

Chapter 847 Oregon Medical Board

DIVISION 1

PROCEDURAL RULES

847-001-0000	Notice of Proposed Rule
847-001-0005	Model Rules for Contested Cases
847-001-0007	Agency Representation at Hearings
847-001-0010	Public Attendance
847-001-0015	Delegation of authority
847-001-0022	Confidentiality in the Investigative Process
847-001-0024	Compliance
847-001-0030	Approval of Interim Stipulated Orders
847-001-0035	Approval of Suspensions and Terminations of Orders by Operation of Law
847-001-0040	Approval of Notices of Civil Penalty
847-001-0045	Approval of Consent Agreements for Re-entry to Practice

DIVISION 2

CRIMINAL BACKGROUND CHECKS

847-002-0000	Purpose and Intent
847-002-0005	Definitions
847-002-0010	Criminal Records Check Process
847-002-0015	Final Fitness Determination
847-002-0020	Potentially Disqualifying Crimes
847-002-0025	Incomplete Fitness Determination
847-002-0030	Notice to Subject Individual of Fitness Determination
847-002-0035	Appealing a Fitness Determination
847-002-0040	Recordkeeping and Confidentiality
847-002-0045	Fees

DIVISION 3

BOARD ADMINISTRATION

847-003-0100	Declared Emergency — Delegation of Authority
847-003-0200	Board Member Compensation

DIVISION 5

FEES

847-005-0005	Fees
847-005-0010	Copying Charges and Charges for Board of Medical Examiners Documents

DIVISION 6

MEDIATION COMMUNICATIONS

847-006-0000	Confidentiality and Inadmissibility of Mediation Communications
--------------	---

DIVISION 8

REGISTRATION, USE OF NAME, CHANGE OF ADDRESS

847-008-0000	Definitions
847-008-0003	Delegation of Authority
847-008-0005	Registration Periods
847-008-0010	Initial Registration
847-008-0015	Active Registration
847-008-0018	Military/Public Health Active Registration
847-008-0020	Locum Tenens Registration
847-008-0022	Teleradiology Registration
847-008-0023	Telemonitoring Registration
847-008-0025	Inactive Registration
847-008-0030	Emeritus Registration
847-008-0035	Retired Status
847-008-0036	Revoked or Suspended Status

847-008-0037	Administrative Medicine
847-008-0040	Process of Registration
847-008-0045	Failure to Apply for Registration
847-008-0050	Reinstatement of License Lapsed Due to Non-Renewal
847-008-0051	Reinstatement Following Surrender of Licensure
847-008-0053	Restoration of License from Revoked Status
847-008-0055	Reactivation from Locum Tenens/Inactive/Emeritus/Active-Military or Public Health to Active/Locum Tenens Status
847-008-0056	Reactivation from Retired to Emeritus/Locum Tenens/Active Status
847-008-0058	Fraud or Misrepresentation
847-008-0060	Notification of Change of Location
847-008-0065	Use of Name
847-008-0068	State and Nationwide Criminal Records Checks, Fitness Determinations
847-008-0070	Continuing Medical Competency (Education)
847-008-0075	Mandatory Pain Management Education

DIVISION 10

GENERAL

847-010-0005	Tenses, Gender, and Number
847-010-0010	Definitions
847-010-0012	Certification of Examination Scores and Verification of Oregon Licensure
847-010-0025	Refunding of Filing Fees — Reciprocity with a Sister State
847-010-0030	Refunding of Filing Fees — Written Examination
847-010-0035	Refunding of Filing Fees — Endorsement by National Board of Medical Examiners, National Board of Osteopathic Medical Examiners, or the Medical Council of Canada (LMCC)
847-010-0038	Fee for Re-Application
847-010-0042	Posting Medicare Notice
847-010-0045	Definition of Hospitals as Standard in the State of Oregon
847-010-0051	Limited License, Postgraduate
847-010-0052	Limited License, Visiting Professor
847-010-0056	Limited License, Fellow
847-010-0060	Limited License, SPEX/COMVEX, and Limited License, Postgraduate
847-010-0063	Limited License, Medical Faculty
847-010-0064	Limited License, SPEX/COMVEX
847-010-0066	Visiting Physician Requirements
847-010-0068	Practice in Oregon by Out-of-State Physicians and Physician Assistants in the Event of an Emergency
847-010-0070	Competency Examination
847-010-0073	Reporting Requirements
847-010-0075	Reporting of Alleged Professional Negligence
847-010-0078	Agreement Prohibited between Physician and Patient that Limits a Patient's Rights
847-010-0081	Physician- Assisted Death with Dignity
847-010-0090	Hospital Clinical Clerkships
847-010-0095	Peer Review
847-010-0110	Physicians and Physician Assistants to Honor Life-Sustaining Treatment Orders

DIVISION 12

PATIENT'S ACCESS TO MEDICAL RECORDS

847-012-0000	Patient's Access to Medical Records
--------------	-------------------------------------

DIVISION 15

**GENERAL LICENSING RULES, RELATING
TO CONTROLLED SUBSTANCES**

847-015-0005	Schedule II Controlled Substances — Bariatrics Practice
847-015-0010	Schedule III or IV Controlled Substances — Bariatrics Practice
847-015-0015	Maintenance of Controlled Substances Log by Prescribing Practitioners
847-015-0020	Maintenance of Controlled Substances Log — Ambulance and Medical Rescue Services Receiving Controlled Substances from Physicians
847-015-0025	Dispensing, Distribution and Administration
847-015-0030	Written Notice Disclosing the Material Risks Associated with Prescribed or Administered Controlled Substances for the Treatment of “Intractable Pain”
847-015-0035	Attending Physicians Prescribing Medications to Physician-Assisted Death with Dignity Patients
847-015-0040	Collaborative Drug Therapy Management

DIVISION 17

OFFICE-BASED SURGERY

847-017-0000	Preamble
847-017-0003	Classification of Office-Based Surgery
847-017-0005	Definitions
847-017-0008	Standard of Practice
847-017-0010	Licensee Use of Office-Based Surgical Facilities
847-017-0015	Selection of Procedures and Patients
847-017-0020	Patient Medical Records
847-017-0025	Discharge Evaluation
847-017-0030	Emergency Care and Transfer Protocols
847-017-0035	Quality Assessment
847-017-0037	Reporting Requirement
847-017-0040	Facility Administration and Equipment

DIVISION 20

**RULES FOR LICENSURE TO
PRACTICE MEDICINE IN OREGON**

847-020-0100	Definitions
847-020-0110	Application for Licensure
847-020-0120	Basic Requirements for Licensure of an Approved Medical School Graduate
847-020-0130	Basic Requirements for Licensure of an International Medical School Graduate
847-020-0140	Limited License, Medical Faculty Qualifications
847-020-0150	Documents and Forms to be Submitted for Licensure
847-020-0160	Letters and Official Verifications to be Submitted for Licensure
847-020-0165	Application for Licensure by Military Spouse or Domestic Partner
847-020-0170	Examination for Licensure
847-020-0182	SPEX or COMVEX Requirements
847-020-0183	Re-Entry to Practice — SPEX or COMVEX Examination, Re-Entry Plan
847-020-0185	License Application Withdrawals
847-020-0190	Denial of Licensure
847-020-0200	Required School Subjects

DIVISION 23

**RULES FOR LICENSURE OF VOLUNTEER
EMERITUS PHYSICIANS**

847-023-0000	Definitions
---------------------	-------------

847-023-0005	Qualifications
847-023-0010	Documents and Forms to be Submitted for Licensure
847-023-0015	Letters and Official Grade Certifications to be Submitted for Licensure with Emeritus Registration

DIVISION 25

**RULES FOR LICENSURE TO
PRACTICE MEDICINE ACROSS STATE LINES**

847-025-0005	Preamble
847-025-0010	Definitions
847-025-0020	Exemptions
847-025-0030	Limitations
847-025-0040	Qualifications
847-025-0050	Application
847-025-0060	Medical Records and Personal Appearance

DIVISION 26

RULES FOR LICENSE BY EXPEDITED ENDORSEMENT

847-026-0000	Qualifications for License by Endorsement
847-026-0005	Application
847-026-0010	Documents, Letters, Certifications Obtained by the Board
847-026-0015	Documents and Forms to be Submitted for Licensure
847-026-0020	Letters and Official Grade Certifications to be Submitted for Licensure

DIVISION 28

**RULES FOR LICENSURE OF VOLUNTEER
CAMP PHYSICIANS**

847-028-0000	Preamble
847-028-0010	Qualifications
847-028-0020	Limitations
847-028-0030	Application
847-028-0040	Medical Records and Personal Appearance

DIVISION 31

**BOARD APPROVAL OF FOREIGN
SCHOOLS OF MEDICINE**

847-031-0010	Criteria for Approval of Foreign Schools of Medicine
847-031-0020	Protocol for Evaluation of Foreign Schools of Medicine
847-031-0030	Recertification
847-031-0040	Approval of Foreign Schools of Medicine by Other States
847-031-0050	Approval of Foreign Schools of Medicine by Foreign Accrediting Agencies

DIVISION 35

**EMERGENCY MEDICAL SERVICES
PROVIDERS AND SUPERVISING PHYSICIANS**

847-035-0001	Definitions
847-035-0011	EMT Advisory Committee
847-035-0012	Duties of the Committee
847-035-0020	Application and Qualifications for a Supervising Physician and Agent
847-035-0025	Supervision

Scope of Practice

847-035-0030	Scope of Practice
---------------------	-------------------

DIVISION 50

PHYSICIAN ASSISTANT

847-050-0005	Preamble
847-050-0010	Definitions
847-050-0015	Application
847-050-0020	Qualifications
847-050-0022	Application for Licensure by Military Spouse or Domestic Partner
847-050-0023	Limited License, Pending Examination
847-050-0025	Interview and Examination
847-050-0027	Approval of Supervising Physician
847-050-0029	Locum Tenens Assignments
847-050-0035	Grounds for Discipline
847-050-0037	Supervision
847-050-0038	Agents
847-050-0040	Method of Performance
847-050-0041	Prescribing and Dispensing Privileges
847-050-0042	Registration
847-050-0043	Inactive Registration, Initial Licensure, and Re-Entry to Practice
847-050-0046	Active Status for Temporary, Rotating Assignments
847-050-0050	Termination of Supervision
847-050-0055	Professional Corporation or Partnership
847-050-0060	Physician Assistant Student
847-050-0063	Physician Assistant Committee
847-050-0065	Duties of the Committee

DIVISION 65

HEALTH PROFESSIONALS' SERVICES PROGRAM

847-065-0005	Licensees with Mental Illness Treated in Hospital Exceeding 25 Consecutive Days
847-065-0010	Purpose, Intent and Scope
847-065-0015	Definitions
847-065-0020	Participation in Health Professionals Services Program
847-065-0025	Eligibility for Participation in Health Professionals Services Program
847-065-0030	Procedure for Board Referrals
847-065-0035	Procedure for Self- Referred Licensees
847-065-0040	Disqualification Criteria
847-065-0045	Approval of Independent Third-Party Evaluators
847-065-0050	Approval of Treatment Providers
847-065-0055	Licensee Responsibilities
847-065-0060	Completion Requirements
847-065-0065	Substantial Non-Compliance Criteria
847-065-0070	Licensees with Primary Residence or Work Site Outside of Oregon

DIVISION 70

ACUPUNCTURE

847-070-0005	Definitions
847-070-0007	Practice of Acupuncture
847-070-0015	Application
847-070-0016	Qualifications
847-070-0017	Clinical Training
847-070-0019	Interview and Examination
847-070-0020	Regulation of Activities of Acupuncturists
847-070-0022	Documents to be Submitted for Licensure
847-070-0024	Application for Licensure by Military Spouse or Domestic Partner
847-070-0025	Disciplinary Proceedings
847-070-0030	Revocation or Suspension of Authority to Engage in the Practice of Acupuncture
847-070-0033	Visiting Acupuncturist Requirements
847-070-0037	Limited License, Pending Examination
847-070-0038	Limited License, Visiting Professor

847-070-0039	Registration
847-070-0045	Inactive Registration and Re-Entry to Practice
847-070-0050	Acupuncture Advisory Committee
847-070-0055	Duties of the Committee

DIVISION 80

PODIATRIC MEDICINE

847-080-0001	Definitions
847-080-0002	Application for Licensure
847-080-0010	Requirements for Licensure
847-080-0013	Documents to Be Submitted for Licensure
847-080-0016	Application for Licensure by Military Spouse or Domestic Partner
847-080-0017	Letters and Official Verifications to be Submitted for Licensure
847-080-0018	Examination for Licensure
847-080-0020	Use of Title
847-080-0021	Competency Examination and Re-Entry to Practice
847-080-0022	Qualifications to Perform Ankle Surgery
847-080-0025	Change of Address and Multiple Offices
847-080-0028	License Application Withdrawals
847-080-0030	Denial of License
847-080-0035	Approved Podiatry Colleges

DIVISION 1

PROCEDURAL RULES

847-001-0000

Notice of Proposed Rule

Prior to adoption, amendment or repeal of any permanent rule, the Oregon Medical Board must give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action.

(2) Mail a copy of the notice to persons on the Oregon Medical Board's mailing list established pursuant to ORS 183.335 (8) at least 28 days before the effective date of the rule;

(3) In regard to rules adopted on or after January 1, 2006, at least 49 days before the effective date of the rule, the Board must provide notice to the persons specified in ORS 183.335(15); and

(4) Mail or furnish a copy of the notice to:

- (a) The Associated Press; and
- (b) The Capitol Press Room.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: ME 1-1988, f. & cert. ef. 1-29-88; ME 20-1994, f. & cert. ef. 10-26-94; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06; OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; OMB 12-2012, f. & cert. ef. 4-17-12

847-001-0005

Model Rules for Contested Cases

The Oregon Medical Board adopts the Attorney General's Uniform and Model Rules for Contested Cases of the Attorney General in effect on January 1, (2008), and all amendments thereto are hereby adopted by reference as rules of the Oregon Medical Board.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Medical Board.]

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: ME 4, f. 11-3-71, ef. 11-15-71; ME 26, f. 3-15-72, ef. 4-1-72; ME 27, f. 3-27-72, ef. 4-15-72; ME 30, f. 3-5-74, ef. 3-25-74; ME 32, f. & ef. 5-11-76; Renumbered from 847-060-0005; ME 2-1978, f. & ef. 7-31-78; ME 3-1980, f. & ef. 5-14-80; ME 6-1980, f. & ef. 8-13-80; ME 1-1982, f. & ef. 1-28-82; ME 5-1983, f. & ef. 11-3-83; ME 2-1986, f. & ef. 4-23-86; ME 14-1987, f. & ef. 8-3-87; ME 1-1988, f. & cert. ef. 1-29-88; ME 13-1988, f. & cert. ef. 10-20-88; ME 13-1988, f. & cert. ef. 10-20-88; ME 10-1990, f. & cert. ef. 8-7-90; ME 13-1990, f. & cert. ef. 8-16-90; ME 2-1992, f. & cert. ef. 4-17-92; ME 20-1994, f. & cert. ef. 10-26-94; BME 13-2000, f. & cert. ef. 10-30-00; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06; OMB 6-2011, f. & cert. ef. 4-25-11; [OMB

1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; Temporary suspended by OMB 12-2012, f. & cert. ef. 4-17-12]

847-001-0007

Agency Representation at Hearings

(1) Subject to the approval of the Attorney General, an employee of the Oregon Medical Board is authorized to appear on behalf of the Board in contested case hearings conducted on civil penalties issued by the Board with no other formal disciplinary action proposed against the licensee.

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

(a) "Legal argument" includes arguments on:

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

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

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

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

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

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

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

(D) The admissibility of evidence;

(E) The correctness of procedures being followed in the contested case hearing.

Stat.s Auth.: ORS 677.265

Stats. Implemented: ORS 183.452

Hist.: OMB 2-2012, f. & cert. ef. 2-10-12; OMB 18-2012, f. & cert. ef. 8-3-12

847-001-0010

Public Attendance

Contested case hearings are closed to members of the public.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.341

Hist.: BME 13-2000, f. & cert. ef. 10-30-00; BME 2-2003, f. & cert. ef. 1-27-03; [OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; Temporary suspended by OMB 12-2012, f. & cert. ef. 4-17-12]

847-001-0015

Delegation of Authority

(1) The Oregon Medical Board (Board) has delegated to the Executive Director the authority to make certain procedural determinations on its behalf on matters arising under the Attorney General's Model Rules for Contested Cases in OAR 137-003-0001 to OAR 137-003-0700. The procedural functions include, but are not limited to:

(a) For discovery requests before the Board, to authorize or deny requested discovery in a contested case, to include specifying the methods, timing and extent of discovery;

(b) To review all requests to take a deposition of a witness and to authorize or deny any request for deposition. If a request to take a deposition is authorized, the Executive Director may specify the terms on which the deposition is taken, to include, but not limited to the location, the manner of recording, the time of day, the persons permitted to be present, and the duration of the deposition;

(c) Whether a request for hearing filed after the prescribed time will be accepted, based upon a finding of good cause. In making this determination, the Executive Director may require the request to be supported by an affidavit or other writing to explain why the request is late and may conduct such further inquiry as deemed appropriate. The Executive Director may authorize a hearing on whether the late filing should be accepted. If any party disputes the facts contained in the explanation as to why the request was late or the accuracy of the reason that the request was late, the requestor has a right to a hearing before an Administrative Law Judge (ALJ) on the reasons for that factual dispute;

(d) Whether the late filing of a document may be accepted based upon a finding of good cause;

(e) Whether to issue a subpoena for the attendance of witnesses or to produce documents at the hearing;

(f) Prior to the issuance of a proposed order issued by an ALJ, whether the Board will consider taking notice of judicially cognizable facts or of general, technical or scientific facts in writing which are within the specialized knowledge of the Board;

(g) Whether to submit to the Board prior to an ALJ's proposed final order the following issues:

(A) The Board's interpretation of its rules and applicable statutes;

(B) Which rules or statutes are applicable to a proceeding;

(C) Whether the Board will answer a question transmitted to it by the ALJ;

(h) In regard to a proposed order issued by an ALJ, whether the Board's legal representative will file exceptions and present argument to the Board; and

(i) Whether a request for delay of hearing on emergency suspension will be accepted.

(2) All actions taken under this delegation must be reported to the Board at the regularly scheduled meeting in which the Board deliberates on the proposed order in the case.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: BME 13-2000, f. & cert. ef. 10-30-00; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06; OMB 6-2011, f. & cert. ef. 4-25-11; OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; OMB 12-2012, f. & cert. ef. 4-17-12

847-001-0022

Confidentiality in the Investigative Process

(1) Information pertaining to an ongoing investigation or Board action that has been disclosed to a licensee or applicant by the Board pursuant to ORS 676.175(3) is confidential and may be further disclosed by the licensee or applicant only to the extent necessary to prepare for a contested case hearing related to a Complaint and Notice of Proposed Disciplinary Action, a Notice of Denial of Licensure or an Order of Emergency Suspension issued against the licensee or applicant.

(2) All licensees and applicants under Board investigation or facing Board disciplinary action or license denial, to include consultants for a licensee, an applicant or the Board, have an obligation to protect the confidentiality of information obtained by the Board in an investigation.

(3) Violation of this rule is grounds for disciplinary action.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: OMB 6-2011, f. & cert. ef. 4-25-11; [OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; Temporary suspended by OMB 12-2012, f. & cert. ef. 4-17-12]

847-001-0024

Compliance

(1) Licensees and applicants must comply with a Board investigation, including responding to inquiries and providing requested materials within the time allowed and complying with a subpoena. Failure to comply with a Board investigation violates ORS 677.190(17) and is grounds for disciplinary action.

(2) Licensees and applicants must comply with the terms of all Board Orders and Agreements, including Corrective Action Agreements and Consent Agreements. Failure to comply with the terms of a Board Order or Agreement violates ORS 677.190(17) and is grounds for disciplinary action.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190, 677.205, 677.270 & 677.320

Hist.: OMB 1-2014, f. & cert. ef. 1-14-14

847-001-0030

Approval of Interim Stipulated Orders

(1) The Executive Director, via his/her signature, has the authority to grant approval of an Interim Stipulated Order that has been signed by a licensee of the Board.

(2) The Executive Director's or Medical Director's signature grants approval of the Interim Stipulated Order, which allows the Order to become a public document. As a public document, the Inter-

im Stipulated Order may be released to hospitals, clinics, and other practice locations.

(3) The Executive Director or Medical Director must forward Interim Stipulated Orders to the Board in a timely manner.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 677.275

Hist.: BME 13-2008(Temp), f. & cert. ef. 5-16-08 thr 10-31-08; BME 22-2008, f. & cert. ef. 10-31-08; BME 7-2009, f. & cert. ef. 5-1-09; OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; OMB 12-2012, f. & cert. ef. 4-17-12

847-001-0035

Approval of Suspensions and Terminations of Orders by Operation of Law

(1) The Executive Director or Medical Director has the authority to grant approval of Suspensions or Terminations of Orders that occur by operation of law.

