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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 309
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: BEHAVIORAL HEALTH SERVICES

FILED: 10/27/2026 8:12 AM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Minor rule changes in section 0222, Treatment Considerations, to better align with statute.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/15/2026 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Jessica Malstrom
Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/16/2026
TIME: 1:00 PM - 1:40 PM
OFFICER: Jessica Malstrom

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 1-669-254-5252
CONFERENCE ID: 1659180512
SPECIAL INSTRUCTIONS:
Join ZoomGov Meeting
https://www.zoomgov.com/j/1659180512?pwd=lc8Pqp54MSlYJYbcbtIUTbMEsHi2qs.1
Meeting ID: 165 918 0512
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Dial by your location

• +1 669 254 5252 US (San Jose)
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Meeting ID: 165 918 0512

NEED FOR THE RULE(S):

Amendments to one rule section to correct minor wording and paragraph re-numbering recommended by Legislative Counsel.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

Due to minor nature of changes to enhance alignment of statutory and regulatory language in only one section of rules no impact beyond what was described in original NPRM is expected.

FISCAL AND ECONOMIC IMPACT:

Due to minor nature of changes to enhance alignment of statutory and regulatory language in only one section of rules no fiscal impact beyond what was described in original NPRM is expected.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Due to minor nature of changes to enhance alignment of statutory and regulatory language in only one section of rules no impact regarding cost of compliance beyond what was described in original NPRM is expected.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Because the changes are minor and statutory in nature, there is no anticipated impact on small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 309-033-0222

RULE SUMMARY: Amendments to one rule section to correct minor wording and paragraph re-numbering recommended by Legislative Counsel.

CHANGES TO RULE:

309-033-0222
Need for Treatment Considerations/
(1) When a certified mental health investigator is making a hearing recommendation, or a certified mental health examiner is making a commitment recommendation, they must consider whether the person is a person with mental illness and is in need of treatment because the person:-¶
(a) Is a danger to self;-¶
(b) Is a danger to others;-¶

(c) Is unable to provide for basic personal needs; or-¶
(d) Has a chronic mental disorder. ¶
(2) A danger to self, danger to others, or risk of serious physical harm due to inability to provide for basic personal needs must be reasonably foreseeable in the near future but need not be imminent.-¶
(3) When a certified mental health investigator or examiner are preparing a report or testifying at a civil commitment hearing regarding the issue of whether the person is a person with mental illness and in need of treatment because they are a danger to themselves, they should consider:¶
(a) The person's recent overt acts causing or attempting to cause serious physical harm to self;¶
(b) Recent acts placing the person in circumstances that resulted in or were likely to result in serious physical harm to self;¶
(A) The person's recent threats to cause serious physical harm to self and the severity of the harm threatened;¶
(B) Absent treatment, the likelihood of such threats being carried out; and¶
(C) Absent treatment, the likelihood of such threats reoccurring.¶
(c) Any past behavior and patterns of deterioration resulting from a mental disorder that contributed to prior involuntary hospitalizations for being a danger to self, how recently the past behavior occurred and the frequency and severity of the past behavior.¶
(4) When a certified mental health investigator or examiner are preparing a report or testifying at a civil commitment hearing regarding the issue of whether the person is a person with mental illness and in need of treatment because they are a danger to others, they should consider:¶
(a) Recent overt acts causing or attempting to cause physical harm to another person and¶
(~~A~~b) The frequency and severity of such acts.¶
(~~B~~c) Recent destructive acts against property that were reasonably likely to place others at risk of physical harm.¶
(~~b~~d) Recent threats to cause physical harm to another person;¶
(A) The severity of the harm threatened;¶
(B) Absent treatment, the likelihood of such threats being carried out; and¶
(C) Absent treatment, the likelihood of such threats reoccurring.¶
(~~c~~e) Any past behavior and patterns of deterioration resulting from a mental disorder that contributed to prior involuntary hospitalizations for being a danger to others;¶
(A) How recently the past behavior occurred; and¶
(B) The frequency and severity of the past behavior.¶
(5) An inability to meet basic personal needs is demonstrated when a person, because of a mental disorder:-¶
(a) Is unable to provide for basic personal needs that are necessary to avoid reasonably foreseeable serious physical harm in the near future; and-¶
(b) Is not receiving such care that would be necessary to avoid serious physical harm, or for persons under a court commitment or other involuntary program for mental health treatment, it is reasonably foreseeable that the person will not, upon release, receive such care that would be necessary to avoid serious physical harm. ¶
(6) A chronic mental disorder is demonstrated when:-¶
(a) A person ~~has~~is a "person with a chronic mental illness" as defined in ORS 426.495; ¶
(b) Within the previous three years the person has been placed, at least twice, in a hospital or an approved inpatient unit as directed by the Authority or a CMHP director under ORS 426.060~~.~~;¶
(c) The person is exhibiting symptoms or behaviors substantially similar to those that preceded and led to one or more of the placements; and ¶
(d) To a reasonable medical probability, the person will, without treatment, continue to deteriorate physically or mentally so that the person will become a danger to self, a danger to others, or be unable to provide for the person's basic personal needs. ¶
(7) Certified mental health investigators and certified mental health examiners, when ~~determin~~ assessing whether a person ~~is in need of treatment because the person is a danger to self or a danger to others~~evaluated under this rule is in need of treatment, are to consider:-¶
(a) The person's insight into their psychiatric needs and current circumstances; ¶
(b) The person's ability to, with their level of insight, follow a treatment plan; and ¶
(c) How likely the person may, in the near future, become a danger to self, danger to others, or unable to provide for basic personal needs without sufficient and available mental health treatment.-¶
(8) A need for assisted outpatient treatment (AOT) is demonstrated when~~:¶~~
~~(a) A person i~~ a person:¶
(a) Is at least 18 years old¶
(b) Has a mental disorder¶
(c) Cannot provide informed consent for mental health treatment, and ¶
(d) Will not access mental health treatment on a voluntary basis and as a result:-¶
(e) Is unable to make an informed decision or to comply with voluntary treatment; and¶

(f) As a result of (a) to (e):¶
(A) Is unable to safely live in the community without mental health treatment; and-¶
(B) Must receive mental health treatment to prevent further deterioration ~~or~~ in the person's condition that would predictably result in the person becoming a person who is a danger to self, is a danger to others, is unable to provide for basic personal needs, or has a chronic mental disorder. ¶
(~~e~~9) When determining whether a person has a need for AOT, a certified civil commitment investigator or a certified mental health examiner may consider:-¶
(~~A~~a) The person's ability to access finances in order to get food or medicine.¶
(~~B~~b) The person's ability to obtain treatment for the person's medical condition.¶
(~~C~~c) The person's ability to access necessary resources in the community without assistance.¶
(~~D~~d) The degree to which there are risks to the person's safety.¶
(~~E~~e) The likelihood that the person will decompensate without immediate care or treatment.¶
(~~F~~f) The person's previous attempts to inflict physical injury on self or others.¶
(~~G~~g) The person's history of mental health treatment in the community.¶
(~~H~~h) The person's patterns of decompensation in the past.¶
(~~I~~i) The person's risk of being victimized or harmed by others.¶
(~~J~~j) The person's access to the means to inflict harm on self or others.¶
(~~f~~k) The person's history of accessing and engagement in mental health treatment in the community, including previous patterns of decompensation and the likelihood that the person will decompensate without immediate care or treatment.
Statutory/Other Authority: ORS 413.042, 426.005, 426.060, 426.110(2), 426.232, 426.236, HB 2005 (2025)
Statutes/Other Implemented: ORS 426.005 - 426.395