearing as they relate to hearing aid fitting;

(B) Hearing aid evaluation;

(C) Hearing aid consultation;

(D) Hearing aid recommendation;

(E) Hearing aid selection;

(F) Hearing aid fitting and dispensing;

(G) Adaptation of a hearing aid, if related to the original purchase;

(H) Counseling, if related to the original purchase and done by the person dealing in hearing aids and/or company, firm or facility involved in dispensing of the original hearing aid, and any other fees for service which are charged in regards to a hearing aid being fitted as a therapeutic device;

(I) Ear impression and ear molds.

(c) Professional fees charged for diagnostic testing for medical use when done by a physician or on a physician's order shall be excluded from this definition of professional fees.

(23) "Reconditioned" means a used hearing aid that has been rebuilt or is a hearing aid that consists of both old and new parts.

(24) "Renew" means to extend a current license for two years beyond expiration or to bring an inactive license to current, active status.

(25) "Used hearing aid" means any hearing aid that has been worn for any period of time, except where the hearing aid is defined as a demonstration instrument in OAR 331-601-0000(8).

(26) "Temporary hearing aid specialist" means an individual who has applied for and received a provisional license to work under the supervision of a licensed hearing aid specialist.

Stat. Auth.: ORS 676.605, 676.615 & 694.170

Stats. Implemented: ORS 676.605, 676.615 & 694.170

Hist.: HD 12, f. 4-20-72, ef. 5-1-72; HD 13-1984, f. & ef. 6-28-84, Renumbered from 333-025-0025; HD 8-1986, f. & ef. 5-29-86; HD 11-1987, f. & ef. 7-28-87; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0000, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 6-2008, f. 9-15-08, cert. ef. 10-1-08

331-601-0010

Fees

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:

(A) License: \$125.

(B) Temporary license: \$150.

(C) Trainee registration: \$100.

(b) Examination:

(A) Oregon laws & rules: \$50.

(B) Written: \$150.

(C) Practical: \$175.

(D) Audiologist: \$50.

(c) Original issuance of license:

(A) License: \$250.

(B) Temporary license: \$100.

(d) Renewal of license: \$250

(e) Delinquent (late) renewal of license: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.

(f) Replacement of license, including name change: \$25.

(g) Duplicate license document: \$25 per copy with maximum of three.

(h) Affidavit of licensure: \$50.

(i) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.615, 694.155 & 694.185

Stats. Implemented: ORS 676.605, 676.615, 694.155 & 694.185

Hist.: HD 24-1985(Temp), f. & ef. 10-17-85; HD 33-1985, f. & ef. 12-13-85; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 14-1990, f. 6-1-90, cert. ef. 7-1-90; HD 17-1990(Temp), f. 6-15-90, cert. ef. 7-1-90; HD 21-1990(Temp), f. & cert. ef. 7-3-90; HD 22-1990, f. & cert. ef. 8-15-90; HD 14-1991(Temp), f. 9-30-91, cert. ef. 10-1-91; HD 21-1991, f. & cert. ef. 12-31-91; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; OHD 9-1999, f. & cert. ef. 11-15-99; OHD 10-2000, f. & cert. ef. 11-15-00; Renumbered from 333-025-0005, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 6-2008, f. 9-15-08, cert. ef. 10-1-08

DIVISION 610

TRAINING AND QUALIFICATIONS

331-610-0000

Qualification Pathways

To obtain an Oregon hearing aid specialist license, a person must provide completed application documentation prescribed by the agency pursuant to OAR 331-030-0000 and 331-620-0000, provide satisfactory evidence of meeting certification requirements, which includes qualifying criteria listed in one of the following certification pathways, and submit payment of all required fees.

(1) **TRAINEE REGISTRATION:** An applicant for trainee registration must submit a completed Training Registration Agreement, Declaration of Responsibility required by ORS 694.065(2), and complete core competencies pursuant to OAR 331-610-0010. Documentation must be submitted on agency prescribed forms.

(2) **AUDIOLOGIST:** An applicant must submit a copy of an Oregon state audiologist license, copy of American Speech and Hearing Association certification in audiology, or copy of official transcripts from an accredited training program in audiology.

(3) **OUT-OF-STATE LICENSURE:** An applicant must provide documentation, in the form of an Affidavit of Licensure, submitted directly to the agency from the originating state's regulatory office, evidencing that the applicant currently holds or held a hearing aid specialist license within three years immediately prior to the application date and that the licensee has not been subject to disciplinary action involving suspension or revocation, or no action is currently pending against the licensee, and no civil penalties are outstanding against the licensee.

(4) **QUALIFYING CREDENTIALS:** An applicant must provide documentation evidencing qualification for examination and licensure as a hearing aid specialist. Such documentation may include a copy of certification by the American Board of Otolaryngology, a physician's license showing American Board of Otolaryngology certification, or, a copy of certification from the National Board for Certification in Hearing Instrument Sciences.

Stat. Auth.: ORS 676.605, 676.615, 694.065, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.615, 694.065, 694.155 & 694.170

Hist.: HD 24-1985(Temp), f. & ef. 10-17-85; HD 33-1985, f. & ef. 12-13-85; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 14-1990, f. 6-1-90, cert. ef. 7-1-90; HD 17-1990(Temp), f. 6-15-90, cert. ef. 7-1-90; HD 21-1990(Temp), f. & cert. ef. 7-3-90; HD 22-1990, f. & cert. ef. 8-15-90; HD 14-1991(Temp), f. 9-30-91, cert. ef. 10-1-91; HD 21-1991, f. & cert. ef. 12-31-91; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; OHD 9-1999, f. & cert. ef. 11-15-99; OHD 10-2000, f. & cert. ef. 11-15-00; Renumbered from 333-025-0005(5)-(9), HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0010

Training and/or Experience Requirements

To be approved by the agency, a hearing aid specialist training program must include at least 62 hours of theory and 98 hours of practical experience which must include at least 30 completed procedures covering all of the requirements for audiometric testing, earmold impressions, hearing aid selection, fitting and follow up care, and infection control and cleanliness. A training program must include the following core competencies for hearing aid fitting:

(1) Basic Knowledge — Theory Hours 15;

(a) General principals of acoustics and hearing/speech acoustics;

(b) Conductive and sensory-neural disorders of hearing;

(c) The human ear: external, middle, and inner;

(d) Applicable Oregon Revised Statutes and Oregon Administrative Rules;

(2) Hearing aid standards — Theory Hours 15;

- (a) American National Standards Institute;
- (b) Food and Drug Administration;
- (3) Audiometric Testing — Theory Hours 10, Practical Hours 35;
- (a) Basic equipment check; adequate test environment;
- (b) Otoscope technique/client management;
- (c) Puretone audiometry; air conduction and bone conduction and recording audiograms;
- (d) Masking: air conduction and bone conduction;
- (e) Speech reception threshold;
- (f) Most comfortable loudness level;
- (g) Uncomfortable loudness level;
- (h) Speech audiometry;
- (4) Earmold impressions — Theory Hours 5, Practical Hours 15;
- (a) Instructions to client;
- (b) Otoscopic inspection;
- (c) Dam placement and verification;
- (d) Impression material preparation and insertion;
- (e) Impression removal and evaluation;
- (f) Impression handling and preparation for transport;
- (5) Hearing aid selection, fitting and follow up care — Theory Hours 15, Practical Hours 45;
- (a) Acoustic couplers;
- (b) Hearing aid components;
- (c) Physical characteristics of hearing aids;
- (d) Electro-acoustic characteristics of hearing aids;
- (e) Problem solving;
- (f) Hearing aid modification and adaptation;
- (g) Basic hearing aid repair;
- (6) Infection control and cleanliness — Theory Hours 2, Practical Hours 3;
- (a) Disinfection;
- (b) Single use disposable items;
- (c) Hand washing.

Stat. Auth.: ORS 676.615, 694.065, 694.155 & 694.170

Stats. Implemented: ORS 676.615, 694.065, 694.155 & 694.170

Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0008, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0020

Trainee Registration

(1) A trainee, registered under ORS 694.065(1) may deal in hearing aids under the direct supervision of a designated supervisor except that a trainee may not fit or sell hearing aids.

(2) The agency will authorize an Oregon licensed hearing aid specialist to act as designated supervisor of a trainee provided the licensee holds a valid license, has been actively practicing for at least three years, and has not had any disciplinary action or civil penalty imposed by the agency.

(3) A licensed hearing aid specialist must not supervise more than four trainees at any one time.

(4) A designated supervisor will not provide training as outlined in OAR 331-610-0010 until a trainee registration agreement and Declaration Of Responsibility has been submitted to the agency.

(5) A designated supervisor must notify the agency in writing within five calendar days if the trainee is no longer being supervised and trained, and must provide a Certification of Training form to the agency showing the number of hours of training completed.

(6) A designated supervisor's authorization may be withdrawn for providing incomplete or inadequate training, falsifying documentation, or allowing the trainee to fit or sell hearing aids.

Stat. Auth.: ORS 676.615, 694.155, 694.095 & 694.170

Stats. Implemented: ORS 676.615, 694.155, 694.095 & 694.170

Hist.: HD 13-1984, f. & ef. 6-28-84; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0007(5)-(10), HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0030

Supervision of Temporary Hearing Aid Specialists

(1) An individual who holds a valid Oregon hearing aid specialist license who has been actively practicing for at least three years and has not had any disciplinary action or civil penalty imposed by the agency, may act as a designated supervisor for a temporary licensee. A Declaration of Responsibility form, prescribed by the agency, must be signed and filed with the agency before supervising any temporary

hearing aid specialist. The form must indicate the name of the supervising hearing aid specialist, place of business, telephone number, current license number, and the name, address, and license number of the temporary hearing aid specialist.

(2) The testing, fitting, or selling of a hearing aid by a temporary hearing aid specialist shall be performed under the authority, control, and indirect supervision of the licensed hearing aid specialist designated as the supervisor. The designated supervisor must review and approve the temporary hearing aid specialist's work before ordering the recommended hearing aid(s).

(3) A designated supervisor shall exercise management, guidance, and control over the activities of the temporary hearing aid specialist; and shall exercise professional judgment and be responsible for all matters relative to the fitting and selling of a hearing aid.

(4) Approval of a temporary hearing aid specialist's work must be documented by the handwritten signature of the designated supervisor, license number, and date of review placed adjacent to the temporary hearing aid specialist's signature on any audiogram, order form, and office copy of a statement to a prospective hearing aid purchaser as required in ORS 694.036 and 694.042.

Stat. Auth.: ORS 676.615, 694.095, 694.155 & 694.170

Stats. Implemented: ORS 676.615, 694.095, 694.155 & 694.170

Hist.: HD 13-1984, f. & ef. 6-28-84; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0007, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0040

Examination

(1) After the Health Licensing Office determines training and/or licensure qualifications have been met, applicants will be notified of their eligibility to take or schedule an examination. The examination consists of a written segment covering subjects set forth in ORS 694.075(1) and (3) and a practical or demonstration of skill segments pursuant to 694.075(2).

(2) The written segment of the examination may be a national examination and will include questions covering Oregon law and rules regulating hearing aids.

(3) The examination shall be closed book, prepared and conducted in English.

(4) The practical segment of the examination consists of four sections: audiometric testing, masking, taking earmold impressions, and fitting hearing aids.

(5) Sections of both the written and practical segments of the examination shall be scored separately. The passing score for each section is 70% or above.

(6) Applicants, on initial examination, shall take all sections of both segments of the examination

(7) Applicants shall be mailed notification of the date, time and place of the examination at least 15 calendar days in advance.

(8) Applicants shall be required to provide photographic identification such as a driver's license, and their original Social Security card before being allowed entrance to the examination.

(9) Applicants failing the written segment of the examination shall be given information on examination appeal and/or rescoring procedures. Applicants shall initiate any request for rescoring of the written examination with the agency within 30 calendar days from the date of the notification of the examination results.

(10) Notwithstanding subsections (1) through (9) of this rule, Oregon licensed audiologists will be required to take and pass only the Oregon laws and rules section of the written examination.

(11) Examinations are scheduled at a date and time established by the agency.

Stat. Auth.: ORS 676.605, 676.615, 694.065, 694.075, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.615, 694.065, 694.075, 694.155, 694.170

Hist.: HB 144, f. 6-27-60; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 17-1994(Temp), f. & cert. ef. 6-15-94; HD 26-1994, f. 9-29-94, cert. ef. 10-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0004(1)-(10), HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0050

Examination Conduct; Disqualification

(1) Examinations are conducted in a designated area with restricted access. Authorization must be provided by the agency before bringing any material or electronic equipment or devices into the

examination. 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 may 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. Reexamination will be scheduled at a date, time and place determined by the Director following the date of disqualification.