(2) The Executive Director's or Medical Director's signature grants approval of the Suspension or Termination of Order, which becomes a public document. As a public document, the Suspension or Termination of Order may be released to the public.

(3) The Executive Director or Medical Director must forward Suspensions and Terminations of Orders to the Board in a timely manner.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 25.750, 25.774, 677.190, 677.225 & 677.265

Hist.: OMB 19-2013, f. & cert. ef. 7-12-13

847-001-0040

Approval of Notices of Civil Penalty

(1) The Executive Director has the authority to issue Notices of Civil Penalty, which include default final orders, for violations of the Board's administrative rules.

(2) The Executive Director's signature grants approval of the Notice of Civil Penalty, which becomes a public document. As a public document, the Notice of Civil Penalty may be released to the public. However, the civil penalty is not an adverse action.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190, 677.205, 677.265

Hist.: OMB 12-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 24-2013, f. & cert. ef. 10-15-13

847-001-0045

Approval of Consent Agreements for Re-entry to Practice

(1) The Executive Director or Medical Director has the authority to review and approve the terms and conditions in a Consent Agreement for re-entry to practice based on Board-established guidelines.

(2) The Executive Director's or Medical Director's signature grants approval of the Consent Agreement, which becomes a public document. As a public document, the Consent Agreement may be released to the public. However, the Consent Agreement is not an adverse action.

(3) The Applicant may be granted a license once the Consent Agreement is signed by the Executive Director or Medical Director.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.175, 677.265, 677.512, 677.759 & 677.825

Hist.: OMB 11-2014, f. & cert. ef. 4-9-14

DIVISION 2

CRIMINAL BACKGROUND CHECKS

847-002-0000

Purpose and Intent

The purpose of these rules is to provide for the reasonable screening of subject individuals to determine if they have a history of criminal behavior such that they are not fit to work or volunteer for the Board. The fact that the Board determines that a subject individual is fit does not guarantee the individual a position as a Board employee, volunteer, or that the individual will be hired by the Board.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0005

Definitions

As used in OAR 847-002-0000 through 847-002-0050, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Board" means the Oregon Medical Board.

(2) "Conviction" means a final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere (no contest) or any determination of guilt entered by a court of law against a subject individual in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(3) "Criminal offender information" means records and related data concerning physical description and vital statistics, fingerprints received and compiled by the Oregon State Police (OSP) to identify criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release records.

(4) "Criminal records check" means one or more of the following three processes undertaken by the Board to check the criminal history of a subject individual:

(a) Law Enforcement Data System (LEDS) Check: A name-based check of criminal offender information maintained by the OSP;

(b) Oregon Criminal Records Check: A check of Oregon criminal offender information, through fingerprint identification and other means, conducted by the OSP at the Board's request; or

(c) Nationwide Criminal Records Check: A nationwide check of federal criminal offender information, through fingerprint identification and other means, conducted by the OSP through the Federal Bureau of Investigations (FBI) or otherwise at the Board's request.

(5) "Criminal records request form" means a Board-approved form, completed by a subject individual, requesting the Board to conduct a criminal records check.

(6) "False statement" means, in association with an activity governed by these rules, a subject individual either:

(a) Provided the Board with false information about the subject individual's criminal history, including but not limited to false information about the individual's identity or conviction record; or

(b) Failed to provide the Board information material to determine the individual's criminal history.

(7) "Fitness determination" means a determination made by the Board, pursuant to the process established under OAR 847-002-0020, that a subject individual is fit or not fit to be a Board employee or volunteer.

(8) "OSP" means the Oregon State Police.

(9) "Subject individual" means an individual the Board may require to complete a criminal records check pursuant to these rules because the person is:

(a) A Board employee;

(b) A Board volunteer; or

(c) An applicant for employment with the Board.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0010

Criminal Records Check Process

(1) A subject individual must disclose information required by the Board as described below:

(a) Before a criminal records check, a subject individual must complete and sign the Board Criminal Records Request form and a fingerprint card, both of which may include identifying information (e.g., name, birth date, social security number, physical characteristics, driver's license or identification card number and current and previous addresses).

(b) A subject individual must complete and submit to the Board the Criminal Records Request form and, if requested, a fingerprint card within five business days of receiving the forms. The deadline may be extended for good cause.

(c) Additional information may be required from the subject individual as necessary to complete the criminal records check and

fitness determination, including but not limited to, proof of identity or additional criminal, judicial, or other background information.

(d) The Board may not request a fingerprint card from a subject individual under the age of 18 years unless the subject individual is emancipated pursuant to ORS 419B.550 et seq, or unless the Board also requests the written consent of a parent or guardian. Such parent or guardian and youth must be informed that they are not required to consent. Notwithstanding, failure to consent may be construed as a refusal to consent under OAR 847-002-0015(4).

(2) The Board or its staff may conduct, or request the OSP to conduct, a criminal record check when:

(a) An individual meets the definition of a subject individual; or

(b) A federal law or regulation, state statute or administrative rule, or contract or written agreement with the Board requires a criminal record check.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0015

Final Fitness Determination

(1) After a criminal records check, the Board or its staff must make a fitness determination about a subject individual based on information provided by the subject individual under OAR 847-002-0010(1), any criminal records check conducted, and any false statement made by the subject individual.

(2) In relation to information described in section (1) of this rule and other known information, the following factors will be considered:

(a) Whether the subject individual has been convicted, found guilty except for insanity (or a comparable disposition), or has a pending indictment for a crime listed in OAR 847-002-0020;

(b) The nature of any crime identified under section (2)(a) of this rule;

(c) The facts that support the conviction, finding of guilty except for insanity, or pending indictment;

(d) Any facts that indicate the subject individual made a false statement;

(e) The relevance, if any, of a crime identified under section (2)(a) of this rule or of a false statement made by the subject individual to the specific requirements of the subject individual's present or proposed position, services or employment; and

(f) The following intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the position, services or employment:

(A) The passage of time since the commission or alleged commission of the crime identified under section (2)(a) of this rule;

(B) The age of the subject individual at the time of the commission or alleged commission of the crime identified under section (2)(a) of this rule;

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

(D) The subsequent commission of another crime listed in OAR 847-002-0020;

(E) Whether the conviction identified under section (2)(a) of this rule has been set aside, and the legal effect of setting aside the conviction;

(F) A recommendation of an employer;

(G) The disposition of the pending indictment identified under section (2)(a) of this rule;

(H) Whether the subject individual has been arrested for or charged with a crime listed under OAR 847-002-0020;

(I) Whether the subject individual is being investigated, or has an outstanding warrant, for a crime listed under OAR 847-002-0020;

(J) Whether the subject individual is currently on probation, parole or another form of post-prison supervision for a crime listed under OAR 847-002-0020;

(K) Whether the subject individual has a deferred sentence or conditional discharge in connection with a crime listed under OAR 847-002-0020;

(L) Whether the subject individual has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 847-002-0020 if committed by an adult;

(M) Periods of incarceration of the subject individual; and

(N) The education and work history (paid or volunteer) of the subject individual since the commission or alleged commission of a crime.

(3) The subject individual must meet with the Board or its staff if requested and provide additional relevant information or authorization to obtain other relevant information within a reasonable period of time, as established by the Board.

(4) If a subject individual refuses to submit or consent to a criminal records check including fingerprint identification, the Board may deny the position, employment or services. A person may not appeal any determination made based on a refusal to consent.

(5) If a subject individual is determined to be not fit, the subject individual may not be employed by or provide services as a volunteer to the Board.

(6) A completed final fitness determination is a final order of the Board unless the affected subject individual appeals the determination by requesting a contested case hearing as provided by OAR 847-002-0035(1) or an alternative appeals process as provided by OAR 847-002-0035(6).

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0020

Potentially Disqualifying Crimes

(1) Crimes Relevant to a Fitness Determination:

(a) All felonies;

(b) All misdemeanors; and

(c) Any United States Military crime or international crime.

(2) A crime will be evaluated on the basis of the law of the jurisdiction in which the crime or offense occurred, as those laws are in effect at the time of the fitness determination.

(3) Under no circumstances may a subject individual be determined to be not fit under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and ORS 419A.262.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0025

Incomplete Fitness Determination.

(1) A preliminary or final fitness determination is incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a "subject individual" under OAR 847-002-0005;

(b) The subject individual does not submit materials or information within the time required under OAR 847-001-0045;

(c) The Board cannot locate or contact the subject individual;

(d) The subject individual fails or refuses to cooperate with attempts to acquire other criminal records information under OAR 847-002-0015;

(e) The subject individual is not eligible or not qualified for the position of employee or volunteer, for a reason unrelated to the fitness determination process; or

(f) The position is no longer open.

(2) A subject individual does not have a right to a contested case hearing under OAR 847-002-0035(1) or a right to an alternative appeals process under OAR 847-002-0035(6) to challenge the closing of a fitness determination as incomplete.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0030

Notice to Subject Individual of Fitness Determination.

The Board must inform the subject individual if he or she is determined not to be fit via personal service or registered or certi-

fied mail to the most current address provided by the subject individual.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0035

Appealing a Fitness Determination

(1) Appeal process:

(a) To request a contested case hearing, the subject individual or the subject individual's legal representative must submit a written request for a contested case within 14 calendar days of the date of the notice provided under OAR 847-002-0030 to the address specified in that notice. The Board must address a request received after expiration of the deadline as provided under OAR 137-003-0528.

(b) When a timely request is received, a contested case hearing will be conducted by an administrative law judge assigned by the Office of Administrative Hearings, pursuant to the Attorney General's Uniform and Model Rules, "Procedural Rules, Office of Administrative Hearings" OAR 137-003-0501 to 137-003-0700, as supplemented by the provisions of this rule.

(2) Discovery: The Board or the administrative law judge may protect information made confidential by ORS 181.534(15) or other applicable law as provided under OAR 137-003-0570(7) or (8).

(3) Contested case hearings on fitness determinations are closed to non-participants.

(4) Proposed and Final Order:

(a) After a hearing, the administrative law judge will issue a proposed order.

(b) Exceptions, if any, must be filed within 14 calendar days after service of the proposed order. The proposed order must provide an address to which exceptions must be sent.

(c) A completed final fitness determination made under OAR 847-002-0015 becomes final:

(A) Unless the subject individual makes a timely request for a hearing; or

(B) When a party withdraws a hearing request, notifies the Board or the Administrative Law Judge that the party will not appear, or fails to appear at the hearing.

(5) The only remedy that may be awarded is a determination that the subject individual is fit or not fit. Under no circumstances may the Board be required to place a subject individual in any position, nor may the Board be required to accept services or enter into a contractual agreement with a subject individual.

(6) Alternative Process: A subject individual currently employed by the Board may choose to appeal a fitness determination either under the process made available in sections (1) to (5) of this rule or through a process made available by applicable personnel rules, policies and collective bargaining provisions. A subject individual's decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(7) A subject individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the OSP, the FBI, or agencies reporting information to the OSP or the FBI.

(a) To challenge such information, a subject individual may use any process made available by the agency that provided the information.

(b) If the subject individual successfully challenges the accuracy or completeness of such information and the position for which the original criminal history check was conducted is vacant and available, the subject individual may request that the Board conduct a new criminal records check and re-evaluate the original fitness determination made under OAR 847-002-0015 by submitting a new Board Criminal Records Request form.

(8) Appealing a fitness determination under section (1) or section (6) of this rule, challenging criminal offender information with the agency that provided the information, or requesting a new criminal records check and re-evaluation of the original fitness determi-

nation under section (7)(b) of this rule, will not delay or postpone the Board's hiring process or employment decisions.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0040

Recordkeeping and Confidentiality

Any information obtained in the criminal records check is confidential. The Board must restrict the access and dissemination of information obtained in the criminal records check to only those persons with a demonstrated and legitimate need to know the information.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

847-002-0045

Fees

(1) The Board may charge a fee for acquiring criminal offender information for use in making a fitness determination that will not exceed the fee charged the Board by the OSP and the FBI to obtain such information.

(2) The Board may charge the fee to the subject individual on whom criminal offender information is sought.

Stat. Auth.: ORS 181.534, 303, 676 & 677.280

Stats. Implemented: ORS 181.534

Hist.: OMB 11-2011, f. & cert. ef. 7-13-11

DIVISION 3

BOARD ADMINISTRATION

847-003-0100

Declared Emergency — Delegation of Authority

(1) An emergency under this rule exists when:

(a) A State of Emergency or a Public Health Emergency has been declared by the Governor of Oregon under ORS 401.165 or 433.441 through 433.452; or

(b) The provisions of any relevant rules in Chapter 847 Oregon Administrative Rules have been suspended by the Governor under the authority of ORS 401.168(2); or

(c) A signatory to the Pacific Northwest Emergency Management Arrangement (the states of Alaska, Idaho, Oregon, and Washington, and the Province of British Columbia and the Yukon Territory) has requested assistance during a civil emergency as authorized in ORS 402.250; or

(d) The President of the United States or another federal official has declared a public health emergency; or

(e) The Governor has authorized the Public Health Director to take the actions described in ORS 431.264.

(2) When an emergency exists as defined above, any authority vested in the Board may be exercised by the Executive Director, any person acting as Executive Director in the Executive Director's absence or incapacity, or any person the Executive Director designates to make such decisions on the Executive Director's behalf.

Stat. Auth.: ORS 401.168, 402.105, 433.441 & 677.265

Stats. Implemented: ORS 401.165 & 677.265

Hist.: OMB 19-2012, f. & cert. ef. 8-3-12

847-003-0200

Board Member Compensation

(1) Board members of the Oregon Medical Board shall receive up to \$250 compensation for each day or portion thereof during which the member is actually engaged in the performance of official duties, which includes Board and committee meetings and activities that the Board has pre-approved or requested that the member attend as its representative.

(2) The compensation amount shall be in addition to the allowable reimbursement for travel expenses.

Stat. Auth.: ORS 677.235

Stats. Implemented: ORS 292.495, 677.235

Hist.: OMB 25-2013, f. & cert. ef. 10-15-13

DIVISION 5

FEES

847-005-0005

Fees

- (1) Licensing Fees:
 - (a) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — \$375.
 - (b) MD/DO Registration: Active, Administrative Medicine, Inactive, Locum Tenens, Military/Public Health, Telemedicine, Telemonitoring and Teleradiology — \$253/year+*.
 - (c) MD/DO Registration: Emeritus — \$50/year.
 - (d) MD/DO Limited License, SPEX/COMVEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate Application — \$185.
 - (e) MD/DO Application to Supervise a Physician Assistant — \$100.
 - (f) Acupuncture Initial License Application — \$245.
 - (g) Acupuncture Registration: Active, Inactive, Locum Tenens and Military/Public Health — \$161/year*.
 - (h) Acupuncture Registration: Emeritus — \$50/year.
 - (i) Acupuncture Limited License, Visiting Professor, Pending Examination Application — \$75.
 - (j) Physician Assistant Initial License Application — \$245.
 - (k) Physician Assistant Registration: Active, Inactive, Locum Tenens and Military/Public Health — \$191/year*.
 - (l) Physician Assistant Registration: Emeritus — \$50/year.
 - (m) Physician Assistant Surcharge for 2014–2015 registration period — \$65.
 - (n) Physician Assistant Limited License, Pending Examination Application — \$75.
 - (o) Podiatrist Initial Application — \$340.
 - (p) Podiatrist Registration: Active, Administrative Medicine, Inactive, Locum Tenens, Military/Public Health, Telemedicine and Telemonitoring — \$243/year*.
 - (q) Podiatrist Registration: Emeritus — \$50/year.
 - (r) Podiatrist Limited License, Postgraduate Application — \$185.
 - (s) Reactivation Application Fee — \$50.
 - (t) Electronic Prescription Drug Monitoring Program — \$25/year**.
 - (u) Workforce Data Fee — \$5/license period***.
 - (v) Criminal Records Check Fee — \$52****.
 - (w) Oral Specialty or Competency Examination (\$1,000 deposit required) — Actual costs.
 - (2) Delinquent Registration Renewals:
 - (a) Delinquent MD/DO Registration Renewal — \$195.
 - (b) Delinquent Acupuncture Registration Renewal — \$80.
 - (c) Delinquent Physician Assistant Registration Renewal — \$80.
 - (d) Delinquent Podiatrist Registration Renewal — \$195.
 - (3) Licensee Information Request Charges:
 - (a) Verification of Licensure — Individual Requests (1–4 Licenses) — \$10 per license.
 - (b) Verification of Licensure — Multiple (5 or more) — \$7.50 per license.
 - (c) Malpractice Report — Individual Requests — \$10 per license.
 - (d) Malpractice Report — Multiple (monthly report) — \$15 per report.
 - (e) Disciplinary — Individual Requests — \$10 per license.
 - (f) Base Service Charges for Copying — \$5 + .20/page.
 - (4) Record Search Charges (+ copy charges in section (4) of this rule):
 - (a) Clerical — \$20 per hour.
 - (b) Administrative — \$40 per hour.
 - (c) Executive — \$50 per hour.
 - (d) Medical — \$75 per hour.
 - (e) Data Order Charges:
 - (a) Standard Licensee Data Order — \$75 each.
 - (b) Custom Licensee Data Order — \$75 + \$40.00 per hour Administrative time.

(c) Address Label Disk — \$50 each.

(7) All Board fees and fines are non-refundable and non-transferable.

(8) The Board may waive or reduce fees for public records upon written request if the Board determines that making the record available primarily benefits the general public.

+Per ORS 677.290(3), fee includes \$10.00 for the Oregon Health and Science University Library.

*Collected biennially excepted where noted in the Administrative Rules.

**Per ORS 431.960-431.978, fee is assessed to licensees authorized to prescribe or dispense controlled substances in Oregon for the purpose of creating and maintaining the Prescription Drug Monitoring Program administered by the Oregon Health Authority.

***Per ORS 676.410, fee is assessed for the purpose of creating and maintaining a healthcare workforce data base administered by the Oregon Health Authority.

****Per ORS 181.534(9)(g), fee is the actual cost of acquiring and furnishing criminal offender information.

Stat. Auth.: ORS 181.534, 431.972, 676.410, 677.265 & 677.290

Stats. Implemented: ORS 181.534, 192.440, 431.972, 676.410, 677.265 & 677.290

Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989 (Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. & cert. ef. 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04; BME 6-2005, f. & cert. ef. 7-20-05; BME 15-2006, f. & cert. ef. 7-25-06; BME 1-2007, f. & cert. ef. 1-24-07; BME 1-2008, f. & cert. ef. 1-22-08; BME 15-2008, f. & cert. ef. 7-21-08; BME 1-2009, f. & cert. ef. 1-22-09; BME 15-2009(Temp), f. & cert. ef. 9-11-09 thru 3-8-10; BME 1-2010, f. & cert. ef. 1-26-10; OMB 10-2011(Temp), f. & cert. ef. 7-13-11 thru 1-4-12; OMB 18-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; OMB 22-2011, f. & cert. ef. 10-18-11; OMB 33-2011(Temp), f. 12-28-11, cert. ef. 1-1-12 thru 6-29-12; OMB 3-2012, f. & cert. ef. 2-10-12; OMB 9-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 20-2012, f. & cert. ef. 8-3-12; OMB 27-2012(Temp), f. 10-12-12 thru 4-10-13; OMB 5-2013, f. & cert. ef. 4-5-13; OMB 13-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 26-2013, f. & cert. ef. 10-15-13; OMB 10-2014, f. & cert. ef. 4-9-14

847-005-0010

Copying Charges and Charges for Oregon Medical Board Documents

(1) A charge per image for photo copies requested by state employees for their personal use, by state agencies and by the general public shall be made as follows:

- (a) 5¢ for state employees copying their own material;
- (b) 5¢ for state agencies;

(c) 20¢ for the general public copying state records available in the Oregon Medical Board only.

(2) A charge for documents developed by the Oregon Medical Board may, at the discretion of the Board's administrator, be made in an amount not exceeding the actual cost per copy of such documents.

(3) In addition to the above charges, at the discretion of the Board's administrator, a charge may be made for the actual cost of staff time required for search, copying, handling and/or certification.

(4) The above charges for state employees obtaining documents or copying for their personal use and for the general public obtaining documents or copying shall be payable in cash only. The above charges for state agencies obtaining documents or copying shall be paid in cash unless, at the discretion of the Board's administrator, billing to such agencies is authorized.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.265(1)

Hist.: ME 8-1982, f. & ef. 10-27-82; Renumbered from 847-010-0085; ME 7-1984, f. & ef. 1-26-84

DIVISION 6

MEDIATION COMMUNICATIONS

847-006-0000

Confidentiality and Inadmissibility of Mediation Communications

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the “mediator” in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) **Mediations Excluded.** Sections (6)–(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency’s employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential;

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) **Disclosures by Mediator.** A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)–(d), (j)–(l) or (o)–(p) of section (9) of this rule.