Stat. Auth.: ORS 676.605, 676.615, 694.065 & 694.155

Stats. Implemented: ORS 676.605, 676.615, 694.065 & 694.155

Hist.: HB 144, f. 6-27-60; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 17-1994(Temp), f. & cert. ef. 6-15-94; HD 26-1994, f. 9-29-94, cert. ef. 10-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0004(11)-(13), HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 620

LICENSURE AND RENEWAL

331-620-0000

Application Requirements

(1) Individuals applying for licensure to practice as a Hearing Aid Specialist must meet the requirements of OAR 331-030-0000 and 331-030-0020, in addition to the remaining requirements of this rule.

(2) Applicants must submit an application form prescribed by the agency, which shall contain information listed in OAR 331-030-0000(5), be accompanied by payment of the appropriate fees, and include documentation evidencing completion of necessary training and/or licensure, according to one of the qualification pathways listed in 331-610-0000(1) through (4).

(3) Application(s) for examination must be received by the agency at least 30 calendar days before the scheduled examination date, in order to be processed and eligible for examination.

Stat. Auth.: ORS 676.615, 694.055 & 694.155

Stats. Implemented: ORS 676.615, 694.055 & 694.155

Hist.: HB 144, f. 6-27-60; HD 13, 1984, f. & ef. 6-28-84; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0002, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-620-0010

Temporary License

(1) A temporary license may be issued to an applicant who meets the application requirements of ORS 694.065(2) and OAR 331-610-0000(1) and (3) following agency receipt of a completed application and evidence of training, or Affidavit of Licensure from another state, and the required fee(s).

(2) The temporary license will be issued for a one-year period, expiring on the last day of the month one year from the date of issuance.

(3) Attainment of permanent licensure status by satisfactorily passing the examination supersedes the temporary hearing aid specialist license.

(4) A temporary license holder may change their designated supervisor if a new Declaration of Responsibility form is signed by the

new supervisor and submitted with the application fee to the agency within five days of separation from the former designated supervisor.

Stat. Auth.: ORS 676.615, 694.095 & 694.155

Stats. Implemented: ORS 676.615, 694.095 & 694.155

Hist.: HB 144, f. 6-27-60; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0006, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-620-0020

Licensure

(1) Licensees are subject to the provisions of OAR 331-030-0010 regarding the issuance and renewal of a license, and to the provisions of OAR 331-030-0020 regarding the authorization to practice, identification, and the requirements for issuance of a duplicate authorization.

(2) A license renewal application received by the agency or postmarked after a license has expired but within three years from the expiration date, may be approved upon payment of the renewal and delinquency fees and attestation of having obtained required continuing education pursuant to OAR 331-630-0000.

(3) A person who fails to renew within three years following the date of expiration may be granted a license upon reapplication, payment of required fees, and successful passage of the written and practical examination required by OAR 331-610-0040. Upon passing the examination the original license number will be reinstated and a license issued.

(4) All license holders must obtain 24 contact hours of continuing education training every two years as a condition of renewal whether the license is active or inactive.

(5) Evidence of required continuing education must be provided at the time of renewal by means of a prescribed self-attestation form certifying participation in approved continuing education.

(6) Appropriate documentation required in OAR 331-630-0000 must be accumulated and held by the license holder for a period of two years following renewal, or until submitted to the agency at the time of audit within the two-year period.

Stat. Auth.: ORS 676.605, 676.615, 694.085, 694.124, 694.125 & 694.155

Stats. Implemented: ORS 676.605, 676.615, 694.085, 694.124, 694.125 & 694.155

Hist.: HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0009, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 6-2008, f. 9-15-08, cert. ef. 10-1-08

DIVISION 630

CONTINUING EDUCATION

331-630-0000

Continuing Education Requirements

(1) After October 1, 2009, all licensees submitting application for renewal must have completed 24 contact hours of approved continuing education during the proceeding two years.

(2) A licensee must report compliance with continuing education requirements through attestation on the license renewal document. Licensees will be subject to provisions of OAR 331-630-0010 pertaining to periodic audit of continuing education.

(3) Approved continuing education includes, at the agency's discretion:

(a) Participation or attendance at an instructional program presented, recognized, or under the auspices of any institution, agency, professional organization or association, or licensees or hearing aid manufacturers and approved by the agency.

(b) Education in subject matter related specifically to hearing or hearing aid technology, related health care, or laws and rules governing hearing aid dispensing. Approved subject matter may include but not be limited to the following: anatomy and physiology, disorders of hearing, audiology, habilitation and counseling, physics of sound, safety and sanitation, practice management, ethics, first aid, CPR, AIDS training for health care workers and ORS 694 and OAR 331, divisions 601 through 650.

(c) Education in subject matter that advances the licensee's knowledge and skills to benefit the hearing impaired public.

(d) Credit will be limited to three hours collectively per year for subjects relating to practice management, ethics, sales, first aid, CPR

and AIDS training. Licensees may not receive credit for repeat of courses taken within the same continuing education reporting period.

(4) The agency will maintain a list of approved continuing education programs. The list will be available upon request to the agency.

(5) For each college "credit hour", 12 continuing education contact hours will be recognized.

(6) To receive prior approval of a continuing education program, an individual or group sponsor must submit a written request to the agency, at least 30 days prior to the first scheduled presentation. The documentation required for agency review includes:

- (a) An outline of the subject matter to be covered;
- (b) Method of presentation;
- (c) Qualifications of person or persons presenting instruction;
- (d) Estimated duration;
- (e) Criteria for positive achievement, e.g., examination, attendance, participation by written or oral report; and
- (f) Statement of how the program relates to a licensee's knowledge and skills and how it benefits the hearing impaired public.

(7) The agency, in consultation with the Advisory Council on Hearing Aids or a standing subcommittee of the Council, will determine if the continued education program meets criteria for approval. The agency will establish the number of hours it will recognize or accept for programs obtaining prior approval of the agency.

(8) The agency will notify the program or course sponsor in writing of its determination regarding continuing education including, as applicable, acceptable credit or contact hours and explain any denial of the program or adjustment to creditable hours.

(9) Approval of a continuing education program may be retained for a maximum of two years, at which time the sponsor will be required to resubmit the documentation listed in subsection (6) of this rule to continue agency approval of the program.

(10) The agency may withdraw approval of a continuing education program if it is determined that:

- (a) The program teaching method or content has changed significantly without notice to the agency;
- (b) A certificate of participation was not issued to an individual who completed the program in accordance with the standards provided to the agency; or
- (c) A certificate of participation was issued to an individual who did not complete the program in accordance with the standards provided to the agency.

(11) Evidence of participation in required continuing education is the responsibility of the hearing aid specialist. Evidence of participation must include the documentation listed in OAR 331-630-0010.

(12) Hours obtained in excess of the 24 contact hours required every two years will not be carried forward as continuing education credit for the succeeding reporting period.

(13) Continuing education requirements apply whether the renewal applicant is living or working within Oregon or outside of the state, if Oregon licensure is maintained.

Stat. Auth.: ORS 676.605, 676.615, 694.125 & 694.155

Stats. Implemented: ORS 676.605, 676.615, 694.125 & 694.155

Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0040, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 6-2008, f. 9-15-08, cert. ef. 10-1-08

331-630-0010

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Health Licensing Office will audit a select percentage of licenses determined by the Council to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation shall submit to the agency, within 30 calendar days from the date of notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-630-0000.

(3) Documentation of a certificate of completion of attendance at a program or course provided by the sponsor must include:

- (a) Name of sponsoring institution/association or organization;
- (b) Title of presentation and description of content;
- (c) Name of instructor or presenter;
- (d) Date of attendance and duration in hours;

(e) Course agenda;

(f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.

(4) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(5) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include, but is not limited to assessment of a civil fine and suspension or revocation of the license.

Stat. Auth.: ORS 676.605, 676.615, 694.125 & 694.155

Stats. Implemented: ORS 676.605, 676.615, 694.125 & 694.155

Hist.: HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 640

PRACTICE STANDARDS

331-640-0000

Assistive Listening Devices

Assistive listening devices which are exempt from the provisions of ORS Chapter 694 are defined as products designed to solve one or more specific listening problems created by a hearing loss, and include personal or group listening devices, telephone listening devices, or alert/alarm systems. The primary difference between listening devices and hearing aids is that an assistive listening device is designed to assist in only one, or a few, listening environments, and is for temporary use only. A hearing aid is designed for use in a wide range of listening environments and is primarily for full time use. The following criteria shall be considered in categorizing an assistive listening device:

(1) Personal Assistive Listening Device:

- (a) Is used for the assistance of only one person;
- (b) May be used either hardwired or wireless type;
- (c) May be adaptable to particular environments;
- (d) May not be fitted to an individual hearing loss;
- (e) May not be sold as a standard hearing aid;
- (f) May be an external option that will work with a hearing aid either through the telecoil or by direct audio input coupler built into a hearing aid.

(2) Group Assistive Listening Device:

- (a) Includes infrared and FM systems and induction loop systems;
- (b) Includes auditory trainers that are classified as such by the FDA exemption for group auditory trainers (21 CFR 801.421(e));
- (c) May include telecaption decoders.

(3) Telephone Devices for the Hearing Impaired:

- (a) Amplified handsets;
- (b) In-line amplifiers for modular telephones;
- (c) Receiver add-ons;
- (d) An external option that will work with a hearing aid.

(4) Telecommunications Devices for the Deaf (TDD):

- (a) Typically visually based;
- (b) TDD and Teletypewriter for the deaf (TTY) systems.

(5) Alert/Alarm Systems:

- (a) Systems that use a form of visual or vibratory stimuli to alert an individual;

- (b) May be hardwired or use an acoustic pickup.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 676.615 & 694.155

Stats. Implemented: ORS 676.615 & 694.155

Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; Renumbered from 333-025-0050, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0010

Safety and Infection Control Requirements

(1) Each licensee shall keep areas of their facility for otoscopic examination, earmold impression taking, and audiometric examination clean and sanitary.

(2) Impression tools, otoscopic examination equipment and other devices that come in direct contact with the client must be disinfected prior to use. Licensees shall use an EPA registered high-level disinfectant, following the manufacturer's directions, to disinfect nondisposable equipment and tools.

(3) Disposable or disinfected otoscopic specula must be used when examining each ear.

(4) Licensees must wash or sanitize hands prior to taking an ear-mold impression.

(5) Licensees must observe the Universal Precautions as defined in Oregon Administrative Rule 437-002-0360(25), and 29 CFR 1910.1030 standards, when providing services to consumers. Universal Precautions describe an approach to infection control that assumes exposure to all human blood and specified human body fluids are infectious for HIV, HBV, and other blood borne pathogens. Precautions to reduce the likelihood of exposure include hand washing, gloving, using personal protective equipment, preventing injury, ensuring proper handling and disposal of needles and other sharp instruments and of products or equipment contaminated with blood and body fluids.

Stat. Auth.: ORS 676.615 & 694.155

Stats. Implemented: ORS 676.615 & 694.155

Hist.: HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0014, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

331-640-0020

Audiometric Testing Equipment

Licensed hearing aid specialists shall maintain audiometric testing equipment, currently used in the practice of administering evaluations, in proper working order at all times and shall be prepared to provide their record of at least annual calibration to a representative of the agency when so requested, upon inspection, or during an investigation conducted by the agency.

Stat. Auth.: ORS 676.615 & 694.155

Stats. Implemented: ORS 676.615 & 694.155

Hist.: HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0027, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0030

Disclosure Statements to Prospective Purchaser; Delivery Information

(1) The term "purchaser" as used in ORS chapter 694 and OAR chapter 331, division 640, means any person who purchases or proposes to purchase hearing aid(s) and any person on whose behalf hearing aid(s) are purchased or proposed to be purchased. In the case of a client who is a minor child or other person without legal capacity to contract, the person's parent, legal guardian, or legal representative is the "purchaser."

(2) To assist prospective purchasers in making an informed decision regarding the sale of hearing aid(s), licensees must provide prospective purchasers with complete and accurate disclosure of facts regarding licensee services, the hearing aid(s) purchase price, delivery and consummation of sale defined in OAR 331-601-0000, and information about the purchaser's right to rescind or cancel a sale and the procedures for rescinding the sale and returning the hearing aid(s) according to the provisions of ORS 694.042.

(3) The *Statement to Prospective Purchaser (Statement)* is a contract prepared and signed by the licensee and agreed to by the purchaser. This Statement contains required information listed in ORS 694.036 regarding licensee and purchaser information, medical observation criteria and referral to physician if medical conditions are present, specifications and conditions of the hearing aid(s), terms of any warranty or expressed guarantee, and how to file a complaint with the agency.