(7) **Confidentiality and Inadmissibility of Mediation Communications.** Except as provided in sections (8)–(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) **Written Agreement.** Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties’ agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an “agreement to mediate.” [Form not included. See ED. NOTE.]

(9) **Exceptions to confidentiality and inadmissibility.**

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party’s communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) Settlement concepts or proposals shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Executive Director determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under 17.095 or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 677.265, 36.220 & 36.245

Stats. Implemented: ORS 36.220 & 36.245

Hist.: BME 1-1999(Temp), f. & cert. ef. 1-26-99 thru 7-16-99; BME 3-1999(Temp), f. & cert. ef. 2-17-99 thru 7-16-99; BME 8-1999, f. & cert. ef. 4-22-99

DIVISION 8

REGISTRATION, USE OF NAME, CHANGE OF ADDRESS

847-008-0000

Definitions

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

Stat. Auth.: ORS 688.830

Stats. Implemented: ORS 688.800 - 688.835

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 11-1992, f. & cert. ef. 10-22-92; BME 7-1998, f. & cert. ef. 7-22-98

847-008-0003

Delegation of Authority

(1) The Executive Director or, in the absence of the Executive Director, the Medical Director has the authority to grant, renew and reactivate licensure for all license types and statuses upon satisfactory completion of the application.

(2) The Executive Director or, in the absence of the Executive Director, the Medical Director has the authority to approve visiting physician applications and visiting acupuncturist applications.

(3) The Executive Director has the authority to waive the registration fee for good and sufficient reason.

(4) The Executive Director has the authority to require additional documentation or explanatory statements for the application file to be considered satisfactorily complete.

(5) The Executive Director has the authority to determine that an applicant qualifies for licensure by expedited endorsement.

(6) The Executive Director has the authority to perform initial reviews of applications to determine whether an applicant or licensee meets the qualifications, has satisfactorily completed the application and should be approved or whether the application file contains derogatory information that requires review by an advisory committee and a determination by the Board.

(7) The Executive Director or Medical Director has the authority to review and approve Consent Agreements for re-entry to practice for applicants who have ceased clinical practice for a period of 24 or more consecutive months and grant a license to the applicant upon the Executive Director's or Medical Director's signature.

(8) The Medical Director has the authority to determine whether an applicant or licensee has significant malpractice claims or patient care issues that require additional review by an advisory committee and a determination by the Board.

(9) The Executive Director has the authority to grant waivers of the competency examinations if the applicable waiver requirements are met.

Stat. Auth.: ORS 677.265, 677.235

Stats. Implemented: ORS 292.495, 677.235

Hist.: OMB 14-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 27-2013, f. & cert. ef. 10-15-13; OMB 11-2014, f. & cert. ef. 4-9-14

847-008-0005

Registration Periods

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

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

(2) The registration renewal form and fee for Doctors of Medicine, Doctors of Osteopathy, Doctors of Podiatric Medicine and Physician Assistants with Emeritus status must be received in the Board office during regular business hours and must be satisfactorily complete on or before December 31 of every year.

(3) Doctors of Medicine, Doctors of Osteopathy and Doctors of Podiatric Medicine in a qualified postgraduate training program may elect to register on an annual basis.

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1992, f. & cert. ef. 10-22-92; BME 7-1998, f. & cert. ef. 7-22-98; BME 3-2003, f. & cert. ef. 1-27-03; BME 14-2004, f. & cert. ef. 7-13-04; BME 16-2008, f. & cert. ef. 7-21-08

847-008-0010

Initial Registration

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

(2) Per OAR 847-020-0110(2), a person applying for licensure who has not completed the licensure process within a 12 month consecutive period must file a new application, documents, letters and pay a full filing fee as if filing for the first time.

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172, 677.190 & 677.205

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 5-1991, f. & cert. ef. 7-24-91; BME 8-1998, f. & cert. ef. 7-22-98; BME 6-2000, f. & cert. ef. 7-27-00; BME 2-2002, f. & cert. ef. 1-28-02; OMB 13-2012, f. & cert. ef. 4-17-12; OMB 12-2014, f. & cert. ef. 10-8-14

847-008-0015

Active Registration

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

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

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

(c) The licensee is in the Military or Public Health Service or employed with the US Department of Veteran Affairs, the US Department of State, Foreign Service or the Indian Health Service where the licensee's official state of residence is Oregon as defined in OAR 847-008-0018.

(d) The licensee practices teleradiology as defined in OAR 847-008-0022, telemonitoring as defined in OAR 847-008-0023, or telemedicine as defined in OAR 847-025.

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.228

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 5-1991, f. & cert. ef. 7-24-91; BME 2-2004, f. & cert. ef. 1-27-04; BME 14-2004, f. & cert. ef. 7-13-04; BME 7-2006, f. & cert. ef. 5-8-06; BME 2-2007, f. & cert. ef. 1-24-07; BME 8-2008, f. & cert. ef. 4-24-08; BME 16-2010, f. & cert. ef. 10-25-10; OMB 21-2012, f. & cert. ef. 8-3-12

847-008-0018

Military/Public Health Active Registration

(1) Any licensee who is deployed with the US Military or employed with the US Public Health Service, US Department of Veteran Affairs, the US Department of State Foreign Service or the Indian Health Service for more than 12 months and whose official state of residence is Oregon must obtain a Military/Public Health Active status by providing the Board with written notification of current assignment or employment, a copy of their Oregon Driver's License or other proof of residence, and payment of the biennial registration fee.

(2) The Military/Public Health Active status remains valid as long as the licensee maintains active duty in the military or public health, and the licensee's official state of residence is Oregon. At the conclusion of the military assignment or employment, the licensee must reactivate according to 847-008-0055 before beginning active practice in Oregon.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172, 677.265

Hist.: BME 8-2008, f. & cert. ef. 4-24-08; BME 16-2010, f. & cert. ef. 10-25-10; OMB 12-2011, f. & cert. ef. 7-13-11; OMB 21-2012, f. & cert. ef. 8-3-12

847-008-0020

Locum Tenens Registration

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

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

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

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

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 3-1993, f. & cert. ef. 4-22-93; BME 6-2000, f. & cert. ef. 7-27-00; BME 7-2001, f. & cert. ef. 7-18-01; BME 11-2002, f. & cert. ef. 10-25-02; BME 2-2009, f. & cert. ef. 1-22-09

847-008-0022

Teleradiology Registration

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

(2) A physician whose specialty is radiology or diagnostic radiology who practices in a location outside of Oregon and receives radiological images via teleradiology from an Oregon location for interpretation or consultation and who communicates his/her radiological findings back to the ordering physician is practicing teleradiology for Oregon. A physician practicing teleradiology for Oregon is not required to be licensed in Oregon. The Board, however, offers a license with Active — Teleradiology registration status for those physicians who require such for administrative reasons.

(3) Physicians granted Active — Teleradiology status register and pay a biennial active registration fee. The physician with Active — Teleradiology status desiring to have Active status to practice in Oregon must submit the Affidavit of Reactivation and processing fee, and satisfactorily complete the reactivation process before beginning active practice in Oregon.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: BME 14-2004, f. & cert. ef. 7-13-04; BME 2-2007, f. & cert. ef. 1-24-07; BME 8-2008, f. & cert. ef. 4-24-08

847-008-0023

Telemonitoring Registration

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

(2) The facility where the surgery is to be performed must be a licensed hospital or ambulatory surgical center licensed by the

Department of Human Services, must grant medical staff membership and/or clinical privileges to the monitoring physician, and must request the Oregon Medical Board grant Active-Telemonitoring status to the monitoring physician to perform intraoperative telemonitoring on patients during surgery.

(3) Physicians granted Active-Telemonitoring status may register and pay a biennial active registration fee. The physician with Active-Telemonitoring status desiring to have Active status to practice in Oregon must submit the Affidavit of Reactivation and processing fee, and satisfactorily complete the reactivation process before beginning active practice in Oregon.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: BME 1-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 8-2006, f. & cert. ef. 5-8-06; BME 2-2007, f. & cert. ef. 1-24-07; BME 8-2008, f. & cert. ef. 4-24-08; BME 2-2010, f. & cert. ef. 1-26-10

847-008-0025

Inactive Registration

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

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90

847-008-0030

Emeritus Registration

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; BME 6-2000, f. & cert. ef. 7-27-00

847-008-0035

Retired Status

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 11-1992, f. & cert. ef. 10-22-92; BME 6-2000, f. & cert. ef. 7-27-00

847-008-0036

Revoked or Suspended Status

The Board may suspend or revoke the license to practice of a licensee of the Board:

(1) For one or more reasons listed in ORS 677.190;

(2) For reasons involving controlled substances as stated in ORS 677.480;

(3) Upon notification by the Department of Justice that a child support case is being maintained and enforced and that the licensee is under judgment or order to pay monthly child support and is in arrears in an amount equal to three months of support or \$2,500, whichever occurs later, as stated in ORS 25.750 and .780;

(4) For mental illness or imprisonment as stated in ORS 677.225; and

(5) If the Board finds that evidence in its possession indicates that a continuation in practice of the licensee constitutes an immediate danger to the public as stated in ORS 677.205.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: BME 16-2008, f. & cert. ef. 7-21-08

847-008-0037

Administrative Medicine

(1) A physician or podiatric physician who proposes to practice Administrative Medicine within the State shall apply for and obtain a license.

(2) A physician or podiatric physician with an Administrative Medicine license may not examine, care for or treat patients. A physician or podiatric physician with an Administrative Medicine license may advise organizations, both public and private, on healthcare matters; authorize and deny financial payments for care; organize and direct research programs; review care provided for quality; and other similar duties that do not require direct patient care.

(3) Physicians or podiatric physicians granted Active — Administrative Medicine status must register and pay a biennial active registration fee.

(4) The licensee with Active — Administrative Medicine status desiring to have Active status to practice in Oregon must submit the Affidavit of Reactivation and processing fee, and satisfactorily complete the reactivation process before beginning active practice in Oregon.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172, 677.265

Hist.: BME 2-2007, f. & cert. ef. 1-24-07; BME 21-2007(Temp), f. & cert. ef. 10-24-07 thru 4-7-08; BME 2-2008, f. & cert. ef. 1-22-08; BME 8-2008, f. & cert. ef. 4-24-08

847-008-0040

Process of Registration

(1) The application for registration must be submitted to the Board by the first day of the month in which the license is due to expire.

(2) The application for registration must be accompanied by the appropriate fee as listed in 847-005-0005.

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

(4) If the licensee is the supervising physician of a physician assistant or the primary supervising physician of a supervising physician organization for a physician assistant, the application for registration must include any updates to existing practice agreements or Board-approved practice descriptions for every physician assistant the licensee supervises.

(5) If the licensee has been out of practice for more than 12 consecutive months or there are other concerns regarding the licensee's medical competency or fitness to practice, the Board may renew licensee at Inactive status once the license renewal form has been completed satisfactorily.

(6) The Board must provide to all licensees who have complied with this section a certificate of registration, which must be displayed in a prominent place in the licensee's primary practice location through the end of the last business day of the registration period.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.175, 677.265 & 677.510

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; BME 14-2004, f. & cert. ef. 7-13-04; BME 14-2004, f. & cert. ef. 7-13-04; BME 16-2008, f. & cert. ef. 7-21-08; BME 2-2009, f. & cert. ef. 1-22-09; OMB 19-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OMB 27-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12; OMB 31-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 4-2012, f. & cert. ef. 2-10-12; OMB 22-2012, f. & cert. ef. 8-3-12; OMB 4-2013(Temp), f. & cert. ef. 1-11-13 thru 7-10-13; OMB 7-2013, f. & cert. ef. 4-5-13; OMB 12-2014, f. & cert. ef. 10-8-14

847-008-0045

Failure to Apply for Registration

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

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

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

(4) Should a licensee continue to practice while a license or certificate is lapsed, that individual shall be considered practicing with-

out a valid license or certificate, and may be subject to prosecution under ORS 677.205, or may be subject to discipline by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 12-1993(Temp), f. & cert. ef. 10-27-93; ME 2-1994, f. & cert. ef. 1-24-94; BME 14-2004, f. & cert. ef. 7-13-04

847-008-0050

Reinstatement of License Lapsed Due to Non-Renewal

(1) A licensee of the Board whose license has lapsed through failure to renew registration may:

(a) Reinstatement within 90 days of the end of the registration period by paying a late registration fee, paying renewal fees for the lapsed registration period, completing and submitting the required forms, and meeting any other requirements defined by Oregon law. The reinstatement will be effective on the date the renewal is processed.

(b) Reactivate after 90 days from the end of the registration period but within two biennia by completing and submitting the reactivation application and processing fee, paying a late registration fee, paying renewal fees for the lapsed registration periods, and meeting any other requirements defined by Oregon law. If a licensee has ceased the practice of medicine for a period of 12 or more consecutive months, the licensee may be required to demonstrate clinical competency. If a licensee has ceased the practice of medicine for a period of 24 or more consecutive months, the licensee may be required to complete a re-entry plan. The reactivation will be effective on the date the renewal is processed.

(2) A license will expire if it is not reinstated or reactivated within two biennia from the date the license lapsed. A previous licensee of the Board who wishes to be relicensed after the license has expired must apply as a new applicant by submitting the license application form and fee, meeting all current licensing requirements, and satisfactorily completing the application process.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 11-1990, f. & cert. ef. 11-15-90; ME 12-1993(Temp), f. & cert. ef. 10-27-93; ME 2-1994, f. & cert. ef. 1-24-94; BME 1-2002, f. & cert. ef. 1-28-02; BME 17-2003, f. & cert. ef. 12-8-03; OMB 12-2011, f. & cert. ef. 7-13-11

847-008-0051

Reinstatement Following Surrender of Licensure

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.175

Hist.: ME 5-1991, f. & cert. ef. 7-24-91; ME 12-1993(Temp), f. & cert. ef. 10-27-93; ME 2-1994, f. & cert. ef. 1-24-94; BME 6-2000, f. & cert. ef. 7-27-00; BME 2-2001, f. & cert. ef. 1-25-01

847-008-0053

Restoration of License from Revoked Status

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

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

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

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.220

Hist.: BME 6-2000, f. & cert. ef. 7-27-00; BME 7-2001, f. & cert. ef. 7-18-01

847-008-0055

Reactivation from Locum Tenens/Inactive/Emeritus/Active-Military or Public Health to Active/Locum Tenens Status

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

(a) Completed Affidavit of Reactivation form;

(b) Completed application(s) for registration;

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

(d) A Board Action Databank Inquiry report sent directly to the Board from the Federation of State Medical Boards or Federation of Podiatric Medical Boards;

(e) The results of a Practitioner Self-Query from the National Practitioner Data Bank sent to the Board by the applicant;

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

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

(2) A licensee who wishes to reactivate from an active-military or public health status to an active or locum tenens status must provide the Board with a completed Affidavit of Reactivation form and a copy of the Active Duty Orders, Change of Duty Orders or Reassignment Orders.

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

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 2-1997, f. & cert. ef. 7-28-97; BME 6-2000, f. & cert. ef. 7-27-00; BME 7-2002, f. & cert. ef. 7-17-02; BME 2-2004, f. & cert. ef. 1-27-04; BME 14-2004, f. & cert. ef. 7-13-04; BME 25-2006, f. & cert. ef. 10-23-06; BME 2-2008, f. & cert. ef. 1-22-08; OMB 12-2011, f. & cert. ef. 7-13-11; OMB 28-2013, f. & cert. ef. 10-15-13

847-008-0056

Reactivation from Retired to Emeritus/Locum Tenens/Active Status

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: BME 16-2000, f. & cert. ef. 10-30-00

847-008-0058

Fraud or Misrepresentation

(1) Omissions or false, misleading or deceptive statements or information on any Board application, affidavit or registration is a violation of ORS 677.190(8) and is grounds for a \$195 fine for the first violation, a \$250 fine for the second violation, and a \$500 fine for the third or subsequent violation. The applicant or licensee may be subject to further disciplinary action by the Board.

(2) If a fine is issued under section (1) of this rule, the Board will not approve an application, affidavit or registration until the applicant or licensee has paid the fine or is proceeding to a hearing as provided by ORS 183.745.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.175, 677.190, 677.205, 677.265

Hist.: OMB 12-2014, f. & cert. ef. 10-8-14; OMB 7-2015(Temp), f. & cert. ef. 7-14-15 thru 1-9-16; OMB 9-2015, f. & cert. ef. 10-13-15

847-008-0060

Notification of Change of Location

Each licensee of the Board shall notify the Board in writing within 30 days of any change in residence address, practice location, or mailing address.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; BME 8-2009, f. & cert. ef. 5-1-09

847-008-0065

Use of Name

(1) Each licensee of the Board must be licensed under licensee's legal name and must practice under that legal name.

(a) "Legal name" means the first name, middle name and last or surname, without the use of initials or nicknames and is the name given at birth or subsequently acquired through marriage, court order, adoption or naturalization.

(b) Evidence of legal name must be in the form of official records such as a birth certificate, marriage certificate or a court order/decreed.

(2) When a name is changed, all of the following must be submitted to the Board within 30 days of the name change:

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

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

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

(3) Violation of this rule will result in a \$195 fine and may be cause for further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; BME 24-2007, f. & cert. ef. 10-24-07; OMB 23-2011, f. & cert. ef. 10-18-11; OMB 1-2013, f. & cert. ef. 1-11-13

847-008-0068

State and Nationwide Criminal Records Checks, Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the Board.

(2) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.

(3) The Board may require legible fingerprints of all applicants for a medical (MD/DO), podiatric (DPM), physician assistant (PA), and acupuncturist (LAc) license, licensees reactivating their license, licensees renewing their license and licensees under investigation to

determine the fitness of an applicant or licensee. These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a Criminal History Check and a National Criminal History Check. Any original fingerprint cards will subsequently be destroyed.

(4) The Board will determine whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If the licensee is determined to be unfit, the licensee's license may not be reactivated or renewed. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(5) In making the fitness determination, the Board will 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 applicant's or licensee's present or proposed license; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

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

(B) The age of the applicant or licensee 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.

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

(7) In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(8) Criminal offender information is confidential. Information received may be disseminated only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(9) The Board 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 Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.414-183.470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(12) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, the application is considered incomplete.

(13) The applicant or licensee must pay a criminal records check fee.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 181.534, 677.100 & 677.265

Hist. BME 20-2006(Temp), f. & cert. ef. 9-14-06 thru 3-12-07; BME 4-2007, f. & cert. ef. 1-24-07; BME 4-2008, f. & cert. ef. 1-22-08; OMB 20-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; OMB 5-2012, f. & cert. ef. 2-10-12; OMB 10-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 24-2012, f. & cert. ef. 8-3-12; Renumbered from 847-020-0155 by OMB 6-2013, f. & cert. ef. 4-5-13; OMB 15-2013(Temp), f. 7-12-12, cert. ef. 7-15-13 thru 1-11-14; OMB 29-2013, f. & cert. ef. 10-15-13

847-008-0070

Continuing Medical Competency (Education)

The Oregon Medical Board is committed to ensuring the continuing competence of its licensees for the protection, safety and well being of the public. All licensees must engage in a culture of continuous quality improvement and lifelong learning.

(1) Licensees renewing registration who had been registered with Active, Administrative Medicine Active, Locum Tenens, Telemedicine Active, Telemonitoring Active, or Teleradiology Active status for the previous registration period must demonstrate ongoing competency to practice medicine by:

(a) Ongoing participation in maintenance of certification by an American Board of Medical Specialties (ABMS) board, the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Medicine (ABPM), the American Board of Podiatric Surgery (ABPS), the National Commission on Certification of Physician Assistants (NCCPA), or the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); or

(b) 60 hours of continuing medical education (CME) per two years relevant to the licensee's current medical practice, or 30 hours of CME if licensed during the second year of the biennium, as follows:

(A) American Medical Association (AMA) Category 1;

(B) American Osteopathic Association (AOA) Category 1-A or 2-A;

(C) American Podiatric Medical Association's (APMA) Council on Podiatric Medical Education approved sponsors of continuing education; or

(D) American Academy of Physician Assistants (AAPA) Category 1 (pre-approved); or

(c) 30 hours of NCCAOM-approved courses per two years relevant to the licensee's current practice, or 15 hours if licensed during the second year of the biennium.

(2) Licensees renewing registration who had been registered with Emeritus status for the previous registration period must demonstrate ongoing competency by:

(a) Ongoing participation in re-certification by an ABMS board, the AOA-BOS, the ABPM, the ABPS, the NCCPA, or the NCCAOM; or

(b) 15 hours of CME per year as follows:

(A) AMA Category 1 or 2;

(B) AOA Category 1-A, 1-B, 2-A or 2-B;

(C) APMA-approved continuing education; or

(D) AAPA Category 1 or 2; or

(c) 8 hours of NCCAOM-approved courses.