(4) Licensees are required to provide all information and facts specified in this rule before the consummation of the sale, which is the delivery of the hearing aid(s) to the purchaser and the date that starts the 30-day rescission period.

(5) Statement Content. In addition to the information prescribed by ORS 694.036, the Statement must include the following information and facts about the purchase of hearing aid(s):

(a) Date of sale;

(b) Purchaser name, address and signature;

(c) Licensee name, address, telephone number, license number and signature;

(d) The purchase price, which includes the cost of the hearing aid(s) and all related fees;

(e) An accurate description of the hearing aid as new, demonstration instrument, reconditioned, or used;

(f) Delivery date of hearing aid(s);

(g) Date the 30-day rescission period ends;

(h) The portion of the total purchase price that will be retained by the licensee, not to exceed 10% of the contract purchase amount or \$250 per hearing aid, whichever amount is less, if the purchaser rescinds the sale under provisions of ORS 694.042 within the 30-day rescission period;

(i) Date and place of post-delivery follow-up session agreed upon by the licensee and hearing aid user as stated in subsection (9) of this rule;

(j) A printed or reproduced copy of ORS 694.042 *Right to Rescind A Hearing Aid Purchase* in its entirety, which includes the procedures for returning the hearing aid(s) to the licensee;

(k) The following statement, initialed by the purchaser: "Copies of my audiogram and the results of tests or verification procedures were offered to me by the licensee, and I hereby acknowledge receipt of the records or that I declined the offer.";

(l) The following statement about filing complaints: "Complaints regarding the sale, lease, or attempted sale or lease of hearing aids should be directed in writing to: Oregon Health Licensing Agency, 700 Summer Street NE, Suite 320, Salem, OR 97301-1287. Complaint forms may be obtained by calling 503-378-8667 or at the Agency's Web site: http://www.oregon.gov/OHLA/Consumer_help_complaint.shtml"; and

(m) A statement acknowledging that the purchaser has read and understands the information contained in the *Statement*, signed by the purchaser and dated;

(6) Statement Format. The Statement must be printed on forms measuring no less than 8 1/2 inches wide by 11 inches long, with a minimum 10-point typeset, and be legibly written.

(7) Licensees must provide the purchaser a new Statement for each hearing aid or set of hearing aids, unless the hearing aid(s) is an exact replacement of the device listed in a previous Statement provided to the purchaser.

(8) Refund. Any monies paid by or on behalf of the purchaser toward the hearing aid must be refunded to the payer if the delivery of the hearing aid to the purchaser is cancelled. The purchaser shall incur no additional liability for the cancellation.

(9) Post Delivery Follow-Up.

(a) Licensees will conduct and document a minimum of one post-delivery follow-up session with the hearing aid user before the expiration of the 30-day rescission period. The follow-up session will take place at the original place of the sale or at a predetermined location agreed upon at the time of initial delivery, or at a time and place agreed to within the 30-day rescission period.

(b) The licensee must document in the hearing aid user record any change to the agreed-upon location or date of the post-delivery follow-up session, and, if the licensee is unable to contact or the hearing aid user or to provide the follow-up session, the reason(s) why.

(10) In Home Sales. Sales of hearing aids made at the purchaser's residence and not at the licensee's place of business, require disclosure of federal guidelines related to "in home sales" and the purchaser's right to cancel the transaction and receive a full refund of monies paid to the licensee. The following federal disclosure statement must be completed and affixed to the *Statement to Prospective Purchaser* when a licensee sells a hearing aid(s) at the purchaser's home.

[ED. NOTE: Statemen referenced are available from the agency.]

Stat. Auth.: ORS 676.605, 676.615, 694.036, 694.042, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.615, 694.036, 694.042, 694.155, 694.170

Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0065, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

331-640-0040

Additional Conditions for Referral

(1) In addition to the conditions listed in ORS 694.142 a hearing aid specialist shall not fit or dispense a hearing aid for use without first determining if the following conditions exist and, if so, referring the prospective purchaser to a physician:

(a) Evidence of significant cerumen accumulation in the auditory canal preventing visual inspection of the external auditory canal or external auditory meatus and tympanic membrane or foreign body in the ear canal; or

(b) Pain or discomfort in the ear.

(2) A Waiver of Medical Opinion form as required by ORS 694.142(6) must include the hearing aid specialist's name and license number, the purchaser's name, address and signature with date as well

as the following statement: "I do not desire to have a medical evaluation before purchasing a hearing aid."

Stat. Auth.: ORS 694.142, 694.155 & 694.170

Stats. Implemented: ORS 694.142, 694.155 & 694.170

Hist.: HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0029, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0050

Additional Standards of Conduct

(1) Licensees must comply with the requirements of ORS 694.142, and all other applicable statutes and rules.

(2) Licensees must conform to state or federal laws regulating retail contracts or to any affirmation of fact or promise made by the licensee which relates to the hearing aid or fitting and dispensing services and which becomes a part of the basis of the transaction when the purchaser relies on it or is, in part, induced into making purchase by it.

(3) Licensees must not make inaccurate or misleading representations or statements as to the efficacy of a hearing aid(s) for improving hearing.

(4) Licensees may not use a title or abbreviation that is misleading or may convey that the licensee holds a credential that is not related to hearing instrument sciences, without designating the professional field for which the credential was issued. Hearing instrument sciences includes, but is not limited to, core competencies identified in ORS 694.075.

(5) The Council recognizes and adopts the revised International Hearing Society's Code of Ethics, adopted October 1983 and revised October 1996, October 1998, and May 2003, as its professional standards model. A copy of the document is on file at the agency for review, and may be accessed at the following Web site: http://ihinfo.org/IhsV2/Resources/020_Code_Of_Ethics.cfm

(6) During the hearing test or evaluation for fitting a client with a hearing aid(s), the following items must be completed. If the case history and tests were completed within the previous six months and there has been no substantial change in the client's hearing, the following tests may be performed at the discretion of the licensee:

(a) Confidential client case history;

(b) Puretone Air Conduction Threshold testing (should include at a minimum, the following frequencies — 250, 500, 1000, 2000, 3000, 4000, and 6000 or 8000 Hz);

(c) Puretone Bone Conduction Threshold testing (should include at a minimum, the following frequencies — 500, 1000, 2000, and 4000 Hz);

(d) Speech Recognition Threshold testing (SRT);

(e) Word Recognition Score (WRS) also known as speech discrimination testing;

(f) Most Comfortable Listening Level (MCL); and

(g) Uncomfortable Listening Level (UCL).

(7) For children who are unable to perform the tests listed in subsection (6) of this rule, an objective measure that meets prevailing professional standards can be used to assess auditory function. The test must be completed by a licensed audiologist or physician.

(8) Licensees must perform one or more of the following verification procedures, within the 30-day rescission period.

(a) Soundfield testing for speech discrimination;

(b) Soundfield testing for puretone thresholds;

(c) Real-ear probe microphone measurements;

(d) Speech mapping; and

(e) Other industry accepted objective measures.

(9) Licensees must post the following statement in public view on the business premises or provide the purchaser with a written notice stating: "*Individuals are entitled to a copy of the audiogram used to conduct hearing evaluations and any test results.*" If copies of the audiogram specified in OAR 331-640-0055, or results of tests or verification procedures conducted under subsections (6) and (8) of this rule are requested, they must be provided to the purchaser.

(10) Licensees who are unable to complete testing for reasons such as a client's medical condition or inability to perform tests or verification procedures are excused from compliance with the relevant parts of subsections (6) and (8) but must document the reasons in the client's record.

(11) Tests listed in subsection (8) of this rule will be used to determine the fitted hearing aid(s) ability to meet current industry standards

in reference to ORS 694.042(1)(c), during investigation of complaints filed with the agency.

(12) Licensees must maintain a record of the technical specifications issued by a manufacturer for the hearing aid(s) that have been delivered to or purchased by their clients. The specifications must be available for inspection by the agency's representatives upon request.

Stat. Auth.: ORS 676.605, 676.615, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.615, 694.155 & 694.170

Stat. Hist.: HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0012, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

331-640-0055

Uniform Measurement Standards

(1) As of December 1, 2006, the Council recognizes and adopts the following uniform set of hearing loss measurement standards required for use when interpreting audiograms using 0 — 110 for degrees of decibel hearing loss (dB HL) and 125 — 8000 Hz for frequency. This set of uniform measurement standards must be used for advising consumers on peripheral or cochlear hearing loss: [Table not included. See ED. NOTE.]

(2) Hearing loss may have a greater effect on children than adults. The degree of hearing loss does not necessarily reflect the degree of impairment.

(3) Audiologists licensed under ORS 681, and physicians licensed under ORS 677, may use prevailing professional measurement standards when counseling consumers or purchasers on the effect of hearing loss, in conformance with their training, professional license, code of ethics and practice standards.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 676.605, 694.036, 694.042, 694.1142, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.607, 676.615

Hist.: HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

331-640-0060

Client Record Requirements

For the purpose of clarifying record keeping requirements, the term "client" as used in this rule, means the individual who is a consumer, purchaser, potential purchaser or hearing-aid wearer.

(1) Required Records. Licensees must record, update and maintain documentation for each client relevant to health history, clinical examinations and treatment, and financial data. Documentation shall be written or computerized. Records must include the following information:

(a) Basic client information, including name, address, telephone number and dates of service;

(b) Health history relevant to hearing evaluation or fitting of a hearing aid(s), including referral to a physician or a *Waiver of Medical Opinion* form required by ORS 694.142(6);

(c) Identification of any conditions that would require referral to a physician licensed under ORS Chapter 677, as required in ORS 694.142(1) and OAR 331-640-0040, and a notation that the client was referred;

(d) Audiograms as specified in OAR 331-640-0055 and results of tests or verification procedures as specified in 331-640-0050;

(e) A copy of the *Statement to Prospective Purchaser* required by ORS 694.036 and OAR 331-640-0030, including client's signature and date acknowledging that the client has read and understands the information contained in the purchase agreement;

(f) A copy of the Right to Rescind a Hearing Aid Purchase giving notice of rights under ORS 694.042; and

(g) Date and description of services rendered in the form of "chart notes", including any complications. Chart notes must include the recorder's initials, license number and professional title if multiple practitioners provide service to the client.

(2) Record Format. Records and documentation must be accurate, complete, and legible, typed or recorded using ink. Legible hand-written or electronic records are acceptable.

(3) Record Identifiers. Client records listed in subsection (1) of the rule must include the licensee's name, license number, professional title or abbreviation, and signature or initials somewhere on the documentation as a means of identifying the person who is providing service to the client. This information may be affixed to the record(s) in the form of a professional stamp or handwritten entry.

(4) Record Retention. All client records and documentation, written or archived electronically by computer, must be stored and main-

tained for a minimum of seven years after the licensee has last seen the client or past the age of minority, so that the records are safeguarded, readily retrievable, and available for inspection by the Oregon Health Licensing Agency's representative.

Stat. Auth.: ORS 676.605, 694.036, 694.042, 694.1142, 694.155, 694.170

Stats. Implemented: ORS 676.605, 676.607, 676.615

Hist.: HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

DIVISION 650

DISCIPLINE

331-650-0000

Investigative Authority

The Health Licensing Office may initiate and conduct investigations of matters relating to the practice of hearing aid dispensing, pursuant to ORS 676.608 and 676.618, and may take appropriate disciplinary action in accordance with the provisions of ORS 676.612 and 694.147.

Stat. Auth.: ORS 676.608, 676.618, 694.147 & 694.155

Stats. Implemented: ORS 676.608, 676.618, 694.147 & 694.155

Hist. HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-650-0010

Schedule of Civil Penalties for Violations of Laws and Rules

The agency has adopted the following presumptive penalty schedule for the violations of the following laws and rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For subsequent offenses, the provisions of 331-020-0060 will apply.

(1) Dealing in or purporting to deal in hearing aids with an expired license is a violation of ORS 694.025 and OAR 331-030-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: \$1,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(2) Dealing in or purporting to deal in hearing aids without a license, with a license issued to another person, or a suspended license is a violation of ORS 694.025 and/or 676.612(1)(d) or 676.612(4) and OAR 331-030-0020(1) and shall incur the following penalties:

(a) For 1st offense: \$1,000;

(b) For 2nd offense: \$5,000 in addition to any other penalties allowed by law including revocation or refusal to issue a license.

(3) Failing as a licensee to inform the agency within 30-calendar days of a change of information is a violation of OAR 331-010-0040(1) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$150.