(3) Licensees who have lifetime certification without participation in maintenance of certification with the ABMS, AOA-BOS, ABPM, ABPS, or NCCPA must submit the required CME in section (1) (b) of this rule or section (2)(b) of this rule if renewing with Emeritus status.

(4) Licensees who have lifetime certification without participation in maintenance of certification with the NCCAOM must submit the required CME in section (1)(c) of this rule or section (2)(c) of this rule if renewing with Emeritus status.

(5) CME in cultural competency is considered relevant CME for the current practice of all licensees and may be used toward satisfying the required CME hours.

(6) Licensees who perform Level II office-based surgical procedures and who are not eligible or maintaining certification with an ABMS, AOA-BOS, ABPM, ABPS or NCCPA specialty board, must obtain 50 hours of CME each year. The CME hours must be relevant to the surgical procedures to be performed in the office-based facility and must be accredited as described in section (1)(b) of this rule. This requirement may not be satisfied with cultural competency CME or other CME that is only generally relevant to the licensee's practice.

(7) The Board may audit licensees for compliance with CME. Audited licensees have 60 days from the date of the audit to provide course certificates. Failure to comply or misrepresentation of compliance is grounds for disciplinary action.

(8) As the result of an audit, if licensee's CME is deficient or licensee does not provide adequate documentation, the licensee will be fined \$250 and must comply with CME requirements within 120 days from the date of the audit.

(a) If the licensee does not comply within 120 days of the date of the audit, the fine will increase to \$1000; and

(b) If the licensee does not comply within 180 days of the date of the audit, the licensee's license will be suspended for a minimum of 90 days.

(9) The following licensees are exempt from this rule:

(a) Licensees in residency training;

(b) Licensees serving in the military who are deployed outside Oregon for 90 days or more during the reporting period; and

(c) Volunteer Camp licensees.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: BME 2-2009, f. & cert. ef. 1-22-09; BME 16-2009, f. & cert. ef. 10-23-09; OMB 7-2011, f. & cert. ef. 4-25-11; OMB 23-2012, f. & cert. ef. 8-3-12; OMB 2-2014, f. & cert. ef. 1-14-14

847-008-0075

Mandatory Pain Management Education

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

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

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

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

(a) Lapsed license;

(b) Limited License;

(c) Telemedicine license;

(d) Teleradiology license; or

(e) Telemonitoring license.

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

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

(5) All applicants granted a license after January 2, 2009, except those granted a license listed in section (2), must obtain the required CME coursework no later than 12 months after the date the Board granted licensure.

(6) Licensees who wish to reactivate to a status requiring completion of this CME who have not previously completed the required CME must obtain the required coursework no later than 12 months after the date the Board approved reactivation.

(7) The continuing medical education hours in pain management and/or the treatment of terminally ill or dying patients may be used to fulfill the continuing medical education hours required for registration renewal under 847-008-0070.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: BME 7-2005, f. & cert. ef. 7-20-05; BME 3-2009, f. & cert. ef. 1-22-09; Renumbered from 847-010-0100 by OMB 4-2011, f. & cert. ef. 2-11-11; OMB 12-2011, f. & cert. ef. 7-13-11

DIVISION 10

GENERAL

847-010-0005

Tenses, Gender, and Number

For the purpose of the rules and regulations contained in this chapter, the present tense includes the past and future tenses, and the future, the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, the singular.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.010 - 677.800
Hist.: ME 17, f. 5-2-68

847-010-0010

Definitions

For the purpose of the rules and regulations contained in this chapter, the term “Board” means the Oregon Medical Board, the term “Act” means the Medical Practice Act, and the term “approved fellowship” means a fellowship training program approved by the American Osteopathic Association, the Accreditation Council for Graduate Medical Education, or is accepted for certification by a specialty board recognized by the American Board of Medical Specialties.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.010
Hist.: ME 17, f. 5-2-68; ME 21-1987, f. & ef. 10-29-87

847-010-0012

Certification of Examination Scores and Verification of Oregon Licensure

(1) Certification of examination scores will be furnished provided that:

(a) The licensee submits a written request, fee and proper form for certification;

(b) The license was issued on the basis of written examination taken in this state.

(2) Verification of Oregon license number, date issued and current status will be furnished regardless of the status of the license (revoked/suspended/lapsed) provided the licensee submits a written request and fee.

Stat. Auth.: ORS 183 & 677
Stats. Implemented: ORS 677.110
Hist.: ME 11-1984(Temp), f. & ef. 7-30-84; ME 16-1984, f. & ef. 11-5-84; ME 8-1986(Temp), f. & ef. 5-5-86; ME 10-1986, f. & ef. 7-31-86

847-010-0025

Refunding of Filing Fees — Reciprocity with a Sister State

When a person files an application for licensure based upon reciprocity with a sister state, and later withdraws such application, no refund shall be provided.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.265
Hist.: ME 17, f. 5-2-68; ME 2-1979, f. & ef. 5-1-79

847-010-0030

Refunding of Filing Fees — Written Examination

When a person files an application for licensure based upon Oregon State Board written examination, and later withdraws such application, no refund shall be provided.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.265
Hist.: ME 17, f. 5-2-68; ME 2-1979, f. & ef. 5-1-79

847-010-0035

Refunding of Filing Fees — Endorsement by National Board of Medical Examiners, National Board of Osteopathic Medical Examiners, or the Medical Council of Canada (LMCC)

When a person files an application for licensure based upon the National Board of Medical Examiners, the National Board of Osteo-

pathic Medical Examiners, or the Medical Council of Canada (LMCC), and later withdraws such application, no refund shall be provided.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist.: ME 17, f. 5-2-68; ME 2-1979, f. & ef. 5-1-79; ME 15-1993, f. & cert. ef. 11-1-93

847-010-0038

Fee for Re-application

A person re-applying for licensure under OAR 847-010-0025, 847-010-0030, or 847-010-0035, after a period exceeding 12 months, shall file a new application and pay the full filing fee as if filing for the first time.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.265
Hist.: ME 2-1979, f. & ef. 5-1-79

847-010-0042

Posting Medicare Notice

(1) Every physician licensed to practice medicine in Oregon who is treating Medicare patients shall post a notice in the office stating whether or not the physician is currently participating in a Medicare Assignment Program. Where there is more than one physician in the medical practice, one Medicare notice is sufficient, provided all physicians have the same participation or non-participation status. Otherwise, two notices are required, one listing the participating physicians and the other listing non-participating physicians.

(2) A physician currently a participating physician in the Medicare Assignment Program under **42 U.S.C. 1395(b)(3)(B)II** shall post a notice reading: **(Physician’s name) is participating in the Medicare Assignment Program. The physician will not charge you fees above the Medicare determined annual deductible and the per visit co-payment. Ask your physician for more information concerning your fees.**

(3) A physician not currently a participating physician in the Medicare Assignment Program under **42 U.S.C. 1395(b)(3)(B)II** shall post a notice reading: **(Physician’s name) is not participating in the Medicare Assignment Program and may legally charge you fees in addition to the Medicare determined annual deductible and per visit co-payment. Ask your physician for more information concerning your fees.**

(4) The dimension of the sign shall be no smaller than 8” x 10”; the type size shall be no smaller than 30 point type.

(5) The posting of the sign shall assure that it can be seen and read by Medicare beneficiaries.

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

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

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.099
Hist.: ME 20-1987(Temp), f. & ef. 9-30-87; ME 2-1988, f. & cert. ef. 1-29-88

847-010-0045

Definition of Hospitals as Standard in the State of Oregon

The Oregon Medical Board of the State of Oregon will accept the following hospitals as standard as required under ORS 677.060: Those legally incorporated hospitals which are approved for internship and/or residency training by the Council on Medical Education and Hospitals of the American Medical Association or any similar body of the American Medical Association in the future whose function is that of approving hospitals for internship and/or residency training; or by any similar body of the American Osteopathic Association.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.100
Hist.: ME 17, f. 5-2-68

847-010-0051

Limited License, Postgraduate

(1) This limited license applies to interns (PG1) and residents as defined in ORS 677.010. This limited license permits the physician to practice medicine only as part of a supervised postgraduate

training program of a school of medicine or hospital approved by the Board.

(2) The Limited License, Postgraduate shall be granted for a period of thirteen months, which allows the postgraduate the flexibility of using up to four weeks of time either before or after the start or end of twelve months of postgraduate training. The majority of the Limited License, Postgraduates are requested for the training year of late June one year to early July of the following year. When needed, the additional four weeks (thirteenth month) of training or adjustment of training dates will be used in earlier June or later July. A smaller number of Limited License, Postgraduates are requested for dates that are considered "off-cycle." The Limited License, Postgraduate may be renewed for each additional year of training. The physician must submit a limited license form and fee 30 days before the end of the thirteen months to be granted a new limited license.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89; ME 9-1992, f. & cert. ef. 7-17-92; BME 4-2003, f. & cert. ef. 1-27-03; BME 17-2009, f. & cert. ef. 10-23-09

847-010-0052

Limited License, Visiting Professor

(1) A physician who does not qualify for a medical license under any of the provisions of this Chapter and who is offered a teaching fellowship in an approved medical school or affiliated teaching institution in this state may, after application to and approval by the Board, be issued a Limited License, Visiting Professor. This license allows the physician to practice medicine only to the extent that such practice is incident to and a necessary part of the applicant's duties as approved by the Board in connection with such teaching fellowship.

(2) The Limited License, Visiting Professor is valid for a period of one year, and upon written request may be renewed for one additional year. The two years must be consecutive, and any unused portion of time can not be requested at a later date.

(3) Every physician who is issued a Limited License, Visiting Professor to practice in this state and who intends to continue practice in such teaching position beyond the period granted for the license must submit a new limited license application and fee at least 30 days before the expiration date of the license.

(4) To qualify for a Limited License, Visiting Professor, an applicant must furnish documentary evidence satisfactory to the Board of graduation from a school of medicine, and a curriculum vitae.

(5) The head of the department in which the applicant is to be appointed must certify in writing to the Board that the applicant has been offered a teaching fellowship which will be under the direction of the head of the department and will not be permitted to practice medicine unless as a necessary part of the applicant's duties as approved by the Board in section (1) of this rule.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100 & 677.132

Hist.: ME 21-1987, f. & ef. 10-29-87; ME 11-1988, f. & cert. ef. 8-5-88; ME 1-1991(Temp), f. 1-30-91, cert. ef. 1-31-91; ME 2-1991, f. & cert. ef. 4-19-91; ME 4-1993, f. & cert. ef. 4-22-93; BME 2-2002, f. & cert. ef. 1-28-02; BME 4-2003, f. & cert. ef. 1-27-03; BME 2-2006, f. & cert. ef. 2-8-06; BME 23-2008, f. & cert. ef. 10-31-08

847-010-0056

Limited License, Fellow

(1) Any physician who proposes to do a fellowship in Oregon and who does not wish to register under OAR 847-020-0120 or 847-020-0130 may apply for a Limited License, Fellow. A fellow is a physician who is pursuing some special line of study as part of a supervised program of an approved school of medicine or affiliated teaching institution. A Limited License, Fellow permits the physician to practice medicine only as part of a supervised fellowship program.

(2) A Limited License, Fellow shall be granted for a period of one year, and upon written request from the head of the training program submitted 30 days before the end of the first year, may be renewed for only one additional year. The two years must be consecutive.

(3) A request for a Limited License, Fellow must be accompanied by a copy of the appointment letter or contract, and a letter sent directly from the head of the training program advising that the applicant has been offered a fellowship position and the dates of the program.

(4) Every physician who is issued a Limited License, Fellow to practice in this state shall complete a limited license application form and pay the limited license fee as of the beginning of his appointment, and 30 days before the end of the first year must submit a new limited license application form and fee for the second year.

(5) Fellowships approved by the Accreditation Council for Graduate Medical Education (ACGME) may be used to qualify for a license under OAR 847-020-0120 or 847-020-0130. Non-approved fellowships may not be used toward licensure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 9-1992, f. & cert. ef. 7-17-92; ME 2-1993, f. & cert. ef. 1-29-93; BME 2-2002, f. & cert. ef. 1-28-02; BME 4-2003, f. & cert. ef. 1-27-03; BME 5-2004, f. & cert. ef. 4-22-04

847-010-0060

Limited License, SPEX/COMVEX, and Limited License, Postgraduate

A physician who is granted a Limited License, SPEX/COMVEX, or Limited License, Postgraduate in the State of Oregon is entitled to apply for and obtain a federal narcotic stamp.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 17, f. 5-2-68; ME 10-1986, f. & ef. 7-31-8; ME 3-1988(Temp), f. & cert. ef. 1-29-88; ME 6-1988, f. & cert. ef. 4-20-88; BME 11-1999, f. & cert. ef. 7-23-99; BME 3-2008, f. & cert. ef. 1-22-08; OMB 3-2014, f. & cert. ef. 1-14-14

847-010-0063

Limited License, Medical Faculty

(1) A physician qualifying under OAR 847-020-0140 may be granted a Limited License, Medical Faculty. This license allows the physician to practice medicine only to the extent that such practice is incident to and a necessary part of the applicant's duties as approved by the Board in connection with the faculty position.

(2) A Limited License, Medical Faculty is valid for one year after issuance and may be renewed as frequently as needed for a total period not to exceed four years. The four years must be consecutive.

(3) Every physician who is issued a Limited License, Medical Faculty to practice in this state and who intends to continue practice in such faculty position beyond the period granted for the license must submit a new limited license application and fee at least 30 days before the expiration date of the license.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100 & 677.132

Hist.: ME 21-1987, f. & ef. 10-29-87; ME 11-1988, f. & cert. ef. 8-5-88; ME 4-1993, f. & cert. ef. 4-22-93; BME 5-2001, f. & cert. ef. 4-23-01; BME 2-2002, f. & cert. ef. 1-28-02; BME 5-2004, f. & cert. ef. 4-22-04; BME 3-2007, f. & cert. ef. 1-24-07; BME 23-2008, f. & cert. ef. 10-31-08; OMB 16-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 30-2013, f. & cert. ef. 10-15-13

847-010-0064

Limited License, SPEX/COMVEX

(1) An applicant for a license to practice medicine, who, being otherwise qualified for the unlimited license, but who must take a Competency Examination (Special Purpose Examination-SPEX or Comprehensive Osteopathic Medical Variable-Purpose Examination-COMVEX), may be issued a Limited License, SPEX/COMVEX provided the applicant has completed an application under ORS 677.100 to 677.132 which is satisfactory to the Board.

(2) A Limited License, SPEX/COMVEX may be granted for a period of 6 months and permits the licensee to practice medicine only until grade results are available, and the applicant completes the initial registration process. The Limited License, SPEX/COMVEX would become invalid should the applicant fail the SPEX or COMVEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.120 & 677.132

Hist.: ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89; ME 8-1996, f. & cert. ef. 10-29-96; ME 4-1997, f. & cert. ef. 11-3-97; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0066

Visiting Physician Requirements

(1) The Oregon Medical Board may grant approval for a visiting physician to practice under the supervision of an actively licensed Oregon physician who is in good standing without disciplinary action in order to:

(a) Obtain or provide training unrelated to enrollment in a post-graduate training program for a period up to thirty days per year in a hospital, ambulatory surgical center or accredited office-based surgery facility per OAR 847-017-0010; or

(b) Provide health care services without compensation at a community nonprofit organization for a period up to five consecutive days per year.

(2) Prior to being granted approval, the physician must submit an application and the following information to the Board:

(a) A letter from the requesting hospital administrator or administrator of the accredited facility and a letter from the hospital chief of staff, hospital department chairperson or member of the governing body of the accredited facility; or a letter from the community nonprofit organization; or a letter from the Oregon licensed physician supervising the visiting physician. The letter(s) must contain the following information:

(A) Dates of Oregon practice of the visiting physician;

(B) Description of the procedure(s);

(C) Name of the responsible Oregon-licensed staff physician who will supervise; and

(D) If the visiting physician application is requested under section (1)(a) of this rule, documentation that the requesting hospital, ambulatory surgical center or accredited facility has approved privileges for the visiting physician.

(b) Documentation that the visiting physician's license in the state or country in which they are practicing is active and in good standing.

(3) The visiting physician application must be submitted at least two weeks prior to the beginning date of such practice.

(4) Patients shall be informed that they are being treated by an approved visiting physician, who is not an Oregon licensed physician.

(5) The visiting physician who requests additional time in Oregon must apply for and obtain a license to practice in the State of Oregon.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132, 677.265

Hist.: BME 7-2000, f. & cert. ef. 7-27-00; BME 13-2002, f. & cert. ef. 10-25-02; BME 24-2006, f. & cert. ef. 10-23-06; BME 17-2009, f. & cert. ef. 10-23-09; OMB 31-2013, f. & cert. ef. 10-15-13

847-010-0068

Practice in Oregon by Out-of-State Physicians and Physician Assistants in the Event of an Emergency

(1) In the event of a disaster emergency declared by the Governor of Oregon, the Oregon Medical Board shall allow physicians and/or physician assistants licensed in another state to provide medical care in Oregon under special provisions during the period of the declared disaster emergency, subject to such limitations and conditions as the Governor may prescribe.

(2) The out-of-state physician and/or physician assistant shall submit to the Board the following information:

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

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

(3) The requirement for completing and submitting the information to the Board is waived if the physician is a member of the National Disaster Medical System (NDMS) under the Office of Emergency Preparedness, U.S. Department of Health and Human

Services, and submits to the Board a copy of his/her NDMS photo identification.

(4) The physician and/or physician assistant shall provide the Board documentation demonstrating a request to provide medical care from a hospital, clinic or private medical practice, public health organization, EMS agency, or federal medical facility, or has otherwise made arrangements to provide medical care in Oregon as the result of the declaration of a disaster emergency.

(5) The physician and/or physician assistant shall not practice in Oregon under the special disaster emergency provisions beyond the termination date of the emergency. Practice in Oregon beyond the termination date of the declared disaster emergency requires licensure through the Oregon Medical Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.060(4)

Hist.: BME 12-2002, f. & cert. ef. 10-25-02

847-010-0070

Competency Examination

(1) Whenever the Board of Medical Examiners orders a medical competency examination pursuant to ORS 677.420, it may require or administer one, all, or any combination of the following examinations:

(a) The Special Purpose Examination (SPEX);

(b) The Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX);

(c) Oral examination;

(d) Any other examination that the Board determines appropriate.

(2) Failure to achieve a passing grade on any examination shall constitute grounds for suspension or revocation of examinee's license on the grounds of Manifest Incapacity to Practice Medicine as provided by ORS 677.190(15).

(3) If an oral examination is ordered by the Board, an Examination Panel shall be appointed. The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to that of the examinee's. The panel shall establish a system for weighing the score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(4) Appointment of an Examination Panel is required only when administering an oral examination.

(5) The examinee shall be given no less than two weeks' notice of the date, time and place of any examination to be administered.

(6) The medical competency examination shall be paid for by the licensee.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist.: ME 34, f. & ef. 5-10-77; ME 3-1979, f. & ef. 5-1-79; ME 8-1982, f. & ef. 10-27-82; ME 3-1985, f. & ef. 5-6-85; BME 12-2000, f. & cert. ef. 10-30-00; BME 9-2003, f. & cert. ef. 5-2-03; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0073

Reporting Requirements

(1) Board licensees and health care facilities must report to the Board as required by ORS 676.150, 677.092, 677.190, and 677.415. These reports include, but are not limited to, the following:

(a) A licensee must self-report to the Board:

(A) Any conviction of a misdemeanor or felony or any arrest for a felony crime to the Board within 10 days after the conviction or arrest;

(B) Any adverse action taken by another licensing jurisdiction or any peer review body, health care institution, professional or medical society or association, governmental agency, law enforcement agency or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in ORS chapter 677;

(C) Any official action taken against the licensee within 10 business days of the official action; or

(D) A voluntary withdrawal from practice, voluntary resignation from the staff of a health care facility or voluntary limitation of the licensee's staff privileges at a health care facility if the licensee's voluntary action occurs while the licensee is under investigation by

the health care facility or its committee for any reason related to possible medical incompetence, unprofessional conduct or physical incapacity or impairment.

(b) A licensee who has reasonable cause to believe that another state licensed health care professional has engaged in prohibited or unprofessional conduct must report the conduct within 10 working days to the board responsible for the other professional unless disclosure is prohibited by state or federal laws relating to confidentiality or protection of health information.

(c) A licensee must report within 10 business days to the Board any information that appears to show that a licensee is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with a physical incapacity.

(d) A health care facility must report to the Board:

(A) Any official action taken against a licensee within 10 business days of the date of the official action; or

(B) A licensee's voluntary withdrawal from practice, voluntary resignation from the staff of a health care facility or voluntary limitation of the licensee's staff privileges at a health care facility if the licensee's voluntary action occurs while the licensee is under investigation by the health care facility or its committee for any reason related to possible medical incompetence, unprofessional conduct or physical incapacity or impairment.