(4) Dealing in hearing aids by a trainee when not under the direct supervision of a supervisor is a violation of ORS 694.025 and 694.065(2) and OAR 331-610-0020(1) and shall incur the following penalties:

(a) For 1st offense: \$150;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(5) Failing, as a supervisor, to provide direct supervision of a trainee dealing in hearing aids is a violation of ORS 694.065(2), OAR 331-610-0020(1) and (6) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000 and suspension of the authorization to provide supervisory training;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(6) Failing, as a supervisor, to exercise management, guidance, and control over the activities of the temporary hearing aid specialist is a violation of ORS 676.612(1)(j) and OAR 331-610-0030(3) shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000 and suspension of the authorization to provide supervisory training;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(7) Failing, as a supervisor, to evaluate and approve all matters involved in the testing, fitting, or in the sale of a hearing aid by a temporary hearing aid specialist before ordering the recommended hearing aid(s) is a violation of ORS 676.612(1)(j) and OAR 331-610-0030(2) and/or (4) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000 and suspension of the authorization to provide supervisory training;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(8) Failing, as a supervisor of a temporary hearing aid specialist, to co-sign and approve the audiogram, order form and office copy of statement, or failing to mail or provide a copy of the statement to the prospective hearing aid purchaser as required in ORS 694.036 and 694.042 is a violation of 676.612(1)(j) and OAR 331-610-0030(4) and shall incur the following penalties:

(a) For 1st offense: \$300;

(b) For 2nd offense: \$1,000 and suspension of the authorization to provide supervisory training;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(9) Failing to meet continuing education requirements pursuant to OAR 331-630-0000(1), or to provide or retain required documentation is a violation of 331-630-0000(11) and/or 331-630-0010(2) and shall incur the following:

(a) For 1st offense: \$500 and suspension or revocation of license;

(b) For 2nd offense: \$1,000 and suspension or revocation of license;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including revocation or refusal to issue a license.

(10) Failure to correct continuing education deficiencies within prescribed time frames is a violation of OAR 331-630-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$500 and suspension or revocation of license;

(b) For 2nd offense: \$1,000 and suspension or revocation of license;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including revocation or refusal to issue a license.

(11) Disqualification from an examination as a result of conduct is a violation of OAR 331-610-0050(2) and shall incur the following penalties: \$1,000, disqualification from reexamination as determined by the agency director and revocation of temporary hearing aid specialists license

(12) Failing to keep the facility clean and sanitary is a violation of OAR 331-640-0010(1) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$1,000.

(13) Failing to disinfect devices after direct contact with client's skin is a violation of OAR 331-640-0010(2) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$1,000.

(14) Failing to wash or sanitize hands before taking an ear mold impression is a violation of OAR 331-640-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$1,000.

(15) Failing to calibrate or provide proof of calibration on audiometric testing equipment is a violation of OAR 331-640-0020 and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$1,000.

(16) Failing to provide a client with a properly formatted Statement to Prospective Purchaser is a violation of ORS 694.036(1) and

OAR 331-640-0030(1) and shall incur the following penalties per violation:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000.

(17) Failing to obtain a signed medical waiver is a violation of ORS 694.142(6) and OAR 331-640-0040(2) and shall incur the following penalties per violation:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000.

(18) Failing to respond timely to an agency request for information regarding a complaint is a violation of OAR 331-020-0050 and shall incur the following penalties per violation:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(19) Failing to comply with the additional standards of conduct is a violation of ORS 676.612(1)(j) and OAR 331-640-0050(1), (2), (3) and/or (4) and shall incur the following penalties per violation:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;
- (c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(20) Failing or refusing to rescind the sale of a hearing aid is a violation of ORS 676.612(1)(j) and (2), 694.042(4), and 694.147(2)(a) and shall incur a civil penalty established on a case-by-case basis.

(21) Failing to meet professional standards in dealing in hearing aids in violation of ORS 676.612(1)(j), 694.147(2)(c) or OAR 331-640-0050(3) and shall incur the following penalties per violation:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;
- (c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(22) Fraud or misrepresentation in the practice of dealing in hearing aids is a violation of ORS 676.612, 694.147(2) or OAR 331-640-0050(3) and shall incur the following penalties per violation:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;
- (c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(23) Unprofessional conduct is a violation of ORS 676.612(1)(j), 694.147(2)(c) or OAR 331-640-0050(3) and shall incur the following penalties per violation:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;
- (c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

Stat. Auth.: ORS 676.615, 676.992 & 694.147

Stats. Implemented: ORS 676.615, 676.992 & 694.147

Hist.: HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0075, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 705

RESPIRATORY THERAPIST LICENSING BOARD GENERAL ADMINISTRATION

331-705-0050

Definitions

The following definitions apply to OAR 331-705-0000 through 331-720-0020:

- (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) "Agency" means the Health Licensing Office. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(4) "Board" means, pursuant to ORS 688.820, the entity that advises the agency on matters relating to the practice of respiratory care, and determines practice standards, education and training and provides consultation to the agency on all disciplinary issues in accordance with ORS 688.830.

(5) "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 lunchtime granted during attendance at any continuing education seminar or course.

(6) "CRT" applies to a person who has satisfactorily completed the Certified Respiratory Therapist examination issued by the National Board for Respiratory Care (NBRC).

(7) "Director" means the individual who is responsible for the performance of the agency as defined in ORS 676.610. The director appoints all subordinate officers and employees to carry out the duties of the agency.

(8) "Expired" means a license which has not been renewed.

(9) "Health Licensing Office" means the agency.

(10) "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.

(11) "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.

(12) "NBRC" means the National Board for Respiratory Care, which provides credentialing and examination services for the respiratory care profession.

(13) "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 agency in a sealed envelope.

(14) "Practitioner" means any person whom the Board has licensed to practice respiratory care.

(15) "RRT" applies to a person who has satisfactorily completed the Registered Respiratory Therapist examination issued by the National Board for Respiratory Care (NBRC).

(16) "Standard precautions" means a set of guidelines and controls, published by the Centers for Disease Control (CDC), which outline certain practices which health workers must 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.

(17) "Supervision" requires 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."

(18) "Temporary License" is a license issued for a period of six months, which is not renewable, authorizing an applicant for licensure to practice respiratory therapy under supervision pending passage of the qualifying examination.

Stat. Auth.: ORS 676.605, 676.615 & 688.830

Stats. Implemented: ORS 676.605, 676.615 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04

331-705-0060

Fees

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

- (a) Application:
- (A) License: \$150.
- (B) Temporary license: \$150.
- (b) Examination — Oregon laws & rules: \$50.
- (c) Original issuance of authorization to practice:
- (A) License: \$100.
- (B) Temporary license (six month, non renewable): \$100.
- (d) Renewal of license: \$100.
- (e) Delinquent (late) renewal of license: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.
- (f) Restoration of license: \$100.
- (g) Replacement of license, including name change: \$25.
- (h) Duplicate license document: \$25 per copy with maximum of three.
- (i) Affidavit of licensure: \$50.
- (j) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

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; HDLP 2-2002, f. 12-20-02 cert. ef. 1-1-03; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 7-2008, f. 9-15-08, cert. ef. 10-1-08

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, pursuant to ORS 688.815(1)(c), structured to meet stated curriculum objectives which includes evaluation of attainment of those objectives, and 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 676.605, 676.615, 688.815 & 688.830
 Stats. Implemented: ORS 676.605, 676.615, 688.815 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04

331-710-0010

Application Requirements

(1) Individuals applying for licensure to practice respiratory care must meet the requirements of OAR 331-030-0000 in addition to the provisions of this rule.

(2) Applicants must submit an application form prescribed by the Agency, which shall contain the information listed in OAR 331-030-0000, payment of the application and license fees, and one of the following criteria:

(a) NATIONAL CREDENTIAL: Official documentation of a passing score, successfully completed within one year preceding the date of application, of the Certified Respiratory Therapist (CRT) examination or Registered Respiratory Therapist (RRT) examination mailed by the National Board for Respiratory Care to the agency. Copies of examination results or other documentation provided by the applicant are not acceptable. The applicant is responsible for payment of fees assessed by NBRC in obtaining required official documentation.

(b) OUT OF STATE LICENSURE: Official documentation in the form of an *Affidavit of Licensure*, submitted directly to the agency from the originating state's regulatory office, evidencing that the applicant currently holds a respiratory therapist license and that the licensee has not been subject to disciplinary action involving suspension or revocation, and no action or civil penalties are currently pending

against the licensee. The Affidavit must indicate whether the applicant satisfactorily passed the NBRC examination or a state prepared examination that has been approved by the Board as being equivalent to the national examination.

Stat. Auth.: ORS 676.605, 676.615, 688.815 & 688.830
 Stats. Implemented: ORS 676.605, 676.615, 688.815 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 10-2004(Temp), f. & cert. ef. 11-8-04 thru 3-31-05; HLO 1-2005, f. 2-28-05 cert. ef. 3-1-05

331-710-0020

Application for Temporary Licensure; Expiration; Changes in Employment Status

(1) 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.

(2) Individuals applying for temporary licensure must meet the requirements of OAR 331-030-0000 in addition to the provisions of this rule.

(3) Applicants must submit an application form prescribed by the agency, which shall contain the information listed in OAR 331-030-0000(5) and be accompanied by payment of the application and temporary license fees. The completed application must include official transcripts from a college or university in respiratory care. A notarized Certificate of Completion issued by the college or university may be submitted to the agency following completion of schooling until the official transcript is available to facilitate temporary licensure. The official transcript must be received by the agency to complete the application requirements.

(4) The temporary applicant shall submit the following items within 30 days of application, or, if application precedes employment, within 30 days of hire:

- (a) Employer's name, address and telephone number; and
- (b) Name and credentials of supervisor.

(5) A temporary license shall be issued when all requirements have been met, and shall expire the last day of the month six months from the date of issuance. Temporary licenses are not renewable.

(6) Temporary licensees shall notify the agency within 30 calendar days of changes in employment status.

Stat. Auth.: ORS 676.605, 676.615, 688.815 & 688.830
 Stats. Implemented: ORS 676.605, 676.615, 688.815 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04

331-710-0030

Examination

(1) The Board has selected the CRT 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.

(2) Applicants who meet the educational requirements and achieve a passing score on the examination must request that certification of the passing score be sent from the National Board for Respiratory Care to the agency as a prerequisite to application.

Stat. Auth.: ORS 676.605, 676.615 & 688.830
 Stats. Implemented: ORS 676.605, 676.615 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 715

RESPIRATORY THERAPIST LICENSING BOARD LICENSURE; RENEWAL; PRACTICE STANDARDS

331-715-0000

Licensure

(1) Pursuant to ORS 688.805(1) a person shall not practice respiratory care or claim to be a respiratory care practitioner, including that a person 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 688.815.

(2) Licensees are subject to the provisions of OAR 331-030-0010 regarding the issuance and renewal of a license, and to the provisions

of 331-030-0020 regarding the authorization to practice, identification, and requirements for issuance of a duplicate authorization.

(3) Every respiratory care practitioner licensed by the agency shall be licensed under the applicant's legal name and shall function as a respiratory care practitioner under that name.

(4) When a name is changed, the following must be submitted so that the agency's records may reflect the new name:

- (a) A signed change of name notification;
- (b) A copy of the legal document showing the name change;
- (c) Return of the license form issued and payment of replacement fee.

(5) Practitioners who work in more than one facility may carry the license identification card (pocket card) with them, or post in plain view, when working at more than one place of business.

(6) Licensees shall not render 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.

Stat. Auth.: ORS 676.605, 676.615 & 688.830

Stats. Implemented: ORS 676.605, 676.615 & 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; HDLP 2-2001, f. & cert. ef. 5-1-01; HDLP 3-2001, f. 6-29-01, cert. ef. 7-1-01; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04

331-715-0010

License Renewal

(1) A license renewal application received by the agency 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 continuing education pursuant to OAR 331-720-0010.

(2) 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.

(3) 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.

(4) Failure to meet continuing education requirements of OAR 331-720-0010, will require reapplication and qualification for licensure according to the provisions of OAR 331-710-0010(2)(a) or (b).

Stat. Auth.: ORS 676.605, 676.615 & 688.830

Stats. Implemented: ORS 676.605, 676.615 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 10-2004(Temp), f. & cert. ef. 11-8-04 thru 3-31-05; HLO 1-2005, f. 2-28-05 cert. ef. 3-1-05

331-715-0030

Professional Standards

(1) Respiratory care practitioners must comply with the prevailing community standards for 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 agency 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 must comply with the following safety and infection control requirements:

(a) All devices or items that come into direct contact with a client shall be cleaned, sanitized or disinfected according to the manufacturer's instructions or Centers for Disease Control and Prevention (CDC) Standard Precautions;

(b) All items that come in direct contact with the client's skin that do not require disinfecting shall be clean;

(c) All items that 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;

(d) All disinfecting solutions and agents shall be kept at adequate strengths to maintain effectiveness, be free of foreign material and be

available for immediate use at all times unless equipment is prepackaged and pre-sterilized;

(e) All high-level and low-level disinfecting agents shall be EPA registered. High-level disinfectant means a chemical agent which has demonstrated tuberculocidal activity. Low-level disinfectant means a chemical agent which has demonstrated bactericidal, germicidal, fungicidal and limited virucidal activity;

(f) Before use, disposable pre-packed products and sterilized reusable instruments shall be stored in clean, sterilized containers that can be closed between treatments to maintain effective sterilization of the instrument until removed from the container.

(4) Respiratory care practitioners shall observe and follow the Standard Precautions adopted by the CDC as defined in Oregon Administrative Rule 437 division 2, subdivision Z, OAR 331-705-0050(16), and the CDC Standard Precautions for public service workers regarding personal protection equipment and disposal of blood or bodily fluid contaminated articles, tools and equipment when providing services to patients.

(5) 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 676.605, 676.615 & 688.830

Stats. Implemented: ORS 676.605, 676.615 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 1-2007, f. 3-30-07, cert. ef. 4-1-07

DIVISION 720

RESPIRATORY THERAPIST LICENSING BOARD CONTINUING EDUCATION

331-720-0000

Continued Competency

(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 676.605, 676.615 & 688.830

Stats. Implemented: ORS 676.605, 676.615 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04

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, whether the license is active or inactive. At least two-thirds of the required continuing education hours shall be related to clinical practice of respiratory care.

(2) To renew the license, evidence of required continuing education shall be provided at the time of renewal by means of a prescribed self-attestation statement certifying participation in approved continuing education. To ensure that adequate proof of attainment of required continuing education is available for audit or investigation by the Health Licensing Office, licensees shall maintain a record of attendance for two years following the two-year continuing education cycle and renewal of the respiratory care therapist license.

(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 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 Commission 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 (CRT), RRT, or PPRCS. Fifteen 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 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 five credit hours will be accepted per biennium for the publication of articles or abstracts in professional journals;

(h) An established and approved organization conducting humanitarian activities in another state or country, that is providing respiratory care services as defined in ORS 688.800(6) under its auspices. The organization and services are subject to board approval on a case-by-case basis for continuing education credit.

(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) 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.

(6) 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 hours of continuing education credit may be obtained for each re-certification in ACLS, PALS, or NRP courses.

(7) Continuing education credit will not be granted for completion of the Basic Life Support (BLS) course.

(8) A person who does not meet continuing education requirements must reapply and meet requirements for licensure according to OAR 331-710-0010 at the time of application.

Stat. Auth.: ORS 676.605, 676.615 & 688.830

Stats. Implemented: ORS 676.605, 676.615 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 10-2004(Temp), f. & cert. ef. 11-8-04 thru 3-31-05; HLO 1-2005, f. 2-28-05 cert. ef. 3-1-05

331-720-0020

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Health Licensing Office will audit a select percentage of licenses determined by the Board to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation shall submit to the agency, within 30 calendar days from the date of issuance of the notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-720-0010.

(3) Documentation of attendance at a program or course provided by the sponsor must include:

(a) Name of sponsoring institution/association or organization;

(b) Title of presentation and description of content;

(c) Name of instructor or presenter;

(d) Date of attendance and duration in hours;

(e) Course agenda;

(f) Official transcript, diploma, statement or affidavit from the sponsor, attesting to attendance.

(4) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(5) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation, may result in disciplinary action, which may include, but is not limited to, assessment of a civil penalty and suspension or revocation of the license.

Stat. Auth.: ORS 676.605, 676.615 & 688.830

Stats. Implemented: ORS 676.605, 676.615 & 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; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 725

RESPIRATORY THERAPIST LICENSING BOARD COMPLAINT PROCESSING AND RESOLUTION

331-725-0020

Investigatory Authority

The Health Licensing Office may initiate and conduct investigations of matters relating to the practice of respiratory care, pursuant to ORS 676.608, and may take appropriate disciplinary action in accordance with the provisions of 676.612 and 688.836.

Stat. Auth.: ORS 676.605, 676.615, 688.830 & 688.836

Stats. Implemented: ORS 676.605, 676.615, 688.830 & 688.836

Hist.: HDLB 1-1997(Temp), f. 12-19-97, cert. ef. 12-22-97 thru 6-19-98; HLO 4-2004, f. 6-29-04, cert. ef. 7-1-04

SEX OFFENDER TREATMENT BOARD RULES

DIVISION 800

GENERAL ADMINISTRATION

331-800-0010

Definitions

The following definitions apply to OAR 331-800-0010 to 331-850-0010:

(1) "Active certificate" means a certificate issued when all requirements are met, fees paid and certificate is not expired, suspended or revoked.

(2) "Affidavit of licensure" means an original document verifying licensing history and status, issued 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) "Agency" means the Oregon Health Licensing Agency (OHLA). The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rule making, and record keeping.

(4) "Authorization" means the official document, the certificate, issued by the Oregon Health Licensing Agency.

(5) “Board” means pursuant to ORS 675.395, the entity that advises the agency in matters relating to the practice of sex offender treatment, including practice standards, education and training requirements, and advises the agency on all disciplinary issues in accordance with 676.612. The Oregon Health Licensing Agency Director controls the regulatory operations and has decision-making authority on all substantive matters.

(6) “Certified clinical sex offender therapist” means a person who is certified by the agency to provide services for the treatment and rehabilitation of sex offenders and who may supervise certified associate sex offender therapist; also referred to as “clinical therapist”.

(7) “Certified associate sex offender therapist” means a person who is certified by the agency to provide services for the treatment and rehabilitation of sex offenders while under the direct supervision of a certified clinical sex offender therapist; also referred to as “associate therapist”.

(8) “Continuing education hours” means the actual academic classroom or course work time, including but not limited to workshops, symposiums, seminars, excluding personal travel time to and from the training site, registration or check-in periods breaks or lunch periods.

(9) “Credential” or its derivative means the process of licensing, registration, certification or the equivalent through which a person is legally recognized by a state agency as lawfully authorized to practice a health profession.

(10) “Direct supervision” means a minimum of two hours of supervision by a certified clinical sex offender therapist for each 45 hours of direct clinical contact with a sex offender as specified in ORS 675.365(4).

(11) “Direct treatment services” means face-to-face individual, group or family therapy, provided by a clinical or associate therapist, to a client.

(12) “Director” means, pursuant to ORS Chapter 676.610, the individual who has sole responsibility for the administrative, fiscal, human resource and regulatory functions of the agency.

(13) “Ethical” means conforming to professional standards, as adopted by the Association for the Treatment of Sexual Abusers’ Practice Standards (ATSA) and Guidelines adopted in 2005, and Professional Code of Ethics adopted in 2001, regarding professional practices authorized under ORS 675.360 to 675.410 and rules adopted by the agency.

(14) “Evaluation” means a comprehensive psychosexual assessment or intake assessment conforming to professional standards as adopted by the Association for Treatment of Sexual Abusers’ Practice Standards and Guidelines adopted in 2005, to determine a client’s risk to re-offend, identify dynamic risk factors, and develop appropriate treatment and supervision plans. Evaluation includes a written report including, but not limited to the following:

(a) Useful guidance to others, such as the courts, in making decisions affecting a client’s future and whether the client’s risk can be managed in a community setting;

(b) Comprehensive description of the client’s abusive and non-abusive sexual behavior;

(c) Amenability to treatment;

(d) Recommendations regarding the intensity and type of intervention that is required;

(e) Risk management strategies;

(f) Responsiveness to treatment, such as culture, ethnicity, age, IQ, learning style, neuropsychological disorders, personality style, mental and physical disabilities, medication, and motivation.

(15) “Health care information” means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(16) “Informed consent” means consent obtained following a thorough and easily understood explanation to the client, or the client’s guardian, of the proposed treatment plan, any available alternative procedures and any risks associated with the proposed plan. The therapist provides clients with information about the purpose, goals, techniques, procedures, limitations, and consequences of not consenting, the limits of confidentiality, and alternatives to the services offered, potential risks and benefits of services to be performed. Supervisors ascertain the client’s ability to understand and utilize the information.

(17) “Functionally disabled” means a severe and chronic disability that is attributable to a mental or physical impairment or a combination of physical and mental impairments which result in substantial functional limitations in three or more of the major life activities.

(18) “Mental health professional” means a person licensed to practice without supervision in the state of Oregon as a physician, psychiatrist, psychiatric nurse practitioner, psychologist, psychological associate, licensed professional counselor, licensed clinical social worker, or licensed marriage and family therapist, who provides sex offender treatment of adults, juveniles or functionally disabled individuals.

(19) “Official transcript” means an original document certified by an accredited educational institution, delivered from the school to the agency by mail or courier, which includes:

(a) School name and location;

(b) Student’s name, address and date of birth;

(c) Enrollment and termination dates;

(d) Hours and types of course work;

(e) Degree issued;

(f) School seal or stamp;

(g) Signature of authorized school representative or registrar.

(20) “Oregon Health Licensing Agency” (OHLA) means the agency assigned to carry out the administrative, programmatic and daily operations, and regulatory functions of ORS 676.606.

(21) “Professional mental health licensing or certification agency” means the entity charged with the administrative functions and responsibilities for protecting the public through the licensing and regulating of certain professions practiced in Oregon, or in a county, other state, country or territory. The entity has the responsibility for decisions on qualifications, standards of practice, licensing, discipline and other discretionary functions relating to professional activities in the professional licensing boards, councils, or programs; also known as regulatory authority.

(22) “Reciprocity” means, according to ORS 675.380, certification, registration or licensure in another state based on standards of training, education and experience that are similar to those required for certification in Oregon as a certified clinical sex offender therapist or a certified associate sex offender therapist as specified in 675.375.

(23) “Sex offender specific treatment” means treatment modalities that are based on empirical research with regard to favorable treatment outcomes and are professionally accepted in the field of sex offender treatment of adults, juveniles, and functionally disabled individuals, with sexual behavior problems. Offense specific treatment is a comprehensive set of planned treatment experiences and interventions that modify sexually deviant thoughts, fantasies, and behaviors and that utilize specific strategies to promote change and to reduce the chance of re-offending.

(24) “Treatment plan” means an individualized written statement of intended care and services as documented in the evaluation that details how the client’s treatment needs will be met while protecting the community during the course of treatment.

Stat. Auth.: ORS 675.410, 676.615

Stat. Implemented: ORS 675.360 through 675.410

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-800-0020

Fees

Fees established by the Oregon Health Licensing Agency are as follows:

(1) Application for certification: \$75.

(2) Original certificate — one year grandfathering period until March 14, 2009: \$325.

(3) Original two year certification — as of March 15, 2009: \$650.

(4) Application for renewal — two year certificate: \$650.

(5) Replacement certificate, including name change: \$25.

(6) Duplicate certificate document: \$25 per copy with a maximum of three.

(7) Delinquency fee: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.

(8) Examination — Oregon laws & rules: \$50.

(9) Affidavit of licensure: \$50.

(10) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 675.405, 675.410 & 676.625

Stat. Implemented: ORS 675.405

Hist: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08; HLA 8-2008, f. 9-15-08, cert. ef. 10-1-08

DIVISION 810

QUALIFICATIONS AND TRAINING

331-810-0020

Clinical Sex Offender Therapist Requirements

To qualify for certification as a clinical sex offender therapist, an applicant shall provide satisfactory evidence to the agency that requirements of ORS 675.375(3) have been met regarding education, training, and experience in the evaluation, treatment, and management of individuals who sexually offend, in addition to other requirements specified in this rule. Required documentation includes the following:

(1) Affidavit of licensure form prescribed by the agency, received from the appropriate Oregon professional mental health licensing or certifying agency, substantiating active status in good standing as a licensed mental health professional defined in OAR 331-800-0010;

(2) Record of at least 2,000 hours of professional clinical experience, of which 1,000 hours relates to providing direct treatment services as defined in OAR 331-800-0010, within a period of not less than three nor more than six years immediately preceding the date of application.

(3) Record of 500 hours of evaluations as defined in OAR 331-800-0010, that includes but is not limited to the following types of professional activities:

(a) Evaluation experience credit:

(A) Primary or secondary responsibility for interviewing the client;

(B) Preparation of the written evaluation report;

(C) All contact with clients; and

(D) Preparation of limited assessments for the purpose of:

(i) Institution classification;

(ii) Treatment monitoring; and

(iii) Reporting.

(b) Treatment experience credit:

(A) Face-to-face treatment hours performed by affiliates under the supervision of certified therapists;

(B) Time spent as a co-therapist. Both therapists shall have formal responsibility for the group session; and

(C) Time spent maintaining collateral contacts and written case/progress notes.