(2) For purposes of the statutes, reporting to the Board means making a report to the Board's Investigation Unit or the Board's Executive Director or the Board's Medical Director. Making a report to the Board's Health Professionals' Services Program (HPSP) or HPSP's Medical Director does not satisfy the duty to report to the Board.

(3) For the purposes of the statutes, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

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

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

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

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

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

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

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

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

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

(E) Engaging in repeated instances of disruptive behavior in the health care setting that could adversely affect the delivery of health care to patients.

(F) Any conduct related to the practice of medicine that poses a danger to the public health or safety.

(G) Sexual misconduct: Licensee sexual misconduct is behavior that exploits the licensee-patient relationship in a sexual way. The behavior is non-diagnostic and non-therapeutic, may be verbal or

physical, and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes but is not limited to:

(i) Sexual violation: Licensee-patient sex, whether or not initiated by the patient, and engaging in any conduct with a patient that is sexual or may be reasonably interpreted as sexual, including but not limited to:

(I) Sexual intercourse

(II) Genital to genital contact

(III) Oral to genital contact

(IV) Oral to anal contact

(V) Genital to anal contact

(VI) Kissing in a romantic or sexual manner

(VII) Touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination or treatment, or where the patient has refused or has withdrawn consent

(VIII) Encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present

(IX) Offering to provide practice-related services, such as medications, in exchange for sexual favors

(ii) Sexual impropriety: Behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient or their family or associates, to include:

(I) Sexually exploitative behavior, to include taking, transmitting, viewing, or in any way using photos or any other image of a patient, their family or associates for the prurient interest of others.

(II) Intentional viewing in the health care setting of any sexually explicit conduct for prurient interests.

(III) Having any involvement with child pornography, which is defined as any visual depiction of a minor (a child younger than 18) engaged in sexually explicit conduct.

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

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

(B) Mental or emotional illness.

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

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

(5) A report made by a board licensee or the Oregon Medical Association or other health professional association, to include the Osteopathic Physicians and Surgeons of Oregon, Inc, or the Oregon Podiatric Medical Association to the Board of Medical Examiners under ORS 677.415 shall include the following information:

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

(b) The information that appears to show that a licensee is or may be medically incompetent, is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with an impairment.

(6) A report made by a health care facility to the Board under ORS 677.415 (5) and (6) shall include:

(a) The name, title, address and telephone number of the health care facility making the report;

(b) The date of an official action taken against the licensee or the licensee's voluntary action withdrawing from practice, voluntary resignation or voluntary limitation of licensee staff privileges; and

(c) A description of the official action or the licensee's voluntary action, as appropriate to the report, including:

(A) The specific restriction, limitation, suspension, loss or denial of the licensee's medical staff privileges and the effective date or term of the restriction, limitation, suspension, loss or denial; or

(B) The fact that the licensee has voluntarily withdrawn from the practice of medicine or podiatry, voluntarily resigned from the

staff of a health care facility or voluntarily limited the licensee's privileges at a health care facility and the effective date of the withdrawal, resignation or limitation.

(7) A report made under ORS 677.415 Section 2 may not include any information that is privileged peer review data, see ORS 41.675.

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

(9) Any person who reports or provides information in good faith as required by the statutes is immune from civil liability for making the report.

(10) A licensee's failure to report information or conduct as required by this rule is a violation of ORS 676.150, 677.092, 677.190, 677.205, or 677.415 and is grounds for a \$500 fine. The licensee may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 676.150, 677.205 & 677.265

Stats. Implemented: ORS 676.150, 677.092, 677.190, 677.205, 677.265 & 677.415

Hist.: BME 5-2004, f. & cert. ef. 4-22-04; BME 9-2006, f. & cert. ef. 5-8-06; BME 3-2007, f. & cert. ef. 1-24-07; BME 3-2008, f. & cert. ef. 1-22-08; BME 9-2009, f. & cert. ef. 5-1-09; BME 3-2010, f. & cert. ef. 1-26-10; OMB 4-2015, f. & cert. ef. 4-3-15

847-010-0075

Reporting of Alleged Professional Negligence

(1) As required in ORS 742.400 any insurer or approved self insurance association shall report claims of alleged professional negligence to the Oregon Medical Board within 30 days of filing of the claim. Incidents and inquiries not leading to claims need not be filed.

(2) All settlements, awards or judgments against a physician paid as a result of alleged professional negligence shall be reported to the Board within 30 days after the date of settlement, award or judgment.

Stat. Authority: ORS 677.265

Stats. Implemented: ORS 742

Hist.: ME 3-1987, f. & ef. 1-23-87; ME 10-1988, f. & cert. ef. 8-5-88; BME 1-2000, f. & cert. ef. 2-7-00

847-010-0078

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

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

Statutory Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: BME 3-2001, f. & cert. ef. 1-25-01

847-010-0081

Physician- Assisted Death with Dignity

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 127.885

Hist.: BME 2-1998(Temp), f. & cert. ef. 2-4-98 thru 7-31-98; BME 4-1998, f. & cert. ef. 4-22-98; OMB 29-2012, f. & cert. ef. 11-22-12

847-010-0090

Hospital Clinical Clerkships

Because students of medicine doing hospital clinical clerkships (externships) in hospitals will be participating in the diagnosis and treatment of patients, it is necessary that the Oregon Medical Board establish minimum standards under which these students will be working. Therefore, the Board establishes the following rules pertaining to both hospitals and students participating in clinical clerkships. These rules do not apply to non-hospital proceptorships:

(1) Hospitals:

(a) Only hospitals conducting internship/residency programs approved by the Accreditation Council for Graduate Medical Education of the American Medical Association or the Canadian Medical Association or the Royal College of Physicians and Surgeons of

Canada or the American Osteopathic Association may provide clerkships;

(b) Clerkships may be offered only in those subjects in which an approved internship/residency program exists in that hospital;

(c) Hospitals conducting clerkships shall have a written agreement with the school of medicine sponsoring the student;

(d) Hospital clinical physicians responsible for the supervision of clinical clerks shall have an academic appointment from a school of medicine;

(e) Regular evaluation of the work of the clinical clerks shall be recorded and a copy forwarded to the school of medicine;

(f) Hospitals offering clerkships shall notify the Board of the clerkships offered and the schools with which they are affiliated.

(2) Students:

(a) Only students in the last two years of their training may participate in clerkships;

(b) Students from schools not approved by the Board shall pass Day 1 of FMGEMS before participating in the clerkship in this state.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.100

Hist.: ME 4-1985, f. & ef. 5-6-85

847-010-0095

Peer Review

The Oregon Medical Board will participate in a peer review process to implement the provisions of ORS 441.055 by using the following rules:

(1) The Board will receive requests to appoint physicians to conduct peer review provided the requests are made jointly by all of the following:

(a) The physician whose practice is being reviewed;

(b) The executive committee of the health care facility's medical staff;

(c) The governing body of the health care facility.

(2) The Board will review requests and may decide to appoint physicians to conduct peer review.

(3) If the Board decides to appoint physicians to conduct peer review, the parties will be required to sign a contract agreeing to pay all costs. The Board will not be a party to such contract.

(4) The Board will appoint one or more physicians to conduct peer review in accordance with the medical staff by-laws of the facility.

(5) Reports will be processed according to Board protocol.

(6) The report of findings and conclusions of the panel will be forwarded to the requesting facility for processing according to the medical staff by-laws of the facility.

(7) If further action necessitates appropriate hearing proceedings, a panel of physicians will be appointed to conduct the hearings in accordance with the medical staff by-laws of the facility.

(8) The report of findings and conclusions of the hearings panel will be forwarded to the requesting facility in accordance with the medical staff by-laws.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 441.055

Hist.: ME 2-1988, f. & cert. ef. 1-29-88

847-010-0110

Physicians and Physician Assistants to Honor Life-Sustaining Treatment Orders

(1) A physician or physician assistant licensed pursuant to ORS Chapter 677 shall respect the patient's wishes including life-sustaining treatments. Consistent with the requirements of ORS Chapter 127, a physician or physician assistant shall respect and honor life-sustaining treatment orders executed by a physician, physician assistant or nurse practitioner. The fact that a physician, physician assistant or nurse practitioner who executed a life-sustaining treatment order does not have admitting privileges at a hospital or health care facility where the patient is being treated does not remove the obligation under this section to honor the order. In keeping with ORS Chapter 127, a physician or physician assistant shall not be subject to criminal prosecution, civil liability or professional discipline.

(2) Should new information on the health of the patient become available the goals of treatment may change. Following discussion

with the patient, or if incapable their surrogate, new orders regarding life-sustaining treatment should be written, dated and signed.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 127.505–127.660, 677.265

Hist.: BME 13-2007, f. & cert. ef. 4-26-07

DIVISION 12

PATIENT'S ACCESS TO MEDICAL RECORDS

847-012-0000

Patient's Access to Medical Records

(1) Licensees of the Oregon Medical Board must make protected health information in the medical record available to the patient or the patient's representative upon their request, to inspect and obtain a copy of protected health information about the individual, except as provided by law and this rule. The patient may request all or part of the record. A summary may substitute for the actual record only if the patient agrees to the substitution. Board licensees are encouraged to use the written authorization form provided by ORS 192.566.

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

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

(b) The provision of healthcare to the patient.

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

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

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

(b) Psychotherapy notes;

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

(d) Other reasons specified by federal regulation.

(4) Licensees who have retired, failed to renew their license, relocated their practice out of the area, had their license revoked, or had their license suspended for one year or more must notify each patient seen within the previous two years and the Oregon Medical Board of the change in licensee's status and how patients may access or obtain their medical records. Notifications must be in writing and sent by regular mail to each patient's last known address within 45 days of the change in licensee's status.

(5) Licensees who have been suspended for less than one year must notify the Board within 10 days of the suspension how patients may access or obtain their medical records.

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

(a) No more than \$30 for copying 10 or fewer pages of written material, and no more than 50 cents per page for pages 11 through 50, and no more than 25 cents for each additional page;

(b) A bonus charge of \$5 if the request for records is processed and the records are mailed by first class mail to the requester within seven business days after the date of the request;

(c) Postage costs to mail copies of the requested records;

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

(e) Actual costs of reproducing films, x-rays, or other reports maintained in a non-written form.

(7) A patient may not be denied summaries or copies of his/her medical records because of inability to pay.

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

(9) Violation of this rule will result in a \$195 fine and may be cause for further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 192.553, 192.556, 192.558, 192.563, 192.566, 677.265

Hist.: ME 7-1988, f. & cert. ef. 4-20-88; BME 1-2004, f. & cert. ef. 1-27-04; BME 18-2004, f. & cert. ef. 10-20-04; BME 17-2008, f. & cert. ef. 7-21-08; OMB 24-2011, f. & cert. ef. 10-18-11; OMB 8-2013, f. & cert. ef. 4-5-13

DIVISION 15

GENERAL LICENSING RULES, RELATING TO CONTROLLED SUBSTANCES

847-015-0005

Scheduled II Controlled Substance — Bariatrics Practice

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.188 & 677.190

Hist.: ME 1-1987, f. & ef. 1-20-87; ME 1-1995, f. & cert. ef. 2-1-95

847-015-0010

Schedule III or IV Controlled Substances — Bariatrics Practice

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

(2) A physician may utilize a Schedule III or IV controlled substance for purposes of weight reduction in the treatment of Exogenous Obesity in a regimen of weight reduction based on caloric restriction, behavior modification and prescribed exercise, provided that all of the following conditions are met:

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

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

(B) Patient's body mass index exceeds 27 Kg/M sq and the excess weight represents a threat to the patient's health (as with hypertension, diabetes, or hypercholesterolemia.)

(b) Before initiating treatment utilizing a Schedule III or IV controlled substance, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized.

(3) Continuation of Schedule III or IV designated as FDA short term use controlled substances beyond three (3) months requires documentation of an average two (2) pound per month weight loss during active weight reduction treatment, or documentation of maintenance of goal weight. Use of Schedule III or IV controlled substances with FDA approval for bariatric therapy and designated for long term use where FDA guidelines are followed may also be used beyond three months.

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.188(4) & 677.190(25)

Hist.: ME 1-1987, f. & ef. 1-20-87; ME 1-1995, f. & cert. ef. 2-1-95; ME 1-1997, f. & cert. ef. 1-28-97; BME 9-1998, f. & cert. ef. 7-22-98; BME 17-2000(Temp), f. & cert. ef. 10-30-00 thru 2-28-01; BME 4-2001, f. & cert. ef. 1-25-01

847-015-0015

Maintenance of Controlled Substances Log by Prescribing Practitioners

Any practitioner dispensing or administering controlled substances from the practitioner's office must have a Drug Enforcement Administration registration indicating the address of that office. The practitioner shall maintain an inventory log showing all controlled substances received, and administered or dispensed. This log shall also list for each controlled substance, the patient's name, amounts used, and date administered or dispensed. This log shall be available for inspection on request by the Oregon Medical Board or its authorized agents. Controlled substances samples are included in this rule.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 475.165

Hist.: ME 15-1987, f. & ef. 8-3-87

847-015-0020

Maintenance of Controlled Substances Log — Ambulance and Medical Rescue Services Receiving Controlled Substances from Physicians

Any physician providing controlled substances for use by ambulance and medical rescue services must have a Drug Enforcement Administration registration for the address where the controlled substances and inventory log are stored. The inventory log at the registered address shall be maintained showing all controlled substances received, or dispensed to the emergency vehicle. The administration log shall also show for each controlled substance, the patient's name and amount used, date, and by whom administered or dispensed, and may be maintained in the emergency vehicle. This log should be reviewed for accuracy on a monthly basis and be readily retrievable for inspection on request by the Board, the ambulance licensing authority as specified in ORS 682.015, or their authorized agents.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 682.245

Hist.: ME 10-1987, f. & ef. 4-28-87; ME 1-1997, f. & cert. ef. 1-28-97; BME 8-2001, f. & cert. ef. 7-18-01

847-015-0025

Dispensing, Distribution and Administration

(1) Any actively licensed physician or podiatric physician who dispenses drugs must register with the Board as a dispensing physician before beginning to dispense drugs.

(2) A physician must register with the Board as a dispensing physician before supervising a physician assistant or any other health care provider with dispensing privileges.

(3) At the time of license registration renewal, all dispensing physicians must indicate their status as a dispensing physician on the registration renewal form.

(4) Dispensing of drugs must be documented in the patient record. Documentation must include the name of the drug, the dose, the quantity dispensed, the directions for use and the name of the physician or physician assistant dispensing the drugs. The physician or physician assistant must verbally counsel the patient concerning any new medications and must provide written information on the directions for use.

(5) Distribution of samples, without charge, is not dispensing under this rule. Distribution of samples must be documented in the patient record. Documentation must include the name of the drug, the dose, the quantity distributed and the directions for use. The physician or physician assistant must verbally counsel the patient concerning any new medications and must provide written information on the directions for use.

(6) Administering drugs in the physician's or podiatric physician's office is not dispensing under this rule. Administration of drugs must be documented in the patient record. Documentation must include the name of the drug, the dose and the quantity administered.

(7) Any physician or podiatric physician who dispenses drugs or who supervises a physician assistant with drug dispensing authority without first registering with the Board will be fined \$195 and may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.010, 677.089, 677.510, 677.515

Hist.: ME 22-1987, f. & ef. 10-29-87; ME 9-1993, f. & cert. ef. 7-27-93; BME 1-2005, f. & cert. ef. 1-27-05; BME 24-2007, f. & cert. ef. 10-24-07; OMB 30-2011, f. & cert. ef. 10-27-11; OMB 32-2013, f. & cert. ef. 10-15-13

847-015-0030

Written Notice Disclosing the Material Risks Associated with Prescribed or Administered Controlled Substances for the Treatment of "Intractable Pain"

(1) Definitions

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

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

(2) Controlled substances may be prescribed for long term treatment of intractable pain. The attending physician records must contain the attending physician's examination, diagnosis and any other supporting diagnostic evaluations and other therapeutic trials, including records from previous providers. If there is a consulting physician, written documentation of his/her corroborating findings, diagnosis and recommendations shall be included in the record.

(3) Before initiating treatment of intractable pain with controlled substances or, when it is apparent that pain which is already being treated with controlled substances has now become intractable, the attending physician shall discuss with the patient the procedures, alternatives and risks associated with the prescribing or administering controlled substances for long term management of pain. Following the discussion the patient will be given an opportunity to request further explanations. When the patient is satisfied with the explanation of the issues related to the prescribing of these drugs over long periods of time, the attending physician shall provide to the person and the person shall sign a written document outlining the issues discussed associated with the prescribed or administered controlled substances.

(4) The material risk notice should include but not be limited to:

(a) The diagnosis;

(b) The controlled substance and/or group of controlled substances to be used;

(c) Anticipated therapeutic results;

(A) Pain relief;

(B) Functional goals;

(d) Alternatives to controlled substance therapy;

(e) Potential additional therapies to be used in conjunction with controlled substances; and

(f) Potential side effects (if applicable):

(A) Cardiovascular;

(B) Central Nervous System;

(C) Gastrointestinal;

(D) Endocrine;

(E) Respiratory;

(F) Dermatologic;

(G) Urinary;

(H) Pregnancy, and

(I) Other.

(g) Allergy Potential;

(h) Interaction/Potentiation of other medications;

(i) Potential for dose escalation/tolerance;

(j) Withdrawal precautions;

(k) Potential for dependence and addiction;

(l) Potential for impairment of judgment and/or motor skills;

(m) Satisfaction with or desire for more explanation; and

(n) Patient signature (dated).

(5) The material risk consent form will be maintained as a permanent component of the patient record as shall documentation of long term follow-up to demonstrate the continued need for this form of therapy. A dispensing record of the amount and dose of the prescribed or administered controlled substances shall be maintained as part of the patient record.

Stat. Auth.: ORS 677.265, SB 880 2007
 Stats. Implemented: ORS 677.470 - 485
 Hist.: ME 4-1996, f. & cert. ef. 7-26-96; BME 8-2000, f. & cert. ef. 7-27-00; BME 6-2004, f. & cert. ef. 4-22-04; BME 9-2008, f. & cert. ef. 4-24-08

847-015-0035

Attending Physicians Prescribing Medications to Physician-Assisted Death with Dignity Patients

Attending physicians prescribing medications pursuant to ORS 127.800–127.897 must:

(1) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is registered as a dispensing physician with the Oregon Medical Board, has a current Drug Enforcement Administration (D.E.A.) certificate, and complies with the provisions of ORS 677.089, OAR 847-015-0015 and 847-015-0025; or

(2) With the patient's written consent:

(a) Contact a pharmacist, and inform the pharmacist of the purpose of the prescription; and

(b) Deliver the written prescription personally or by mail to the pharmacist who will dispense the medications to either the patient, the attending physician, or an expressly identified patient's agent.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 127.800 - 127.995

Hist.: BME 3-1998(Temp), f. & cert. ef. 4-8-98 thru 10-5-98; BME 10-1998, f. & cert. ef. 7-22-98; OMB 29-2012, f. & cert. ef. 11-22-12

847-015-0040

Collaborative Drug Therapy Management

(1) "Collaborative Drug Therapy Management" as used in this section means the participation by a physician and a pharmacist in the management of drug therapy pursuant to a written protocol that includes information specific to the dosage, frequency, duration and route of administration of the drug, authorized by a physician and initiated upon a prescription order for an individual patient and:

(a) Is agreed to by one physician and one pharmacist; or

(b) Is agreed to by one or more physicians in a single organized medical group, such as a hospital medical staff, clinic or group practice, including but not limited to organized medical groups using a pharmacy and therapeutics committee, and one or more pharmacists at a single pharmacy registered by the Board of Pharmacy.

(2) A physician shall engage in collaborative drug therapy management with a pharmacist only under a written arrangement that includes:

(a) The identification, either by name or by description, of the participating pharmacist(s);

(b) The identification, by name, of the participating physician(s);

(c) The name of the physician and principal pharmacist who are responsible for development, training, administration, and quality assurance of the arrangement;

(d) A detailed description of the collaborative role the pharmacist(s) shall play, including but not limited to:

(A) Written protocol for specific drugs pursuant to which the pharmacist will base drug therapy management decisions for an individual patient;

(B) Circumstances which will cause the pharmacist to initiate communication with the physician, including but not limited to the need for new prescription orders and reports of patients' therapeutic responses or adverse effects;

(C) Training requirement for pharmacist participation and ongoing assessment of competency, if necessary;

(D) Quality assurance and periodic review by a panel of the participating physicians(s) and pharmacist(s).

(e) Authorization by the physician(s) for the pharmacist(s) to participate in the collaborative drug therapy;

(f) A provision for the collaborative drug therapy arrangement to be reviewed and updated, or discontinued at least every two years; and

(g) A description of the mechanism for the pharmacist(s) to communicate to the physician(s) and for documentation of the implementation of the collaborative drug therapy.