(4) Record of 500 hours of professionally related activities, associated with the following type of work:

(a) At least 340 hours of documented activities, including but not limited to:

(A) Client charting or case management;

(B) Research;

(C) Peer review, consultations, or meetings with attorneys, parole officers or other officials;

(D) Court time or testimony;

(E) Profession related committee work or attendance at sex offender treatment related meetings; and

(b) At least 160 hours of professional activities engaged in as a sex offender therapist, while under the direct supervision of a qualified mental health professional; refer to OAR 331-810-0050.

(5) Record of 60 hours of formal training directly related to the treatment and evaluation of sex offenders or victims of abuse that was completed within the last three years immediately preceding the date of application.

(a) Completion of formal training shall include documenting 45 hours of the total required hours, in the following essential subjects:

(A) Assessment and diagnosis;

(B) Cognitive therapy;

(C) Counseling and psychotherapy;

(D) Cultural/ethnic issues;

(E) Ethics applicable to working with a forensic population;

(F) Human development with special attention to sexual development and healthy sexuality;

(G) Interviewing skills;

(H) Knowledge of family dynamics as related to sex offending;

(I) Psychometric and psycho-physiological testing;

(J) Psychopathology;

(K) Relapse prevention;

(L) Relationship and social skills training;

(M) Risk assessment;

(N) Sexual arousal control;

(O) Social support networks;

(P) Victim awareness and empathy.

(b) Completion of formal training shall include documenting 15 hours of the total required hours, in the following areas of training and knowledge:

(A) Supervision;

(B) Assessment and treatment of mental illness including neuropsychological disorders;

(C) Couples and family therapy;

(D) Family reunification;

(E) Pharmacological therapy;

(F) Substance abuse treatment.

Stat. Auth.: ORS 675.375, 675.400, 676.615

Stat. Implemented: ORS 675.375, 675.400

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-810-0030

Associate Sex Offender Therapist Requirements

To qualify for certification as an associate sex offender therapist, an applicant shall provide satisfactory evidence to the agency that requirements of ORS 675.375(4) have been met regarding education, training and experience, in addition to other requirements listed in this rule. Required documentation includes the following:

(1) Official transcripts from college, university and post graduate records, showing attainment of at least a Bachelors of Science degree in the mental health field;

(2) Record of at least 1,000 hours of professional experience related to direct treatment services, as defined in OAR 331-800-0010, completed within three years preceding the date of application. Documentation shall include the number of hours involved in the following:

(a) Direct client contact;

(b) Review of treatment plans and provision of direct treatment services under supervision;

(c) Charting or case management;

(d) Research;

(e) Peer review, consultation, or meetings with attorneys, parole officers, or other officials;

(f) Court time or testimony;

(g) Profession related committee work or attendance at sex offender treatment related meetings; and

(3) Record of at least 30 hours of formal training directly related to the treatment and evaluation of sex offenders or victims of abuse that was completed within the last three years immediately preceding the date of application.

(a) Completion of formal training shall include documenting 75%, or 22.5 hours of the total required hours, in the following essential subjects:

(A) Assessment and diagnosis;

(B) Cognitive therapy;

(C) Counseling and psychotherapy;

(D) Cultural/ethnic issues;

(E) Ethics applicable to working with a forensic population;

(F) Human development with special attention to sexual development and healthy sexuality;

(G) Interviewing skills;

(H) Knowledge of family dynamics as related to sex offending;

(I) Psychometric and psycho-physiological testing;

(J) Psychopathology;

(K) Relapse prevention;

(L) Relationship and social skills training;

(M) Risk assessment;

(N) Sexual arousal control;

(O) Social support networks;

- (P) Victim awareness and empathy.
- (b) Completion of formal training shall include documenting 25%, or 7.5 hours of the total required hours, in the following areas of training and knowledge:
 - (A) Supervision;
 - (B) Assessment and treatment of mental illness including neuropsychological disorders;
 - (C) Couples and family therapy;
 - (D) Family reunification;
 - (E) Pharmacological therapy;
 - (F) Substance abuse treatment.
- (4) Verification of and compliance with the requirements of direct supervision by a certified clinical sex offender therapist, according to OAR 331-810-0055.

Stat. Auth.: ORS 675.375, 675.400, 676.615

Stat. Implemented: ORS 675.375, 675.400

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-810-0035

Time Limited Grandfathering Provision

(1) Time Limitation. Pursuant to ORS 675.410(2)(b), an applicant who possesses all the qualifications for certification as a clinical sex offender therapist, but does not hold a certificate, license or registration as an Oregon mental health professional, required under 675.375(3)(c) and defined in OAR 331-800-0010, may qualify for certification under a time limited grandfather provision within one year from the effective date of this rule.

(2) In the absence of an applicant holding an Oregon professional mental health certification, license, or registration, an applicant shall meet the training, education and experience qualification requirements and be otherwise eligible to apply for and attain such an authorization to practice.

(3) References. An applicant shall submit professional references from three individuals familiar with their work in sex offender treatment, such as personnel associated with Oregon State Department of Corrections, judicial system, direct supervisor, or a coworker.

(4) Transcripts. An applicant shall cause to be submitted to the agency official transcripts from a college, university and post graduate records, showing attainment of at least a masters or higher level degree in behavioral sciences.

(5) Qualification Pathways. An applicant for certification under the time limited grandfathering provision shall provide documentation verifying required clinical experience, evaluation and treatment experience, and formal training listed in subsections (6) through (9) of this rule under one of the following timelines:

(a) Pathway one: An applicant shall meet all qualification criteria within a period of six years immediately preceding the date of application; or

(b) Pathway two: An applicant shall meet qualification criteria within a period of ten years immediately preceding the date of application, with the 120 hours of required formal training completed at a minimum of 30 hours per year during the previous 4 years preceding the date of application.

(6) Professional Clinical Experience. An applicant must provide a record of at least 6,000 hours of professional clinical experience, of which 3,000 hours relates to providing direct treatment services as defined in OAR 331-800-0010.

(7) Professional Evaluation and Treatment Experience. An applicant must provide a record of 1,500 hours of evaluations, as defined in OAR 331-800-0010, which includes but is not limited to the following types of professional activities:

(a) Evaluation experience credit:

(A) Primary or secondary responsibility for interviewing the client;

(B) Preparation of the written evaluation report;

(C) All contact with clients; and

(D) Preparation of limited assessments for the purpose of:

(E) Institution classification;

(F) Treatment monitoring; and

(G) Reporting.

(b) Treatment experience credit:

(A) Face-to-face treatment hours performed by affiliates under the supervision of certified therapists;

(B) Time spent as a co-therapist. Both therapists shall have formal responsibility for the group session; and

(C) Time spent maintaining collateral contacts and written case/progress notes.

(8) Professional Activities. An applicant must provide a record of 1,500 hours of professionally related activities, associated with the following type of work:

(a) At least 1,200 hours of documented activities, including but not limited to:

(A) Client charting or case management;

(B) Research;

(C) Peer review, consultations, or meetings with attorneys, parole officers or other officials;

(D) Court time or testimony;

(E) Profession related committee work or attendance at sex offender treatment related meetings; and

(b) At least 300 hours of professional activities engaged in as a sex offender therapist, while under the direct supervision of a qualified mental health professional; refer to OAR 331-810-0055.

(9) Professional Formal Training. An applicant must provide a record of at least 120 hours of formal training directly related to the treatment and evaluation of sex offenders or victims of abuse:

(a) Completion of formal training shall include documenting 90 hours of the total required hours, in the following essential subjects:

(A) Assessment and diagnosis;

(B) Cognitive therapy;

(C) Counseling and psychotherapy;

(D) Cultural/ethnic issues;

(E) Ethics applicable to working with a forensic population;

(F) Human development with special attention to sexual development and healthy sexuality;

(G) Interviewing skills;

(H) Knowledge of family dynamics as related to sex offending;

(I) Psychometric and psycho-physiological testing;

(J) Psychopathology;

(K) Relapse prevention;

(L) Relationship and social skills training;

(M) Risk assessment;

(N) Sexual arousal control;

(O) Social support networks;

(P) Victim awareness and empathy.

(b) Completion of formal training shall include documenting 30 hours of the total required hours, in the following areas of training and knowledge:

(A) Supervision;

(B) Assessment and treatment of mental illness including neuropsychological disorders;

(C) Couples and family therapy;

(D) Family reunification;

(E) Pharmacological therapy;

(F) Substance abuse treatment.

Stat. Auth.: ORS 675.375, 675.400, 675.410, 676.615

Stat. Implemented: ORS 675.375, 675.400

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-810-0038

Waivers

If an applicant is unable to provide verification of the experience or supervision required under OAR 331-810-0020, 331-810-0030 or 331-810-0035, the board may consider the following information in determining whether a waiver of verification will be issued:

(1) When the training or direct client services occurred;

(2) Where the training or direct client services occurred;

(3) The reasons for the inability of the applicant to provide training verification or substantiate the required supervision; and

(4) The diligence the applicant used in attempting to provide the training verification or to document supervision.

NOTE: This provision does not disregard or unilaterally exempt the applicant from meeting the education, training and experience required under ORS 675.365; however, it enables the Board to exercise discretion in accepting alternative means of documentation when deemed appropriate, on a case-by-case basis.

Stat. Auth.: ORS 675.375, 675.400, 675.410 & 676.615

Stat. Implemented: ORS 675.375, 675.400 & 675.410

Hist.: HLA 9-2008(Temp), f. & cert. ef. 9-15-08 thru 12-1-08; HLA 11-2008, f. 11-26-08, cert. ef. 12-1-08

331-810-0040

Reciprocity; Equivalencies

Pursuant to ORS 675.380, an applicant who is recognized as a clinical sex offender therapist or associate sex offender therapist in another state may be issued Oregon certification as a sex offender therapist if the applicant's education, experience and formal training meet similar requirements for Oregon certification under ORS 675.375 and OAR 331-810-0020.

(1) Educational equivalency includes completion of the following:

(a) A masters or doctoral degree in social work, psychology, counseling, or educational psychology from a regionally accredited institution of higher education; or

(b) A masters or doctoral degree in an equivalent field from a regionally accredited institution of higher education and documentation of thirty graduate semester hours or forty-five graduate quarter hours in approved subject content listed in subsection (2) of this section.

(2) Approved subject content includes at least five graduate semester hours or seven graduate quarter hours in counseling, psychotherapy, and personality theory, and five graduate semester hours or seven graduate quarter hours in at least two of the following content areas:

- (a) Counseling and psychotherapy;
- (b) Personality theory;
- (c) Behavioral science and research;
- (d) Psychopathology/personality disorders;
- (e) Assessment/tests and measurement;
- (f) Group therapy/family therapy;
- (g) Human growth and development/sexuality; and
- (h) Corrections/criminal justice.

(3) Applicants must arrange for an affidavit of licensure form prescribed by the agency, to be received directly from the appropriate state agency, professional mental health licensing or certifying agency in the state where the applicant is currently licensed or certified, substantiating active status in good standing as a certified sex offender therapist defined in ORS 675.365.

(4) Applicants must document active practice as a certified sex offender therapist in another state during the previous two years immediately preceding application for Oregon certification.

(5) Applicants shall provide required documentation listed in OAR 331-030-0000, 331-820-0010 and other information as may be requested by the agency to determine equivalent education, experience and formal training for Oregon certification as a sex offender therapist.

Stat. Auth.: ORS 675.375, 675.380, 675.400, 676.615
Stat. Implemented: ORS 675.375, 675.380, 675.400
Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-810-0050

Supervision Purpose Statement

(1) The importance of ongoing supervision is crucial to the development of an associate sex offender therapist. ORS 675.365(4) defines the "minimum" number of hours of direct supervision as being two hours of supervision by a certified clinical sex offender therapist for each 45 hours of direct clinical contact with a sex offender. The Board is charged with ensuring consumer protection, through setting appropriate practice standards and professional accountability for Oregon certification, and therefore recommends approved supervisors take a more prudent and professional position attuned to industry standards when establishing supervision agreements.

(2) Supervision is a professional relationship between a qualified clinical therapist acting as supervisor and an associate therapist. A clinical therapist, who is approved as a "supervisor", in contrast to the role of a consultant, carries the authority to direct caseload and treatment plans. Supervision, in contrast to treatment, will identify counter-transference issues and develop a plan for the associate therapist to work through those issues independently.