(3) Collaborative drug therapy management is valid only when initiated upon the prescription order of a participating physician for each individual patient.

(4) Nothing in this rule shall be construed to allow therapeutic substitution.

(5) The collaborative drug therapy protocol must be filed with the Board of Pharmacy, kept on file in the pharmacy and made available to the Board of Pharmacy and the Oregon Medical Board upon request.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 689.005(30)

Hist.: BME 12-1999, f. & cert. ef. 7-23-99

DIVISION 17

OFFICE-BASED SURGERY

847-017-0000

Preamble

Licensees of the Oregon Medical Board providing office-based invasive procedures are accountable for the welfare and safety of their patients and responsible for ensuring that the performance of these procedures meets the standard of care.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0003

Classification of Office-Based Surgery

Office-based surgeries are classified by complexity.

(1) Level I are minor surgical procedures performed without anesthesia or under topical, local, or minor conduction block anesthesia not involving drug-induced alteration of consciousness, other than minimal sedation utilizing preoperative oral anxiolytic medications.

(a) The licensee must pursue continuing medical education in the field for which the services are being provided and in the proper drug dosages, management of toxicity, and hypersensitivity to local anesthetic and other drugs.

(b) The licensee must maintain active basic life support (BLS) certification.

(2) Level II are minor or major surgical procedures performed under moderate sedation/analgesia, such as oral, parenteral, or intravenous sedation or under analgesic or dissociative drugs.

(a) In addition to the requirements in section (1) of this rule, the licensee must:

(A) Maintain board certification or board eligibility in a specialty recognized by the American Board of Medical Specialties (ABMS), the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Medicine (ABPM), the American Board of Podiatric Surgery (ABPS) or the National Commission on Certification of Physician Assistants (NCCPA), or

(B) Obtain fifty hours each year of accredited continuing medical education (CME) relevant to the Level II surgical procedures to be performed in the office-based facility. This requirement may not be satisfied with cultural competency CME or other CME that is only generally relevant to the licensee's practice.

(b) The licensee must be certified in advanced resuscitative techniques and must be on site at all times when patients are under the effects of anesthetic.

(c) The patient must be appropriately monitored as defined in 847-017-0005.

(3) Level III are major surgical procedures that require deep sedation/analgesia, general anesthesia, or regional blocks, and require support of vital bodily functions.

(a) In addition to the requirements in section (1) of this rule, the licensee must:

(A) Have staff privileges to perform the same procedure in a hospital or ambulatory surgical center, or

(B) Maintain board certification or board eligibility in an appropriate specialty recognized by the ABMS, the AOA-BOS, the ABPM, the ABPS or the NCCPA.

(b) The licensee must be certified in advanced resuscitative techniques and must be on site at all times when patients are under the effects of anesthetic.

(c) The patient must be appropriately monitored as defined in 847-017-0005.

(d) The licensee performing the procedure may not administer anesthesia other than additional local anesthesia and may not be primarily responsible for monitoring anesthesia during the procedure.

(4) Procedures or treatments involving the injection of a medication or substance for cosmetic purposes are the practice of medicine and must be performed as an office-based surgical procedure.

(5) Lipoplasty involving the removal of 500 cc or less volume of supernatant fat may be performed as a Level I surgical procedure. Office-based lipoplasty involving more than 500 cc volume of supernatant fat must be performed as a Level II or Level III surgical procedure.

(a) The performance of lipoplasty in an office-based setting may not result in the removal of more than 5% of total body weight or more than 4500 cc volume of supernatant fat removed, whichever is less.

(b) The licensee may not use more than 55 mg/kg of Lidocaine or 70 mcg/kg of epinephrine for tumescent anesthesia. The concentration of epinephrine in tumescent solutions may not exceed 1.5 mg/L.

(6) The following may not be performed in an office-based surgical facility:

(a) Procedures that may result in blood loss of more than 4% of the estimated blood volume in a patient with a normal hemoglobin;

(b) Procedures requiring intracranial, intrathoracic, or abdominal cavity entry; and

(c) Joint replacement procedures.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0005

Definitions

For the purpose of these rules, the following terms are defined:

(1) "Ambulatory surgical center" has the meaning given in ORS 442.015. Nothing in OAR chapter 847, division 17 is meant to exempt a physician's office from the licensure requirements in ORS 441.015 if the office meets the definition of an ambulatory surgical center in ORS 442.015. A physician's office that meets the definition of an ambulatory surgical center must comply with OAR chapter 333, division 76.

(2) "Board" means the Oregon Medical Board.

(3) "Certified in advanced resuscitative techniques" means that the individual is currently certified either with Advanced Cardiac Life Support (ACLS) for adults or Pediatric Advanced Life Support (PALS) or Advanced Pediatric Life Support (APLS) for children.

(4) "Deep sedation/analgesia" means the administration of a drug or drugs that produces depression of consciousness during which patients cannot be easily aroused and only respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate.

(5) "Facility" has the same definition as "office."

(6) "General anesthesia" means a drug-induced loss of consciousness during which patients are not able to be aroused, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function.

(7) "Health care personnel" means any person, licensed or unlicensed, who is directly related to the provision of health care services

including, but not limited to, a physician assistant, nurse practitioner, certified registered nurse anesthetist, registered nurse, licensed practical nurse or medical assistant.

(8) "Hospital" has the meaning given in ORS 442.015.

(9) "Licensee" means an individual holding a valid license issued by the Board.

(10) "Lipoplasty" means any instrumentation under the skin through incisions for the reduction of subcutaneous volume. This includes, but is not limited to, liposuction, laser lipolysis, suction assisted lipectomy and liposculpture.

(11) "Local anesthesia" means the administration of a drug or drugs that produces a transient and reversible loss of sensation in a circumscribed portion of the body.

(12) "Minimal sedation" (anxiolysis) means the administration of a drug or drugs that produces a state of consciousness that allows the patient to tolerate unpleasant medical procedures while responding normally to verbal commands. Cardiovascular or respiratory function is unaffected and defensive airway reflexes remain intact.

(13) "Minor conduction block" means the injection of local anesthesia to stop or prevent a painful sensation in a circumscribed area of the body (that is, infiltration or local nerve block), or the block of a nerve by direct pressure and refrigeration. Minor conduction blocks include but are not limited to, intercostal, retrobulbar, paravertebral, peribulbar, pudendal, and sciatic nerve and ankle blocks.

(14) "Moderate sedation/analgesia" means the administration of a drug or drugs that produces depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by a light tactile stimulation. Reflex withdrawal from painful stimulation is NOT considered a purposeful response. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate.

(15) "Monitor" means regular visual observation and continuous physiologic measurement of the patient as deemed appropriate by the level of sedation or recovery using appropriate instruments to measure, display, and record physiologic values, such as heart rate, blood pressure, respiration, oxygen saturation, and end tidal capnography.

(16) "Office" means a location, other than a hospital or ambulatory surgical center, at which medical or surgical services are rendered.

(17) "Office-based surgery" means the performance of any surgical or other invasive procedure requiring anesthesia, analgesia, or sedation, including cryosurgery, laser surgery and the use of lasers that penetrate the skin, which results in patient stay of less than 24 consecutive hours and is performed by a licensee in a location other than a hospital or ambulatory surgical center.

(18) "PARQ conference" means a Procedures, Alternatives, Risks and Questions conference, in which the licensee performing the procedure explains in general terms the procedure or treatment to be undertaken, any alternative procedures or methods of treatment, and any risks to the procedure or treatment and allows questions from the patient.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0008

Standard of Practice

A licensee performing office-based surgery must have received appropriate training and education in the safe and effective performance of all surgical procedures performed in the office. Such training and education should include:

(1) Indications and contraindications for each procedure;

(2) Identification and selection of appropriate patients for each procedure;

(3) Identification of realistic and expected outcomes of each procedure;

(4) Selection, maintenance, and utilization of products and equipment;

- (5) Appropriate technique for each procedure, including infection control and safety precautions;
- (6) Pharmacological intervention specific to each procedure;
- (7) Identification of complications and adverse reactions for each procedure;
- (8) Standards in surgical medical care; and
- (9) Emergency procedures to be used in the event of:
 - (a) Complications;
 - (b) Adverse reactions; or
 - (c) Equipment malfunction.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0010

Licensee Use of Office-Based Surgical Facilities

A licensee performing office-based surgery must ensure that the facility meets standards to ensure patient safety.

(1) Facilities where office-based surgeries are performed must comply with all federal and state laws and regulations that affect the practice.

(2) Facilities where Level II or Level III office-based surgeries are performed must be accredited by an appropriate, Board-recognized accreditation agency, including the American Association for Accreditation of Ambulatory Surgical Facilities (AAAASF), the Accreditation Association of Ambulatory Health Care (AAAHHC), the Joint Commission, or the Institute for Medical Quality (IMQ). Facilities accredited by the Oregon Medical Association (OMA) prior to January 1, 2013, will continue to be recognized as accredited facilities until the accreditation period expires. Licensees of the Board performing office-based procedures in a new or existing facility, must ensure that facility is accredited within one year of the start date of the office-based procedures being performed or the date these rules are adopted, whichever is later. During the period of time the facility is in the accreditation process, the facility will make changes to come into compliance with the Administrative Rules in this Division.

(3) Facilities where Level II or Level III office-based surgeries are performed must provide health care personnel who have appropriate education and training for administration and monitoring of moderate sedation/analgesia, deep sedation/analgesia, general anesthesia or regional block.

(4) A licensee who holds a MD or DO degree as well as a DDS (Doctor of Dental Surgery) or DMD (Doctor of Dental Medicine) degree and is an active member of the Oregon Society of Oral Maxillofacial Surgeons (OSOMS) may perform maxillofacial procedures in a facility approved by the OSOMS and function under the administrative rules of the Oregon Board of Dentistry, OAR chapter 818, division 026. For all procedures that are not oral maxillofacial in nature, licensees with medical and dental licenses must follow rules laid out in OAR chapter 847, division 017.

Stat. Auth.: ORS 677.265, 679.255

Stats. Implemented: ORS 677.060, 677.265, 679.255

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; BME 14-2007, f. & cert. ef. 7-23-07; BME 10-2008, f. & cert. ef. 4-24-08; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0015

Selection of Procedures and Patients

(1) The licensee who performs the office-based surgery or anesthetic is responsible for the safety of the patient.

(a) The licensee must evaluate and document the condition of the patient and the potential risks associated with the proposed treatment plan;

(b) The licensee must be satisfied that the procedure to be undertaken is within the scope of practice of the health care personnel, the capabilities of the facility and the condition of the patient; and

(c) The licensee must examine the patient immediately before the procedure to evaluate the risks of the procedure and the risks of anesthesia if applicable.

(2) Informed consent for the nature and objectives of the anesthesia planned and office-based surgery to be performed must be in writing and obtained from the patient[s] before the office-based surgery is performed. Informed consent is only to be obtained after

a PARQ conference and must be documented in the medical record. The informed consent must include a disclosure of the licensee's specialty board certification through the ABMS, the AOA-BOS, the ABPM, the ABPS or the NCCPA or lack thereof. The requirement for written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0020

Patient Medical Records

(1) A legible, complete, comprehensive and accurate medical record must be maintained for each patient evaluated or treated. The record must include:

- (a) Identity of the patient;
- (b) History and physical, diagnosis and plan;
- (c) Appropriate lab, x-ray or other diagnostic reports;
- (d) Documentation of the PARQ conference;
- (e) Disclosure of the licensee's specialty board certification through the ABMS, the AOA-BOS, the ABPM, the ABPS or the NCCPA or lack thereof;
- (f) Appropriate preanesthesia evaluation;
- (g) Narrative description of procedure;
- (h) Intraoperative and postoperative monitoring;
- (i) Pathology reports;
- (j) Documentation of the outcome and the follow-up plan; and
- (k) Provision for continuity of post-procedure care.

(2) If the office-based surgery is a Level II or Level III surgical procedure, the patient record must include a separate anesthetic record that contains documentation of anesthetic provider, procedure, and technique employed. This must include the type of anesthesia used, drugs (type and dose) and fluids administered during the procedure, patient weight, level of consciousness, estimated blood loss, duration of procedure, and any complication or unusual events related to the procedure or anesthesia.

(3) The patient record must document if tissues and other specimens have been submitted for histopathologic diagnosis.

(4) The licensee must ensure that the facility has specific and current protocols in place for patient confidentiality and security of all patient data and information.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0025

Discharge Evaluation

The licensee performing the procedure is responsible for the determination that the patient is safe to be discharged from the office after the procedure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0030

Emergency Care and Transfer Protocols

In facilities where Level II or Level III office-based surgeries are performed, the licensee must ensure that a written plan is in place for the provision of emergency medical care as well as the safe and timely transfer of patients to a nearby hospital should hospitalization be necessary.

(1) Age-appropriate emergency supplies, equipment, and medication should be provided in accordance with the scope of surgical and anesthesia services provided at the licensee's office.

(2) All office personnel must be familiar with the documented plan for arranging emergency medical services and the safe and timely transfer of patients to a nearby hospital and must be able to take necessary actions. If cardiopulmonary resuscitation (CPR) is instituted, the plan must include immediate contact with emergency medical services.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265
Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0035

Quality Assessment

(1) Office-based surgical practices must develop a system of quality assessment that effectively and efficiently strives for continuous quality improvement.

(2) Documentation of complications and adverse incident review must be available.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0037

Reporting Requirement

(1) Licensees performing office-based surgery must report the following complications and adverse incidents to the Board within ten business days of the event if the complication occurred within 30 days of the procedure:

(a) Surgical related death;

(b) Emergency transfer of the surgical patient to the hospital;

(c) Anesthetic or surgical event requiring cardiopulmonary resuscitation (CPR); and

(d) Unscheduled hospitalization related to the office-based surgery.

(2) Licensees performing or intending to perform office-based surgery must report any restriction, limitation, loss or denial of privileges in a hospital or accredited outpatient facility within ten business days of the restriction, limitation, loss or denial of privileges.

(3) The Board will review reports made under this rule to determine whether an investigation is necessary.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.415

Hist.: OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0040

Facility Administration and Equipment

The licensee must ensure that specific and current arrangements are in place for obtaining laboratory, radiological, pathological and other ancillary services as may be required to support the surgical and/or anesthetic procedures undertaken.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

DIVISION 20

RULES FOR LICENSURE TO PRACTICE MEDICINE IN OREGON

847-020-0100

Definitions

For the purpose of OAR chapter 847, division 020, the following terms are defined:

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

(2) "School of medicine" means approved schools of medicine (as defined above) and international medical and osteopathic schools.

(3) "Specialty board" means a certification board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association's Bureau of Osteopathic Specialties (AOA-BOS).

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.010 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 6-2010, f. & cert. ef. 4-26-10; OMB 9-2013, f. & cert. ef. 4-5-13

847-020-0110

Application for Licensure

(1) Any person who wishes to practice medicine in this state beyond the first post-graduate training year must apply for an Oregon license to practice medicine.

(2) When applying for licensure, the applicant must submit to the Board the completed application, fees, documents and letters.

(3) A person applying for licensure under these rules who has not completed the licensure process within a 12 month consecutive period must file a new application, documents, letters and pay a full filing fee as if filing for the first time.

(4) The applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. Unless excused in advance, failure to appear before the Board for a personal interview violates ORS 677.190(17) and may subject the applicant to disciplinary action.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100 & 677.190

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 4-2007, f. & cert. ef. 1-24-07;

OMB 9-2013, f. & cert. ef. 4-5-13; OMB 4-2014, f. & cert. ef. 1-14-14

847-020-0120

Basic Requirements for Licensure of an Approved Medical School Graduate

The following requirements for licensure must be met by graduates of an approved school of medicine:

(1) Must have graduated from a school offering a full-time resident program of study in medicine or osteopathy leading to a degree of Doctor of Medicine or Doctor of Osteopathy, such program having been fully accredited or conditionally approved by the Liaison Committee of Medical Education, or the American Osteopathic Association, or having been otherwise determined by the Board to meet the association standards;

(2) Must satisfactorily complete an approved internship, residency or fellowship in the United States or Canada of at least one year in not more than one training program accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, the College of Family Physicians of Canada, or the Royal College of Physicians and Surgeons of Canada;

(3) Must pass a written licensing examination as provided in ORS 677.110 and OAR 847-020-0170; and

(4) Must satisfactorily meet the requirements of ORS 677.100.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100 & 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01; OMB 9-2013, f. & cert. ef. 4-5-13

847-020-0130

Basic Requirements for Licensure of an International Medical School Graduate

The following requirements must be met in lieu of graduation from an approved school of medicine in order to qualify under ORS 677.100:

(1) Must speak English fluently and write English legibly.

(2) Must have graduated from an international school of medicine:

(a) The medical school must be chartered in the country in which it is located and must provide a resident course of professional instruction, be accredited by an accrediting organization acceptable to the Board, or be recognized by the appropriate civil authorities of the country in which the school is located as an acceptable education program. The Board may determine that the accreditation of an international medical school is not acceptable if the Board receives documentation that the medical school has had its authorization, accreditation, certification or approval denied or removed by any state, country or territorial jurisdiction or that its graduates were refused a license by any state, country or territorial jurisdiction on the grounds that the school failed or fails to meet reasonable standards for medical education facilities.

(b) The graduate must have attended at least four full terms of instruction of eight months each, with all courses having been completed by physical on-site attendance in the country in which the school is chartered. The requirement for four full terms of instruction of eight months each term may be waived for any applicant for licensure who has graduated from an international school of medicine, has substantially complied with the attendance requirements provided herein, and is certified by a specialty board.

(c) Any clinical clerkships obtained in a country other than that in which the school is chartered must be satisfactorily completed.

(d) If requested, the applicant must provide the Board with documentation to substantiate that the medical school from which the applicant graduated meets the requirements in subsection (2)(a) of this rule.

(3) Must have obtained certification by the Educational Commission for Foreign Medical Graduates. This requirement may be waived if:

(a) The accredited postgraduate training was completed in Canada; or

(b) The accredited postgraduate training was completed prior to the enforcement of the ECFMG certification; or

(c) The applicant has been certified by a specialty board; or

(d) The applicant has successfully completed a Fifth Pathway training program.

(4) Must have satisfactorily completed an approved internship, residency or clinical fellowship in the United States or Canada of at least three years of progressive training in not more than two specialties in training programs accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, the College of Family Physicians of Canada or the Royal College of Physicians and Surgeons of Canada.

(a) The following may be used in lieu of the three years of postgraduate training:

(A) Current certification by a specialty board; or

(B) Successful completion of four years of practice in Oregon under a Limited License, Medical Faculty, in accordance with OAR 847-020-0140(1); or

(C) Successful completion of four years of practice in another United States jurisdiction under a license substantially similar to the Limited License, Medical Faculty.

(b) If the applicant is unable to satisfy the requirement in section (4) of this rule for postgraduate training, and the applicant has been granted a dispensation by a specialty board whereby the specialty board has granted credit for postgraduate training completed abroad toward fulfillment of the requirements for admission to a future specialty board's certification examination, the Board may consider the dispensation as fulfilling that same portion of the Board's requirement for postgraduate training.

(5) Must pass a written licensure examination as provided in ORS 677.110 and OAR 847-020-0170.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.110 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 8-2002, f. & cert. ef. 7-17-02; BME 10-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06; BME 20-2007, f. & cert. ef. 10-24-07; BME 4-2009, f. & cert. ef. 1-22-09; BME 6-2010, f. & cert. ef. 4-26-10; BME 11-2010(Temp), f. & cert. ef. 7-26-10 thru 1-10-11; BME 17-2010, f. & cert. ef. 10-25-10; OMB 9-2013, f. & cert. ef. 4-5-13

847-020-0140

Limited License, Medical Faculty Qualifications

(1) Any physician who does not qualify for a medical license under any of the provisions of this chapter and who is offered by the Dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the Board, be granted a Limited License, Medical Faculty to engage in the practice of medicine only to the extent that such practice is incident to and a necessary part of the applicant's duties as approved by the Board in connection with such faculty position.

(2) To qualify for a Limited License, Medical Faculty an applicant must meet all the following requirements:

(a) Furnish documentary evidence satisfactory to the Board that the applicant is a United States citizen or is legally admitted to the United States.

(b) Furnish documentary evidence satisfactory to the Board that the applicant has been licensed to practice and has practiced medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the Board, or has been engaged in the practice of medicine in the United States for at least four years in approved hospitals, or has completed a combination of such licensed practice and training.

(c) The dean of the medical school must certify in writing to the Board that the applicant has been appointed to a full-time faculty position; that a position is available; and that because the applicant has unique expertise in a specific field of medicine, the medical school considers the applicant to be a valuable member of the faculty.

(d) The head of the department in which the applicant is to be appointed must certify in writing to the Board that the applicant will be under the direction of the head of the department and will not be permitted to practice medicine unless as a necessary part of the applicant's duties as approved by the Board in subsection (1)(a) of this rule.

(e) The applicant may be required to take and pass an examination by the Board.

(3) A Limited License, Medical Faculty is valid for one year after issuance and may be renewed as frequently as needed for a total period not to exceed four years. The four years must be consecutive.

(4) Having completed four years of practice under a Limited License, Medical Faculty and successfully passed one of the examinations or combination of examinations per OAR 847-020-0170, the applicant is eligible for licensure.

Stat. Auth.: ORS 677.132 & 677.265

Stats. Implemented: ORS 677.100, 677.110, 677.132 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 2-2002, f. & cert. ef. 1-28-02; BME 5-2002, f. & cert. ef. 4-23-02; BME 3-2006, f. & cert. ef. 2-8-06; BME 4-2007, f. & cert. ef. 1-24-07; BME 18-2008, f. & cert. ef. 7-21-08; BME 23-2008, f. & cert. ef. 10-31-08; OMB 9-2013, f. & cert. ef. 4-5-13; OMB 23-2013, f. & cert. ef. 10-1-13

847-020-0150

Documents and Forms to be Submitted for Licensure

The documents submitted must be legible and no larger than 8 1/2" x 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. Official translations are required for documents issued in a foreign language. The following documents are required:

(1) Application: Completed formal application provided by the Board. Required dates must include month, day and year.

(2) Birth Certificate: A copy of birth certificate.

(3) Medical School Diploma: A copy of a diploma showing graduation from an approved school of medicine or an international school of medicine.

(4) American Specialty Board Certificate or Recertification Certificate: A copy of the certificate issued by the American Specialty Board in the applicant's specialty, if applicable.

(5) Photograph: A close-up, passport quality photograph, front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application.

(6) The results of a Practitioner Self-Query from the National Practitioner Data Bank sent to the Board by the applicant.

(7) Legible fingerprints as described in 847-008-0068 for the purpose of a criminal records background check.

(8) An applicant must pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and an open-book examination on the Drug Enforcement Administration's regulations governing the use of controlled substances. If an applicant fails one or both examinations three times, the applicant's application will be reviewed by the Board's Administrative Affairs Committee and the applicant must attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination(s), before being given

a fourth and final attempt to pass the examination(s). If the applicant does not pass the examination(s) on the fourth attempt, the applicant may be denied licensure.

(9) Any other documentation or explanatory statements as required by the Board.

Stat. Auth.: ORS 677.100 & 677.265

Stats. Implemented: ORS 677.010 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 3-2006, f. & cert. ef. 2-8-06; BME 15-2007, f. & cert. ef. 7-23-07; BME 20-2007, f. & cert. ef. 10-24-07; BME 6-2010, f. & cert. ef. 4-26-10; OMB 9-2013, f. & cert. ef. 4-5-13; OMB 34-2013, f. & cert. ef. 10-15-13

847-020-0160

Letters and Official Verifications to be Submitted for Licensure

The applicant must ensure that official documents are sent to the Board directly from:

(1) The Medical/Osteopathic School:

(a) A Dean's Letter of Recommendation must include a statement concerning the applicant's moral and ethical character and overall performance as a medical student. If the school attests that a Dean's Letter is unavailable or the Board determines that it is unacceptable, a copy of the transcripts may be acceptable.

(b) Verification of Medical Education form must include degree issued, date of degree, dates of attendance for each year, dates and reason for any leaves of absence or repeated years, and dates, name and location of school of medicine if a transfer student.

(2) The Fifth Pathway Hospital, if such applies: An evaluation of overall performance and specific beginning and ending dates of training.

(3) The Educational Commission for Foreign Medical Graduates: Verification of certification.

(4) The Director of Medical Education, Chairman or other official of the internship, residency and fellowship hospitals in the United States and other countries: An evaluation of overall performance, specialty and specific beginning and ending dates of training.

(5) The Director or other official for practice and employment in hospitals, clinics, etc. in the United States and foreign countries: A currently dated original letter (a copy is not acceptable), sent directly from the hospital/clinic, must include an evaluation of overall performance and specific beginning and ending dates of practice and employment, for the past five (5) years only. If the applicant has not practiced for more than two years, employment verifications will be required for the past ten (10) years. For physicians who have been or are in solo practice without hospital privileges at the time of solo practice, provide three reference letters from physicians in the local medical community who are familiar with the applicant's practice and who have known the applicant for more than six months.

(6) All health licensing boards in any jurisdiction where the applicant has ever been licensed; regardless of status, i.e., current, lapsed, never practiced there: Verification, sent directly from the boards, must show license number, date issued, examination grades if applicable and status.

(7) Official Examination Certifications: An official examination certification showing the examination score is required directly from the National Board of Medical Examiners, the National Board of Osteopathic Medical Examiners, the Medical Council of Canada, the Federation of State Medical Boards or the individual state administering the exam.

(8) The Federation of State Medical Boards: A Board Action Databank Inquiry report.

(9) Any other documentation as required by the Board, including but not limited to medical records and criminal or civil records.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.010, 677.100 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 8-2005, f. & cert. ef. 7-20-05; BME 15-2007, f. & cert. ef. 7-23-07; BME 18-2008, f. & cert. ef. 7-21-08; BME 6-2010, f. & cert. ef. 4-26-10; OMB 9-2013, f. & cert. ef. 4-5-13

847-020-0165

Application for Licensure by Military Spouse or Domestic Partner

(1) "Military spouse or domestic partner" means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify for licensure under this rule, the military spouse or domestic partner must:

(a) Meet the qualifications for licensure as stated in OAR 847-020-0120, 847-020-0130, and 847-020-0170;

(b) Be married to, or in a domestic partnership with, a member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Be licensed to practice medicine in another state or territory of the United States;

(d) Be in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has been licensed; and

(e) Have at least one year of active practice or teaching of medicine during the three years immediately preceding the application.

(3) If a military spouse or domestic partner applies for a license to practice medicine, the Board may accept:

(a) A copy of the medical school diploma to fulfill the requirement for a Dean's Letter of Recommendation and the Verification of Medical Education form; and

(b) Verification of licensure in good standing from the jurisdiction of current or most recent practice of medicine to fulfill the requirement of verifications of licensure from all jurisdictions of prior and current health related licensure.

(4) If a military spouse or domestic partner applies for a license to practice medicine, the Board will obtain the following on behalf of the applicant:

(a) The results of a query of the National Practitioner Data Bank; and

(b) The results of a query of the Federation of State Medical Boards' Board Action Data Bank.

(5) In addition to the documents required in section (3) of this rule and by OAR 847-020-0150 and 847-020-0160, the military spouse or domestic partner must submit a copy of the:

(a) Marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States; and

(b) Assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration.

Stat. Auth.: ORS 677.265 & HB 2037 (2013)

Stats. Implemented: ORS 677.010, 677.100, 677.265 & HB 2037 (2013)

Hist.: OMB 21-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 35-2013, f. & cert. ef. 10-15-13

847-020-0170

Examination for Licensure

(1) The applicant must have passed one of the following examinations or combinations of examinations:

(a) United States Medical Licensing Examination (USMLE) Steps 1, 2, and 3.

(b) National Board of Osteopathic Medical Examiners (NBOME) examination or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX) or any combination of their parts.

(c) Medical Council of Canada Qualifying Examination (MCCQE) Parts 1 and 2.

(d) Federation Licensing Examination (FLEX) Components 1 and 2 or FLEX Days I, II, and III.

(e) National Board of Medical Examiners (NBME) Parts I, II, and III.

(f) State licensing examination administered by a state or territory of the United States, if approved by the Board.

(g)(A) NBME Part I or USMLE Step 1; and

(B) NBME Part II or USMLE Step 2; and

- (C) NBME Part III or USMLE Step 3 or FLEX Component 2.
- (h) FLEX Component 1 and USMLE Step 3.

(2) The score achieved on each Step, Part, Component or state examination must equal or exceed the figure established by the entity administering the examination as a passing score.

(3) All Steps, Parts or Components listed in subsections (1)(g)–(h) must be administered prior to January 2000, except for applicants who participated in and completed a combined MD/DO/PhD program.

(4) The applicant who bases an application on passing the USMLE or the NBOME examination or the COMLEX must have done so under the following conditions:

(a) All three Steps of USMLE, or all three Levels of the NBOME examination or COMLEX or any combination, must be passed within a seven-year period which begins when the first Step or Level, either Step 1 or Step 2 or Level 1 or Level 2, is passed. An applicant who has not passed all three Steps or Levels within the seven-year period may request an exception to the seven-year requirement if he/she:

(A) Has current certification by a specialty board as defined in 847-020-0100; or

(B) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's medical or osteopathic study; or

(C) Participated in a combined MD/DO/PhD program; or

(D) Completed continuous approved post-graduate training with the equivalent number of years to an MD/DO/PhD program; or

(E) Experienced other extenuating circumstances that do not indicate an inability to safely practice medicine as determined by the Board.

(b) The applicant must have passed USMLE Step 3 or NBOME's COMLEX Level 3 within four attempts whether for Oregon or any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States or Canada prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed USMLE Step 3 or COMLEX Level 3 on their fourth and final attempt. An applicant who has passed USMLE Step 3 or COMLEX Level 3, but not within the four attempts as required, may request a waiver of this requirement if he/she has current certification by a specialty board as defined in 847-020-0100.

(5) The applicant who bases an application upon passing the FLEX examination must have done so under the following conditions:

(a) The FLEX examination must have been passed within seven years of the first attempt. The applicant who has taken the FLEX examination (Day I, II, and III) administered between June 1968 and December 1984 must have taken the entire examination at one sitting. The applicant who has taken the FLEX examination (Components 1 and 2), in June 1985 or after, was not required to take both Components 1 and 2 at one sitting.

(b) The applicant may not have taken the FLEX examination more than a total of four times, whether in Oregon or other states, whether the components were taken together or separately. After the third failed attempt, the applicant must have satisfactorily completed one year of approved training in the United States or Canada prior to having taken the entire FLEX examination at one sitting on the fourth and final attempt. An applicant who has passed the FLEX examination but not within the four attempts may request a waiver of this requirement if he/she has current certification by a specialty board as defined in 847-020-0100.

(c) Only the applicant's scores on the most recently taken FLEX examination will be considered to determine eligibility.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110, 677.120 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2003, f. & cert. ef. 1-27-03; BME 10-2003, f. & cert. ef. 5-2-03; BME 14-2003(Temp), f. & cert. ef. 9-9-03 thru 3-1-04; BME 3-2004, f. & cert. ef. 1-27-04; BME 7-2004, f. & cert. ef. 4-22-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 3-2006, f. & cert. ef. 2-8-06; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06; BME 20-2007, f. & cert. ef. 10-24-

07; BME 18-2008, f. & cert. ef. 7-21-08; BME 6-2009(Temp), f. & cert. ef. 4-9-09 thru 10-2-09; Administrative correction 10-22-09; OMB 24-2012, f. & cert. ef. 8-3-12; OMB 9-2013, f. & cert. ef. 4-5-13

847-020-0182

SPEX or COMVEX Requirements

(1) If an applicant for licensure or reactivation has not completed postgraduate training within the past 10 years or been certified or recertified by a specialty board within the past 10 years, the applicant may be required to demonstrate clinical competency by passing the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX).

(2) The SPEX/COMVEX requirement may be waived if the applicant has done one or more of the following:

(a) Received a current appointment as Professor or Associate Professor at the Oregon Health and Science University or the Western University of Health Sciences College of Osteopathic Medicine of the Pacific;

(b) Completed at least 50 hours of Board-approved continuing medical education each year for the past three years; or

(c) Can demonstrate ongoing participation in maintenance of certification with a specialty board as defined in 847-020-0100.

(3) The applicant who fails the SPEX or COMVEX three times, whether in Oregon or other states, must successfully complete one year of an accredited residency or an accredited or Board-approved clinical fellowship before retaking the SPEX or COMVEX.

(4) The applicant may be granted a Limited License, SPEX/COMVEX according to 847-010-0064.

(5) All rules, regulations and statutory requirements pertaining to the medical school graduate remain in full effect.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.132, 677.190 & 677.265

Hist.: OMB 25-2012, f. & cert. ef. 8-3-12; OMB 9-2013, f. & cert. ef. 4-5-13; OMB 13-2014, f. & cert. ef. 10-8-14

847-020-0183

Re-Entry to Practice — SPEX or COMVEX Examination, Re-Entry Plan

If an applicant has ceased the practice of medicine for a period of 12 or more consecutive months immediately preceding the application for licensure or reactivation, the applicant may be required to demonstrate clinical competency.

(1) The applicant who has ceased the practice of medicine for a period of 12 or more consecutive months may be required to pass the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX). This requirement may be waived if the applicant has done one or more of the following:

(a) The applicant has received a current appointment as Professor or Associate Professor at the Oregon Health and Science University or the Western University of Health Sciences College of Osteopathic Medicine of the Pacific;

(b) The applicant can demonstrate ongoing participation in maintenance of certification with a specialty board as defined in 847-020-0100; or

(c) Subsequent to ceasing practice, the applicant has:

(A) Completed one year of an accredited residency, or

(B) Completed one year of an accredited or Board-approved clinical fellowship, or

(C) Been certified or recertified by a specialty board as defined in 847-020-0100, or

(D) Obtained continuing medical education to the Board's satisfaction.

(2) The applicant who has ceased the practice of medicine for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out-of-practice, the applicant may be required to do one or more of the following:

(a) Pass the SPEX/COMVEX examination;

(b) Practice for a specified period of time under a mentor/supervising physician who will provide periodic reports to the Board;

(c) Obtain certification or re-certification, or participate in maintenance of certification, with a specialty board as defined in 847-020-0100;

(d) Complete a re-entry program as determined appropriate by the Board;

(e) Complete one year of accredited postgraduate or clinical fellowship training, which must be pre-approved by the Board's Medical Director;

(f) Complete at least 50 hours of Board-approved continuing medical education each year for the past three years.

(3) The applicant who fails the SPEX or COMVEX examination three times, whether in Oregon or other states, must successfully complete one year of an accredited residency or an accredited or Board-approved clinical fellowship before retaking the SPEX or COMVEX examination.

(4) The applicant may be granted a Limited License, SPEX/COMVEX according to 847-010-0064.

(5) All of the rules, regulations and statutory requirements pertaining to the medical school graduate remain in full effect.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.190 & 677.265

Hist.: BME 20-2007, f. & cert. ef. 10-24-07; BME 4-2008, f. & cert. ef. 1-22-08; BME 6-2010, f. & cert. ef. 4-26-10; OMB 25-2011, f. & cert. ef. 10-18-11; OMB 9-2013, f. & cert. ef. 4-5-13; OMB 11-2014, f. & cert. ef. 4-9-14; OMB 13-2014, f. & cert. ef. 10-8-14

847-020-0185

License Application Withdrawals

(1) The Board will consider a request by an applicant to withdraw his/her application for licensure in the State of Oregon under the following circumstances:

(a) The applicant is eligible for licensure; and

(b) The file contains no evidence of violation of any provision of ORS 677.010 — 677.855.

(2) An applicant may request to withdraw his/her application for licensure in the State of Oregon and the withdrawal will be reported to the Federation of State Medical Boards under the following circumstances:

(a) The applicant is eligible for licensure; and

(b) The file contains evidence that the applicant may have violated any provision of ORS 677.010 — 677.855, but the Board has decided that there is an insufficient basis to proceed to formal discipline, or a licensing body in another state has imposed formal discipline or entered into a consent agreement for the same conduct, and that action has been reported to the National Practitioner Data Bank.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.190, 677.265

Hist.: BME 11-2006, f. & cert. ef. 5-8-06; OMB 34-2013, f. & cert. ef. 10-15-13

847-020-0190

Denial of Licensure

An applicant may not be entitled to a license who:

(1) Has failed to pass a medical licensure examination for licensure in the State of Oregon;

(2) Has had a license revoked or suspended in this or any other state or country unless the said license has been restored or reinstated and the applicant's license is in good standing in the state or country which had revoked the same;

(3) Has been refused a license or certificate in any other state or country on any grounds other than failure in a medical licensure examination;

(4) Has been guilty of conduct similar to that which would be prohibited by or to which ORS 677.190 would apply; or

(5) Has been guilty of cheating or subverting the medical licensing examination process. Medical licensing examination means any examination given by the Board to an applicant for registration, certification or licensure under this act. Evidence of cheating or subverting includes, but is not limited to:

(a) Copying answers from another examinee or permitting one's answers to be copied by another examinee during the examination;

(b) Having in one's possession during the examination any books, notes, written or printed materials or data of any kind, other

than examination materials distributed by board staff, which could facilitate the applicant in completing the examination;

(c) Communicating with any other examinee during the administration of the examination;

(d) Removing from the examining room any examination materials;

(e) Photographing or otherwise reproducing examination materials.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 11-2003, f. & cert. ef. 7-15-03; OMB 9-2013, f. & cert. ef. 4-5-13

847-020-0200

Required School Subjects

Subjects covered in schools of medicine that grant degrees of Doctor of Medicine or Doctor of Osteopathy as set forth in ORS 677.110 are basic sciences, clinical sciences, clinical competence and/or other subjects that may be specified by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01

DIVISION 23

RULES FOR LICENSURE OF VOLUNTEER EMERITUS PHYSICIANS

847-023-0000

Definitions

(1) "Health clinic" means a public health clinic or a health clinic operated by a charitable corporation that mainly provides primary physical health, dental or mental health services to low-income patients without charge or using a sliding fee scale based on the income of the patient.

(2) "Emeritus registration" means a licensee who has retired from active practice, but does only volunteer, non-remunerative practice and receives no direct monetary compensation, may register and pay an annual emeritus registration fee.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.120, 677.265

Hist.: BME 16-2006, f. & cert. ef. 7-25-06

847-023-0005

Qualifications

(1) The Board may issue a volunteer emeritus license to a physician who volunteers at a health clinic provided that the physician:

(a) Has a current license to practice medicine in another state or territory of the United States or the District of Columbia; and

(b) Has successfully passed one of the examinations or combination of examinations per OAR 847-020-0170.

(2) A physician applying for a license to volunteer in health clinics who has not practiced medicine for more than twenty-four (24) months immediately prior to filing the application for licensure with the Board, may be required to take and pass the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX). This requirement may be waived if the applicant has done one or more of the following:

(a) Within ten years of filing an application with the Board, completed an accredited one year residency, or an accredited or Board approved one year clinical fellowship;

(b) Within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA-BOS);

(c) Obtained continuing medical education to the Board's satisfaction; or

(d) Can demonstrate ongoing participation in maintenance of certification with the ABMS or AOA-BOS.

(3) The Limited License, SPEX/COMVEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the SPEX or COMVEX examination are available and the applicant completes the initial registration pro-

cess. The Limited License, SPEX/COMVEX would become invalid should the applicant fail the SPEX or COMVEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

Stat. Auth.: ORS 677.120 & 677.265

Stats. Implemented: ORS 677.120 & 677.265

Hist.: BME 16-2006, f. & cert. ef. 7-25-06; BME 5-2008, f. & cert. ef. 1-22-08; OMB 1-2015, f. & cert. ef. 1-13-15

847-023-0010

Documents and Forms to be Submitted for Licensure

The documents submitted must be legible and no larger than 8 1/2" x 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. Official translations are required for documents issued in a foreign language. The following documents are required:

(1) Application: Completed formal application provided by the Board. Required dates must include month, day and year. The application fee is waived for physicians applying for a volunteer emeritus license.

(2) Birth Certificate: A copy of birth certificate.

(3) Medical School Diploma: A copy of a diploma showing graduation from an approved school of medicine or an international school of medicine. International medical graduates must have graduated after meeting the attendance requirements specified in OAR 847-020-0130.

(4) American Specialty Board Certification or Recertification: A copy of the certification or recertification certificate issued by the American Specialty Board in the applicant's specialty, if applicable.

(5) Photograph: A close-up, passport-quality photograph, front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application.

(6) The results of a Practitioner Self-Query from the National Practitioner Data Bank sent directly to the Board by the applicant.

(7) Legible fingerprints as described in 847-008-0068 for the purpose of a criminal records background check.

(8) An applicant must pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and an open-book examination on the Drug Enforcement Administration's regulations governing the use of controlled substances. If an applicant fails one or both examinations three times, the applicant's application will be reviewed by the Board's Administrative Affairs Committee and the applicant must attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination(s) before being given a fourth and final attempt to pass the examination(s). If the applicant does not pass the examination(s) on the fourth attempt, the applicant may be denied licensure.