(3) Discussion between the supervisor and the associate therapist are based on case notes, charts, records, and available audio or visual tapes of clients. The certified associate sex offender therapist present assessments, diagnoses, and treatment plans of clients being seen. The focus is on the appropriateness of these treatment plans and the supervisee's therapeutic skill in promoting change in the client. The

supervisor has the authority to decide the appropriateness of the associate therapist's client population against his or her level of expertise.

(4) Any variance from the requirements of OAR 331-810-0055 must be based on the individual circumstances and in the best interest of the associate and client, and in conformance with generally accepted standards of supervision and oversight. On such occasion, the therapist must document in writing the reasons for the variance in the contract or agreement. Failure to document the reasons for variance from stated requirements creates a presumption that the variance was not in the best interest of the supervisor, associate or client.

Stat. Auth.: ORS 675.375, 675.400, 675.410, 676.615
Stat. Implemented: ORS 675.375, 675.400, 675.410
Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-810-0055

Supervision Requirements

Supervision of a certified associate sex offender therapist is considerably different than consultation with other professionals. Consultation is solely advisory; consultants do not assume responsibility for those individuals with whom they consult. Supervision of associates requires that the supervisor take full ethical and legal responsibility for the quality of work of the associate therapist. A supervisor may not supervise more than two associate therapists at any time.

(1) An associate therapist shall establish and maintain a supervision contract with a clinical therapist which, at a minimum, meets the requirements of OAR 331-810-0050, in addition to the provisions of 331-810-0040.

(2) A minimum of two hours supervision by a clinical therapist is required for each 45 hours of direct clinical contact an associate therapist has with a sex offender.

NOTE: The Board recommends one hour of supervision for each 10 hours of direct clinical contact with a sex offender.

(3) Documentation of the dates and content of supervision meetings shall be submitted to the agency to verify appropriate supervision requirements have been met.

(4) All supervision shall take place concurrently with practice hours.

(5) Supervision includes, but is not limited to:

- (a) Discussion of services provided by the associate therapist;
- (b) Case selection, diagnosis, treatment plan, and review of each case or work unit of the associate therapist;
- (c) Discussions regarding theory and practice of the work being conducted;
- (d) Review of Oregon's laws, rules, and criminal justice procedures relevant to the work being conducted;
- (e) Discussion of the standards of practice for supervisors and associates as adopted by the agency and the ethical issues involved in providing professional services for sex offenders;
- (f) Discussion regarding coordination of work with other professionals and parties;
- (g) Discussion of relevant professional literature and research; and

(h) Periodic review of the contract.

(6) The supervisor shall:

- (a) Avoid presenting to the associate therapist as having qualifications in areas that they do not have;
- (b) Provide sufficient training and supervision to the associate therapist to assure the health and safety of the client and community;
- (c) Have expertise and knowledge to directly supervise the associate therapist's work; and

(d) Assure that the associate therapist being supervised has sufficient and appropriate education, background, and preparation for the work he or she will be doing.

(7) The supervisor and associate therapist shall enter into a formal written contract that defines the parameters of the professional relationship. The contract shall be submitted to the agency for approval and shall include:

- (a) Supervised areas of professional activity;
- (b) Amount of supervision time and the frequency of supervisory meetings. This information may be presented as a ratio of supervisory time to clinical work conducted by the associate therapist;
- (c) Supervisory fees and business arrangements, when applicable;
- (d) Nature of the supervisory relationship and the anticipated process of supervision;

- (e) Selection and review of clinical cases;
- (f) Methodology for recordkeeping, evaluation of the associate, and feedback; and
- (g) How the associate therapist will be represented to the public and the parties.

(8) Supervision of associate therapists shall involve regular, direct, face-to-face supervision. Depending on the associate therapist's skill and experience levels, the clinical therapist's supervision shall include direct observation of the associate therapist by sitting in session, audio tape recording, videotaping, or other means of observation.

(9) In some cases, such as geographic location or disability, more flexible supervision arrangements may be allowed. The supervisor shall submit requests for more flexible supervision arrangements to the agency for approval.

(10) The supervisor shall assure that the associate therapist is prepared to conduct professional work, and shall assure adequate supervision of the associate therapist. The supervisor should meet face-to-face with the associate therapist one hour for every ten hours of supervised professional work; but shall meet minimally 2 hours for every 45 hours of direct contact with sex offenders. Supervision meetings shall regularly occur at least every other week.

(11) A supervisor may not undertake a contract that exceeds the supervisor's ability to comply with supervision standards.

(12) The agency recognizes the needs of certain locales, particularly rural areas, and may allow a variance from the standards of this rule. Any variance request shall be submitted to the agency for approval with the supervision contract. Variances will be granted or denied in writing within thirty days.

(13) The nature of the associate therapist and clinical therapist supervisory relationship shall be communicated to the public, other professionals, and all clients served.

(14) An associate therapist shall represent himself or herself as an associate when performing clinical work and shall provide the name of the contracted supervisor.

(15) The supervisor shall cosign all written reports and correspondence prepared by the associate therapist. The written reports and correspondence shall include a statement that indicates the work has been conducted by the associate therapist acting under the clinical therapist's supervision.

(16) Both the supervisor and associate therapist shall maintain full documentation of the work done and supervision provided. The agency may audit the supervisor and associate therapist's records to assure compliance with laws and rules.

(17) All work conducted by the associate therapist is the responsibility of the supervisor. The supervisor shall have authority to direct the practice of the associate therapist.

(18) It is the supervisor's responsibility to correct problems or end the supervision contract if the associate therapist's work does not protect the interests of the clients and community. If the supervisor ends the contract, he or she shall notify the agency in writing within thirty days of ending the contract. A new contract must be filed with the agency.

(19) Supervision is a power relationship. The supervisor shall not use his or her position to take advantage of the associate therapist. This subsection is not intended to prevent a supervisor from seeking reasonable compensation for supervisory services.

(20) A supervisor shall only delegate responsibilities to an associate therapist, who has been assessed to have the competency to perform the delegated professional tasks.

(a) Supervision arrangements for associate therapists shall be agreed upon in writing and shall specify:

- (b) Expected associate therapist duties;
- (c) The scope and focus of the supervision; and
- (d) The frequency and durations of meetings between the supervisor and the associate therapist to review the associate therapist's professional performance.

(e) The supervision of the associate therapist shall provide proper training to persons who delegate professional tasks and take reasonable steps to see that such persons perform services responsibly, completely, and ethically.

(f) The supervisor shall not engage in sexual relationships with an associate therapist over whom the supervisor has evaluative or direct authority, as such relationships are likely to impair judgment or be exploitative.

Stat. Auth.: ORS 675.375, 675.400, 675.410, 676.615
Stat. Implemented: ORS 675.375, 675.400, 675.410
Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

DIVISION 820

LICENSURE AND RENEWAL

331-820-0010

Application Requirements

(1) An individual applying for certification as a sex offender therapist under ORS 675.370 shall submit an application form prescribed by the agency, which contains information listed in OAR 331-030-0000, payment of required application and certification fees, and satisfactory evidence of meeting qualification criteria according to one of the following certification pathways:

(a) Clinical sex offender therapist: required documentation pertaining to education, training and experience listed in OAR 331-810-0020;

(b) Associate sex offender therapist: required documentation pertaining to education, training, experience and supervision listed in OAR 331-810-0030;

(c) Individuals applying under a time limited grandfather provision: required documentation pertaining to education, training and experience listed in OAR 331-810-0035; or

(d) Individuals applying under ORS 675.380 reciprocal or equivalent credentials: required documentation pertaining to education, training and experience listed in OAR 331-810-0040.

(2) An application for certification shall be accompanied by a proposed professional disclosure statement, required under ORS 675.375(1), and the applicant's fingerprint and criminal background check forms prescribed by the agency.

Stat. Auth.: ORS 675.375, 675.400, 676.607, 676.615,
Stat. Implemented: ORS 675.375, 675.400, 675.410
Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-820-0020

License Issuance and Renewal

(1) Certified clinical sex offender therapists and certified associate sex offender therapists are subject to the provisions of OAR 331-030-0010 regarding the issuance and renewal of a certificate, and to the provisions of 331-030-0020 regarding the authorization to practice, identification and the requirements for issuance of a duplicate authorization.

(2) Notwithstanding ORS 675.375(5) and 331-030-0010(1), the certificate will be issued for a two-year period from the date all qualifications have been met.

(3) Renewal of a certificate shall be made in advance of the certification expiration date by submitting the following to the agency:

- (a) Renewal application form;
- (b) Renewal fees;

(c) Signed attestation of completion of required continuing education according to OAR 331-830-0010; and

(d) Satisfactory documentation recording at least 100 hours of clinical experience per year preceding renewal, of which 50 hours is related to direct clinical contact with sex offenders. Refer to OAR 331-830-0010.

(4) A completed certificate renewal application received by the agency or postmarked after a certificate has expired, but within three years from the expiration date, may be approved upon payment of the application for renewal and delinquency fees for each year in expired status, signed attestation of having obtained required continuing education pursuant to the provisions of ORS 675.375(5)(c) and OAR 331-810-0020 or 331-810-0030, and completion of the prescribed number of hours of clinical experience required in ORS 675.375(5)(b) for each year in expired status.

(5) A certificate that has been expired for more than three years shall be deemed invalid and may be reactivated by submitting to the agency the following requirements:

(a) Application form and information required according to OAR 331-030-0000 and 331-820-0010;

(b) Payment of application, reactivation and certificate fees;

(c) Completion of prescribed continuing education during period of inactive certification.

(6) Evidence of 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.

(7) Continuing education documentation shall be accumulated and held by the certificate holder for a period of 3 years following renewal, or until submitted to the agency at the time of audit within the three year period.

Stat. Auth.: ORS 675.375, 675.400, 675.410, 676.615

Stats. Implemented: ORS 675.375, 675.400, 675.410

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

DIVISION 830

CONTINUING EDUCATION

331-830-0005

Continuing Education Purpose Statement

The aim of continuing education for sex offender treatment therapists is to ensure that professionals practicing in this specialty field are knowledgeable of current scientific and practice principles that affect the supervision and treatment of sex offenders in community-based treatment. Since the treatment of sex offenders in communities raises significant public safety concerns, continuing education is required to help sex offender treatment therapists deliver the highest quality of professional service by being familiar with current developments in a rapidly changing profession.

Stat. Auth.: ORS 675.375, 675.400, 675.410, 676.615

Stat. Implemented: ORS 675.375, 675.400, 675.410

Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-830-0010

Continuing Education Requirements

(1) To ensure continuing efforts on the part of Oregon certified clinical sex offender therapists and certified associate sex offender therapists to remain current with new developments in the treatment of sexual abusers and the mental health profession, and to encourage diversified training and qualifications in the profession, continuing education is required as a condition of certification.

(2) Continuing education experiences are programs beyond the basic education required to obtain certification which are designed to promote and enrich knowledge, improve skills, and develop attitudes for the enhancement of the practices of sex offender therapists, thus improving sex offender therapies provided to the public.

(3) To be in compliance with the provisions of ORS 675.360 to 675.410 and the rules adopted by the agency, clinical therapists and associate therapists shall complete a minimum of 15 hours continuing education in the field of sex offender treatment during each year within a renewal cycle.

(4) Continuing education includes training related to sex offender treatment consisting of the following subject matter:

- (a) Assessment and diagnosis;
- (b) Cognitive therapy;
- (c) Counseling and psychotherapy;
- (d) Cultural/ethnic issues;
- (e) Ethics applicable to working with a forensic population;
- (f) Human development with special attention to sexual development and healthy sexuality;
- (g) Interviewing skills;
- (h) Knowledge of family dynamics as related to sex offending;
- (i) Psychometric and psycho-physiological testing;
- (j) Psychopathology;
- (k) Relapse prevention;
- (l) Relationship and social skills training;
- (m) Risk assessment;
- (n) Sexual arousal control;
- (o) Social support networks;
- (p) Victim awareness and empathy.
- (q) Supervision;
- (r) Assessment and treatment of mental illness including neuropsychological disorders;

- (s) Couples and family therapy;
- (t) Family reunification;
- (u) Pharmacological therapy;
- (v) Substance abuse treatment.

(5) An instructor, discussion leader, or speaker shall be given two hours of credit for subject preparation for each hour of presentation time, plus one additional hour of credit for each hour of actual presentation time. For example, a qualified instructor who conducts a one hour qualified program shall be given credit of three hours; a qualified instructor who conducts a one and one-half hour qualified program shall be given credit of four and one-half hours.

(6) Credit shall not be given for more than 5 hours of continuing education credit in a reporting period for lectures (preparation and teaching) and published material combined.

(6) The agency shall accept any continuing education that reasonably falls within the categories listed in subsection (4) of this rule. The agency relies upon each individual therapist's integrity with meeting the intent of continuing education requirements.

(7) Continuing education requirements apply whether the applicant renewing a certificate is living or working within Oregon or outside of the state while Oregon certification is maintained.

(8) The agency may grant exemptions in whole or part from continuing education requirements, including extension of deadlines, in documented hardship cases.

Stat. Auth.: ORS 675.375, 675.400, 675.410, 676.615

Stat. Implemented: ORS 675.375, 675.400, 675.410

Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-830-0020

Continuing Education: Audits, Required Documentation & Sanctions

(1) The Oregon Health Licensing Agency will select a prescribed percentage of certification records for audit to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation shall submit to the agency, within 30 calendar days from the date of issuance of the notification, satisfactory evidence of participation in required continuing education.

(3) Documentation of a certificate of completion of attendance at a program or course provided by the sponsor shall include:

- (a) Name of sponsoring institution/association or organization;
- (b) Title of presentation and description of content;
- (c) Name of instructor or presenter;
- (d) Date of attendance and duration in hours;
- (e) Course agenda;
- (f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.

(4) If documentation of continuing education is invalid or incomplete, the certificate holder shall correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(5) Misrepresentation of continuing education or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include but is not limited to assessment of a civil penalty and suspension or revocation of the certification.

Stat. Auth.: ORS 675.375, 675.385, 675.400, 675.410, 676.615, 676.992

Stat. Implemented: ORS 675.375, 675.400, 675.410

Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

DIVISION 840

CODE OF PROFESSIONAL CONDUCT

331-840-0010

Standards of Practice

Sex offender therapists are also credentialed health professionals, and are subject to the standards of practice of their primary field of practice. However, standards of practice vary from profession to profession, and sex offender evaluation and treatment represents significant differences in practice from general mental health interventions.

(1) The standards set forth in OAR chapter 331, division 840 apply to all certified clinical sex offender therapists and certified associate sex offender therapists, hereafter referred to as certified sex offender therapist as specified in ORS 675.365(3).

(2) Standards of practice are necessary due to the unique characteristics of this area of specialized practice, the degree of control that

a certified sex offender therapist exercises over the lives of clients, and the community protection issues inherent in this work.

(3) Failure to comply with these standards may constitute unprofessional conduct, which is subject to discipline under ORS 676.612.

(4) Any deviation from the standards of OAR 331-840-0020 must be based on the individual circumstances and in the best interest of the client, and in conformance with generally accepted standards of sex offender treatment and client care. On such occasion, the therapist must document in writing the reasons for the deviation in the client's records. Failure to document the reasons for the deviation from stated standards creates a presumption that the deviation was not in the best interest of the client.

Stat. Auth.: ORS 675.390, 675.400, 675.410, 676.607, 676.612, 676.615

Stats. Implemented: ORS 675.390, 675.400

Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-840-0020

Professional Conduct and Client Relationships

(1) The Sex Offender Treatment Board adopts the 2001 Association for the Treatment of Sexual Abusers (ATSA) Professional Code of Ethics, Ethical Principles, to the extent it does not conflict with ORS 675.360 through 675.410, 676.605 through 676.625, and any rules adopted by the agency.

(2) A copy of the Professional Code of Ethics may be accessed at the web site: <http://www.atsa.com/pdfs/COE.pdf>. The information may also be available by contacting ATSA at the following address: 4900 S.W. Griffith Drive, Suite 274, Beaverton, Oregon U.S.A. 97005, Phone: (503) 643-1023, Fax: (503) 643-5084, E-mail: atsa@atsa.com.

(3) Therapists shall adhere to ATSA ethical principles relating to professional conduct, payment of services, training and expertise, personal problems and conflicts, supervisory relationships, client relationships, multiple relationships, confidentiality, professional relationships, research and publications, and public information and advertising.

(4) Therapists shall not engage in sexual contact or sexual activity with their clients, former clients, or any person participating in the treatment process of a client while therapy is ongoing.

(5) Sexual misconduct includes but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the health care practitioner's scope of practice;

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals without using gloves;

(g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

(h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

(i) Dressing or undressing in the presence of the patient, client or key party;

(j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;

(k) Encouraging masturbation or other sex act in the presence of the health care therapist;

(l) Masturbation or other sex act by the health care therapist in the presence of the patient, client or key party;

(m) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;

(n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(o) Soliciting a date with a patient, client or key party;

(p) Discussing the sexual history, preferences or fantasies of the health care therapist;

(q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(r) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

(t) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(u) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes

Stat. Auth.: ORS 675.390, 675.400, 675.410, 676.607, 676.612, 676.615 Stats.

Implemented: ORS 675.390, 675.400

Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-840-0030

Communications with other Professionals

Certified sex offender therapists may establish professional relationships with corrections or probation officers and other mental health professionals for the purpose of effective supervision and monitoring of an offender's behavior in the community. When appropriate, the therapist shall seek an authorization for release of information from the client to communicate with such agencies for treatment or monitoring purposes.

(1) Any violation of the treatment plan or contract, including court orders or parole agreements, or conditions of supervision shall be reported to the parole officer or other supervising officer.

(2) Therapists shall make periodic progress reports to the supervising officer as mutually agreed upon. Additional information regarding treatment progress shall be provided in a timely manner when requested by the court or other supervising officer.

(3) Prior to implementation, plans for contact with the victim, potential victims and plans for family reunification or return (where appropriate) should be reviewed with the supervising officer.

(4) Where appropriate and consistent with the adult offender's informed consent, certified sex offender therapists shall communicate with the victim's therapist, guardian ad litem, custodial parent, guardian, caseworker, other family members, or other involved professional in making decisions regarding family reunification or return, or victim contact with the offender.

Stat. Auth.: ORS 675.390, 675.400, 675.410, 676.607, 676.612, 676.615 Stats.

Implemented: ORS 675.390, 675.400

Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-840-0040

Mandatory Reporting

(1) Pursuant to ORS 675.390, the Sex Offender Treatment Board is required to report to the Oregon Health Licensing Agency any conviction, determination, or finding of which they have personal knowledge that any person certified as a clinical sex offender therapist or associate sex offender therapist has committed an act which constitutes unprofessional conduct under 676.612 and the provisions of OAR 331-840-0010.

(2) The following persons are required to report the information identified in subsection (1) of this section:

(a) Persons certified as a clinical sex offender therapist or certified as an associate sex offender therapist;

(b) The president, chief executive officer, or designated official of any professional association or society whose members are a certified sex offender therapist;

(c) Prosecuting attorneys and deputy prosecuting attorneys;

(d) Community corrections officers employed by the Oregon Department of Corrections;

(e) Juvenile probation or parole counselors who provide counseling or supervision to juveniles;

(f) The president, chief executive officer, or designated official of any public or private agency which employs a certified sex offender therapist;

(g) The president, chief executive officer, or designated official of any credentialing agency for health professionals.

(3) Reports under this section shall be made in writing, and shall include the name, address, and telephone number of the person making the report, the name and address of the person about whom the report is made, and complete information about the circumstances giving rise to the report.

Stat. Auth.: ORS 675.390, 675.400, 675.410, 676.607, 676.612, 676.615 Stats.

Implemented: ORS 163, 419B, 675.390, 675.400

Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-840-0050

Client Confidentiality; Disclosure and Informed Consent

For the purpose of clarifying requirements, the term “client” as used in this rule, means the sex offender which is receiving the treatment from the certified clinical sex offender therapist or certified associate sex offender therapist, referred to as “therapist” in this rule unless otherwise specifically noted.

(1) The certified sex offender therapist is responsible for insuring that clients, consultation parties, family members, research participants, organizations or agencies, and all other professional and work related contacts fully understand issues related to confidentiality. This includes, but it not limited to:

- (a) Informing clients of the limits of confidentiality;
- (b) Informing clients of any circumstances that may cause an exception to the agreed-upon confidentiality;
- (c) Specifically informing clients about mandatory reporting requirements; and

(d) Clarifying issues of confidentiality where multiple parties are involved.

(2) Therapists shall comply with the provisions of ORS 675.390, and shall notify clients of the limits of confidentiality imposed on therapists by the provisions of ORS 675.390 and rules adopted by the agency.

(3) Therapists shall comply with mandated reporting laws and statutes. No part of this rule shall be construed as releasing therapists from such obligations. If the circumstances allow, therapists shall inform clients that they will comply with the mandated reporting requirements.

(4) Unless reporting is mandated, written permission is required before any data maybe disclosed to persons beyond a therapist’s staff. Clients shall be informed of the reason for the release of information.

(5) Therapists providing services within the criminal justice setting shall inform all parties involved of the level of confidentiality that applies.

(6) Therapist information shall not communicate to others without the written and informed consent of the client, unless the following circumstances apply:

- (a) The client presents a clear and immediate danger to another individual or individuals.
- (b) The client presents a clear and immediate danger to him/herself.

(c) There is an obligation to comply with the specific governmental statutes or regulations requiring reporting to authorities.

(7) Therapists shall ensure that a client is provided informed consent when an individual under the therapist’s supervision is providing services to the client. The client must be informed of the name of the therapist who is supervising the associate therapist and any affect on confidentiality.

(8) Therapists shall clarify, in a manner that the client is capable of understanding, issues of confidentiality in cases involving functionally disabled individuals or minors, when sharing information with parents, guardians, or agencies that may have custody of the functionally disabled individual or minor.

(9) When working with clients incapable of giving informed consent, including functionally disabled individuals or minors, the therapist is still responsible to:

- (a) Inform the client about any proposed assessments or interventions in a manner commensurate with the person’s psychological, functional, or developmental capabilities;
- (b) Seek their help and participation in such interventions; and
- (c) Consider such persons’ preferences and best interest.

(10) Therapists who provide service to several persons who have a relationship (such as husband and wife or family members), shall clarify at the outset how confidentiality will apply among participants and to any external individual or entity (e.g., criminal justice).

(11) Therapists shall obtain written informed consent from a legally authorized person or agency for providing services, for participation in research, and in video taping for educational purposes, in instances where persons are legally capable of giving informed consent.

(12) Therapists shall not share confidential information with colleagues that might reasonably lead to the identification of a sex offender, research participant, organization or other person with whom the therapist has a confidential relationship.

(13) Therapists shall protect the confidentiality of participants when utilizing audio tape or video tape information in the context of training, workshops or research studies. Such tapes will be used only with the written and informed consent of all individuals portrayed on the tapes for that particular use (i.e., training, workshops, and research studies).

(14) Live demonstrations of treatment techniques with current or former clients or their families is considered exploitative and compromises confidentiality beyond what can be justified relative to education benefits.

Stat. Auth.: ORS 675.390, 675.400, 675.410, 676.607, 676.612, 676.615 Stats.
Implemented: ORS 163, 419B, 675.390, 675.400
Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

331-840-0060

Client Records

For the purpose of clarifying record keeping requirements, the term “client” as used in this rule, means the sex offender which is receiving the treatment from the certified sex offender therapist who will be providing treatment.

(1) Required Records. Therapists shall record, update and maintain documentation for each client relevant to health history, clinical examinations and treatment, and financial data. Documentation shall be written or electronic. Records shall include the following information:

(a) Basic client information, including name, address, telephone number and dates of service;

(b) Health history relevant to sex offender evaluation or treatment plan(s), including referral to other mental health care provider or physician.

(c) Date and description of services rendered in the form of “chart notes”, including any complications. Chart notes shall include the recorder’s initials, certification number and professional title if multiple practitioners provide service to the client.

(2) Record Format. Records and documentation shall be accurate, complete, and legible, typed or recorded using ink. Legible hand-written or electronic records are acceptable.

(3) Record Identifiers. Client records listed in subsection (1) of the rule shall include the therapist’s name, license number, professional title or abbreviation, and signature or initials somewhere on the documentation as a means of identifying the person who is providing service to the client. This information may be affixed to the record(s) in the form of a professional stamp or handwritten entry.

(4) Record Retention. All client records and documentation, written or archived electronically by computer, shall be stored and maintained for a minimum of seven years after the therapist has last seen the client or past the age of minority, so that the records are safeguarded, readily retrievable, and available for inspection by the Oregon Health Licensing Agency’s representative.

Stat. Auth.: ORS 675.390, 675.4100, 675.410, 676.615
Stats. Implemented: ORS 675.390, 675.400, 675.410
Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08

DIVISION 850

DISCIPLINE AND ENFORCEMENT

331-850-0010

Investigative Authority

The Oregon Health Licensing Agency may initiate and conduct investigations of matters relating to the practice of Sex Offender Treatment, pursuant to ORS 676.608, and may take appropriate disciplinary action in accordance with the provisions of 676.612 and 675.385.

Stat. Auth.: ORS 675.385, 676.608, 676.612
Stats Implemented: ORS 675.385, 676.608, 676.612
Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08