(9) Any other documentation or explanatory statements as required by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.120 & 677.265

Hist.: BME 9-2007(Temp), f. & cert. ef. 2-6-07 thru 8-3-07; BME 16-2007, f. & cert. ef. 7-23-07; BME 7-2010, f. & cert. ef. 4-26-10; OMB 1-2015, f. & cert. ef. 1-13-15

847-023-0015

Letters and Official Verifications to be Submitted for Licensure

(1) The applicant must ensure that either official documents are sent directly to the Board from the source or a certified copy is sent directly to the Board from another state medical board where the applicant is licensed:

(a) The Verification of Medical Education form, which includes degree issued, date of degree, dates of attendance, dates and reason of any leaves of absence or repeated years, and dates, name and location of medical school if a transfer student. Graduates of medical schools in the United States must have graduated from a school per OAR 847-020-0120(1) and graduates of international

medical schools must have graduated from a school per 847-020-0130(2).

(b) A Dean's Letter of Recommendation, which includes a statement concerning the applicant's moral and ethical character and overall performance as a medical student. If the school attests that a Dean's Letter is unavailable or the Board determines that it is unacceptable, a copy of the transcripts may be acceptable.

(c) A letter from the Fifth Pathway Hospital, if such applies, which includes an evaluation of overall performance and specific beginning and ending dates of training.

(d) A letter from the Director of Medical Education, Chairman or other official of the internship, residency and fellowship hospitals in the United States and other countries in which the postgraduate training was served, which includes an evaluation of overall performance and specific beginning and ending dates of training.

(2) The applicant must ensure that official documents are sent directly to the Board from:

(a) The Director or other official for practice and employment in hospitals, clinics, etc. in the United States and other countries: A currently dated original letter (a copy is not acceptable), from the hospital/clinic, which must include an evaluation of overall performance and specific beginning and ending dates of practice and employment, for the past five (5) years only. If the applicant has not practiced for more than two years, employment verifications will be required for the past ten (10) years. For physicians who have been or are in solo practice without hospital privileges at the time of solo practice, provide three reference letters from physicians in the local medical community who are familiar with the applicant's practice and who have known the applicant for more than six months.

(b) The health licensing board in a state, district, territory or jurisdiction in the United States or Canada where the applicant has been licensed and is currently practicing or most recently practiced: Verification, which must show license number, date issued and status.

(c) Official Examination Certifications: An official examination certification showing the examination score is required from the National Board of Medical Examiners (NBME), the National Board of Osteopathic Medical Examiners (NBOME), the Federation Licensing Examination (FLEX), the Federation of State Medical Boards for the United States Medical Licensing Examination (USMLE), or the Medical Council of Canada.

(d) The Federation of State Medical Boards: A Board Action Databank Inquiry report.

(e) The Educational Commission for Foreign Medical Graduates Verification of Certification.

(f) Any other documentation as required by the Board, including but not limited to medical records and criminal or civil records.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.120 & 677.265

Hist.: BME 9-2007(Temp), f. & cert. ef. 2-6-07 thru 8-3-07; BME 16-2007, f. & cert. ef. 7-23-07; BME 7-2010, f. & cert. ef. 4-26-10; OMB 1-2015, f. & cert. ef. 1-13-15

DIVISION 25

RULES FOR LICENSURE TO PRACTICE MEDICINE ACROSS STATE LINES

847-025-0000

Preamble

(1) A physician granted a license to practice medicine across state lines is subject to all the provisions of the Medical Practice Act (ORS Chapter 677), and to all the administrative rules of the Oregon Medical Board.

(2) A physician granted a license to practice medicine across state lines has the same duties and responsibilities and is subject to the same penalties and sanctions as any other physician licensed under ORS Chapter 677, including but not limited to the following:

(a) The physician shall establish a physician-patient relationship;

(b) The physician shall make a judgment based on some type of objective criteria upon which to diagnose, treat, correct or prescribe;

(c) The physician shall engage in all necessary practices that are in the best interest of the patient; and

(d) The physician shall refrain from writing prescriptions for medication resulting only from a sale or consultation over the Internet.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.135, 677.137, 677.139 & 677.141

Hist.: BME 10-2000, f. & cert. ef. 7-27-00; BME 14-2008(Temp), f. & cert. ef. 7-15-08 thru 1-9-09; BME 24-2008, f. & cert. ef. 10-31-08

847-025-0010

Definitions

“The practice of medicine across state lines” means:

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.135, 677.137, 677.139 & 677.141

Hist.: BME 10-2000, f. & cert. ef. 7-27-00

847-025-0020

Exemptions

A license to practice across state lines is not required of a physician:

(1) Engaging in the practice of medicine across state lines in an emergency (ORS 677.060(3)); or

(2) Located outside this state who consults with another physician licensed to practice medicine in this state, and who does not undertake the primary responsibility for diagnosing or rendering treatment to a patient within this state;

(3) Located outside the state and has an established physician-patient relationship with a person who is in Oregon temporarily and who requires the direct medical treatment by that physician.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.135, 677.137, 677.139 & 677.141

Hist.: BME 10-2000, f. & cert. ef. 7-27-00

847-025-0030

Limitations

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

(2) A license to practice medicine across state lines is not a limited license per ORS 677.132.

(3) A physician issued a license to practice medicine across state lines shall not:

(a) Act as a dispensing physician as described in ORS 677.010 (5);

(b) Treat a person within this state for intractable pain, per ORS 677.470, 677.489;

(c) Act as a supervising physician of an Oregon licensed Physician Assistant as defined in ORS 677.495(4);

(d) Act as a supervising physician of an Oregon-certified First Responder or Emergency Medical Technician as defined in ORS 682.245;

(e) Be eligible for any tax credit provided by ORS 316.076;

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.135, 677.137, 677.139 & 677.141

Hist.: BME 10-2000, f. & cert. ef. 7-27-00

847-025-0040

Qualifications

(1) To qualify for a license to practice medicine across state lines:

(a) An out-of-state physician must hold a full, unrestricted license to practice medicine in any other state, must not have been the recipient of a previous disciplinary or other actions by any other state or jurisdiction; or

(b) An out-of-state physician who has been the recipient of previous disciplinary or other action by any state or jurisdiction may be issued a license for the practice of medicine across state lines if the Board finds that the previous disciplinary or other action does not indicate that the physician is a potential threat to the public interest, health, welfare and safety of the citizens of the state of Oregon; and

(c) Must otherwise meet the standards of licensure under ORS 677.

(2) An out-of-state physician would not qualify for a license to practice medicine across state lines if the applicant is the subject of a pending investigation by a state medical board or another state or federal agency.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.135, 677.137, 677.139 & 677.141

Hist.: BME 10-2000, f. & cert. ef. 7-27-00

847-025-0050

Application

(1)(a) When applying for a license to practice medicine across state lines, the physician shall submit to the Board the completed application, fees, documents, letters, and any other information required by the Board for physician (MD/DO) licensure as stated in OAR 847, division 020.

(b) A description of the applicant’s intended practice of medicine across state lines in the state of Oregon.

(2) A physician applying for a license to practice medicine across state lines who has not completed the licensure process within a 12 month consecutive period shall file a new application, documents, letters and pay a full filing fee as if filing for the first time.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.139, 677.265

Hist.: BME 10-2000, f. & cert. ef. 7-27-00; BME 2-2002, f. & cert. ef. 1-28-02; BME 5-2007, f. & cert. ef. 1-24-07

847-025-0060

Medical Records and Personal Appearance

A physician granted a license to practice medicine across state lines shall:

(1) Comply with all applicable laws, rules, and regulations in this state governing the maintenance of patient medical records, including patient confidentiality requirements, regardless of the state where the medical records of any patient within this state are maintained; and

(2) Produce patient medical records or other materials as requested by the Board and appear before the Board following receipt of a written notice issued by the Board. Failure of the physician to appear or to produce records or materials as requested shall constitute grounds for disciplinary action per ORS 677.190.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.135, 677.137, 677.139 & 677.141

Hist.: BME 10-2000, f. & cert. ef. 7-27-00

DIVISION 26

RULES FOR LICENSE BY EXPEDITED ENDORSEMENT

847-026-0000

Qualifications for License by Endorsement

(1) The Oregon Medical Board may issue a license by endorsement to a physician who:

(a) Meets the requirements for licensure as stated in OAR 847-020-0120, 847-020-0130, 847-020-0170, and 847-023-0005;

(b) Has not had privileges at a hospital, clinic, or surgical center denied, reduced, restricted, suspended, revoked, terminated and has not been subject to staff disciplinary action or non-renewal of an

employment contract for reasons in the Board's judgment related to medical practice or unprofessional conduct, or been requested to voluntarily resign or had privileges suspended while under investigation;

(c) Is eligible for primary source verification of medical education, post-graduate training and examination scores through the state in which the applicant was originally licensed. The Board may use current certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists as a proxy for verification of medical education, post-graduate training and examination scores from the initial state of licensure;

(d) Is in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his/her license in any state, district, territory, or jurisdiction where applicant is or has been licensed;

(e) Has no significant malpractice claim patterns or patient care issues as determined by the Board;

(f) Has one (1) year of current, active, unrestricted, unlimited clinical practice in their medical specialty, if any, as an active, unrestricted, unlimited licensee of a state, district, territory, or jurisdiction in the United States or Canada in the year preceding the physician's submission to the Board of an application to practice in Oregon, or if retired must have been retired for no more than one (1) calendar year preceding the physician's submission to the Board of an application to practice in Oregon.

(A) Clinical patient practice will be documented by verification of staff privileges, or non-consulting medical employment.

(B) A year of accredited clinical fellowship in the applicant's medical specialty as an active, unrestricted, unlimited licensee of a state, district, territory or jurisdiction in the United States or Canada qualifies as a year of clinical practice.

(2) A physician is not eligible for licensure by endorsement if the Board finds that the applicant has engaged in conduct prohibited by ORS 677.190.

(3) An applicant ineligible for licensure by endorsement may make a full and complete application per the requirements of OAR 847, division 020, or OAR 847, division 023.

Stat. Auth.: ORS 677.133 & 677.265

Stats. Implemented: ORS 677.133 & 677.265

Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10; OMB 2-2015, f. & cert. ef. 1-13-15; OMB 8-2015, f. & cert. ef. 10-13-15

847-026-0005

Application

The applicant must submit a completed application to the board on a form furnished by the Board with the required non-refundable application fee. The applicant must attest that all questions have been answered completely and all answers and statements are true and correct. Any false information is grounds for denial, limitation, suspension or revocation of licensure.

Stat. Auth.: ORS 677.265, HB 2435 (2009)

Stats. Implemented: ORS 677.265, HB 2435 (2009)

Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10

847-026-0010

Documents, Letters, Certifications Obtained by the Board

The Board will obtain the following documents, letters, certifications if any and results of queries of national databases required for licensure on behalf of the applicant:

(1) Verification of certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(2) Verification of re-certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(3) The results of a query of the National Practitioner Data Bank; and

(4) The results of the query of the Federation of State Medical Boards' Board Action Data Bank.

Stat. Auth.: ORS 677.265, 677.115

Stats. Implemented: ORS 677.265, 677.115)

Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10; OMB 36-2013, f. & cert. ef. 10-15-13

847-026-0015

Documents and Forms to be Submitted for Licensure

(1) The following additional documents are required for a completed application and can be submitted by the applicant, the applicant's initial state of licensure, or the Federation of State Medical Boards' Federation Credentialing Verification Service Profile (FCVS):

(a) Birth Certificate: A copy of the applicant's birth certificate for proof of name and birth date, and any name change documentation if there has been a name change from birth name;

(b) Medical School Diploma: A copy of a diploma showing the applicant's graduation from an approved school of medicine, or a foreign school of medicine that meets the requirement of OAR 847-020-0130(2)(b)(D);

(c) Internship, Residency and Fellowship Certificates: A copy of official internship, residency and fellowship certificates showing the applicant's completion of all postgraduate training;

(2) The applicant must submit the following:

(a) An open-book examination on the Medical Practice Act and an open-book examination on the regulations of the Drug Enforcement Administration governing the use of controlled substances;

(b) The completed fingerprint card with the Identification Verification form.

Stat. Auth.: ORS 677.265, HB 2435 (2009)

Stats. Implemented: ORS 677.265, HB 2435 (2009)

Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10

847-026-0020

Letters and Official Grade Certifications to be Submitted for Licensure

The applicant must request official letters or verifications to be sent to the Board directly from the following:

(1) The Executive Secretary of the State Boards in the United States or Canada where the applicant has been currently or most recently practicing. The currently dated original verification of license (copy is not acceptable) shall show license number, date issued, grades if applicable and status.

(2) The National Board of Medical Examiners (NBME), the National Board of Osteopathic Medical Examiners (NBOME), the Medical Council of Canada (LMCC), or the Federation of State Medical Boards (FLEX, USMLE) must provide an official grade certification if not available from the initial state of licensure;

(3) The Director or other official for practice and employment in hospitals, clinics and surgical centers in the United States and Canada. A verification form or letter with original signature must be submitted from the practice sites where the applicant was physically practicing which shall include an evaluation of overall performance and specific beginning and ending dates of practice and employment from the past five (5) years.

Stat. Auth.: ORS 677.265, HB 2435 (2009)

Stats. Implemented: ORS 677.265, HB 2435 (2009)

Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10

DIVISION 28

RULES FOR LICENSURE OF VOLUNTEER CAMP PHYSICIANS

847-028-0000

Preamble

A physician granted a license to volunteer medical services at a camp operated by a nonprofit organization:

(1) Is subject to all the provisions of the Medical Practice Act (ORS Chapter 677), and to all the administrative rules of the Oregon Medical Board.

(2) Has the same duties and responsibilities and is subject to the same penalties and sanctions as any other physician licensed under ORS Chapter 677.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.110 & 677.120
Hist.: BME 3-2002, f. & cert. ef. 1-28-02

847-028-0010

Qualifications

The Oregon Medical Board may issue a license for the voluntary provision of health care services at a camp operated by a nonprofit organization to a physician who has a current license to practice medicine in another state or territory of the United States or the District of Columbia, provided that:

- (1) The physician practices medicine for no more than 14 days in a calendar year at a camp operated by a non-profit organization;
- (2) Renders services within the scope of practice authorized by the physician's license;
- (3) Holds a current license that has not been suspended or revoked and is not under current disciplinary action (order) pursuant to disciplinary proceedings in any jurisdiction;
- (4) Is not under internal review or discipline in any hospital, clinic, or health care facility; and
- (5) Is not under disciplinary investigation by any medical licensing authority that issued the physician a state license to practice medicine.
- (6) Must otherwise meet the standards of licensure under ORS 677.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.110 & 677.120
Hist.: BME 3-2002, f. & cert. ef. 1-28-02

847-028-0020

Limitations

(1) A license to volunteer medical services at a camp operated by a nonprofit organization does not permit a physician to practice medicine in the state of Oregon except when engaging in the provision of health care services at a camp operated by a non-profit organization.

(2) A license to volunteer medical services at a camp operated by a nonprofit organization is not a limited license per ORS 677.132.

(3) A physician issued a license to volunteer medical services at a camp operated by a nonprofit organization shall not:

- (a) Act as a dispensing physician as described in ORS 677.010(5);
- (b) Treat a person within this state for intractable pain, per ORS 677.470, 677.489;
- (c) Act as a supervising physician of an Oregon licensed Physician Assistant as defined in ORS 677.495(4);
- (d) Act as a supervising physician of an Oregon-certified First Responder or Emergency Medical Technician as defined in ORS 682.245;
- (e) Be eligible for any tax credit provided by ORS 316.076;
- (f) Participate in the Rural Health Services Program under ORS 442.550 to 442.570; or
- (g) Assert a lien for services under ORS 87.555.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.110 & 677.120
Hist.: BME 3-2002, f. & cert. ef. 1-28-02

847-028-0030

Application

(1) When applying for a license to volunteer medical services at a camp operated by a nonprofit organization, the physician shall submit to the Board the completed application, fees, documents, letters, and any other information required by the Board for physician (MD/DO) licensure as stated in OAR 847, division 020.

(2) A physician applying for a license to volunteer medical services at a camp operated by a nonprofit organization who has not completed the process within a 12 month consecutive period shall file a new application, documents, letters and pay a full filing fee as if filing for the first time.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.265
Hist.: BME 3-2002, f. & cert. ef. 1-28-02; BME 6-2007, f. & cert. ef. 1-24-07

847-028-0040

Medical Records and Personal Appearance

A physician granted a license to volunteer medical services at a camp operated by a nonprofit organization shall:

(1) Comply with all applicable laws, rules, and regulations in this state governing the maintenance of patient medical records, including patient confidentiality requirements, regardless of the state where the medical records of any patient within this state are maintained; and

(2) Produce patient medical records or other materials as requested by the Board and appear before the Board following receipt of a written notice issued by the Board. Failure of the physician to appear or to produce records or materials as requested shall constitute grounds for disciplinary action per ORS 677.190.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.110 & 677.120
Hist.: BME 3-2002, f. & cert. ef. 1-28-02

DIVISION 31

BOARD APPROVAL OF FOREIGN SCHOOLS OF MEDICINE

847-031-0010

Criteria for Approval of Foreign Schools of Medicine

A foreign school of medicine must meet the following criteria to be approved by the Oregon Medical Board.

(1) Objectives: A foreign school of medicine shall have a program designed to prepare graduates to enter and complete graduate medical education to qualify for licensure, and to provide competent medical care.

(2) Governance: A foreign school of medicine shall be chartered by the jurisdiction in which it operates.

(3) Administration:

(a) The administrative officers and members of the foreign school medicine faculty shall be appointed by, or under the authority of, the governing board of the foreign school of medicine or its parent university.

(b) The dean of the foreign school of medicine shall be qualified by education and experience to provide leadership in medical education and in the care of patients.

(c) The manner in which the foreign school of medicine is organized, including the responsibilities and privileges of administrative officers, faculty, students and committees shall be promulgated in medical school or university bylaws.

(d) If components of the program are conducted at sites geographically separated from the main campus, the foreign school of medicine shall be fully responsible for the conduct and quality of the educational program at these sites and for identification of the faculty there.

(4) Educational Program for the M.D./D.O. degree:

(a) Duration: The program in the art and science of medicine leading to the M.D./D.O. degree shall include at least 130 weeks of instruction preferably scheduled over a minimum of four calendar years.

(b) Design and Management: The program's faculty shall be responsible for the design, implementation, and evaluation of the curriculum.

(c) Content:

(A) The program's faculty shall be responsible for devising a curriculum that permits the student to learn the fundamental principles of medicine, to acquire skills of critical judgment based on evidence and experience, and to develop an ability to use principles and skills wisely in solving problems of health and disease. In addition, the curriculum shall be designed so that students acquire an understanding of the scientific concepts underlying medicine.

(B) The curriculum shall include the contemporary content of those expanded disciplines that have been traditionally titled anatomy, biochemistry, physiology, microbiology and immunology, pathology, pharmacology and therapeutics, and preventive medicine. Instruction within the basic sciences shall include laboratory or other

practical exercises which facilitate ability to make accurate quantitative observations of biomedical phenomena and critical analyses of data.

(C) The fundamental clinical subjects which shall be offered in the form of required patient-related clerkships are internal medicine, obstetrics and gynecology, pediatrics, psychiatry, and surgery. Under these disciplines or independently, students shall receive basic instruction in all organ systems. Instruction and experience in patient care shall be provided in both hospital and ambulatory settings and shall include the important aspects of acute, chronic, preventive and rehabilitative care.

(D) Each required clerkship shall allow the student to undertake a thorough study of a series of selected patients having the major and common types of disease problems represented in the primary and related disciplines of the clerkship.

(E) Supervision shall be provided throughout required clerkships by members of the school's faculty. The required clerkships shall be conducted in a teaching hospital or ambulatory care facility where residents in accredited programs of graduate medical education, under faculty guidance, may participate in teaching the students.

(d) Evaluation of Student Achievement:

(A) A committee of the faculty shall establish principles and methods for the evaluation of student achievement and make decisions regarding promotion and graduation.

(B) The faculty of each discipline shall set the standards of achievement by students in the study of the discipline. Narrative descriptions of student performance and of non-cognitive achievements shall be recorded to supplement grade reports.

(C) The chief academic officer and the directors of all courses and clerkships shall design and implement a system of evaluation of the work of each student during progression through each course or clerkship.

(5) Medical Students. Admissions:

(a) The faculty of each foreign school of medicine shall develop criteria and procedures for the selection of students which shall be published and available to potential applicants and to their collegiate advisors.

(b) The selection of students for the study of medicine shall be the responsibility of the foreign school of medicine faculty through a duly constituted committee.

(c) The number of students to be admitted shall be determined by the resources of the school and the number of qualified applicants. The clinical resources include finances, the size of the faculty, the variety of academic fields represented, the library, the number and size of classrooms and student laboratories and the adequacy of their equipment and office and laboratory space for the faculty. There shall be available a spectrum of clinical resources sufficiently under the control of the faculty to ensure breadth and quality of bedside and ambulatory clinical teaching.

(6) Resources for the Educational Program:

(a) General Facilities: A foreign school of medicine shall provide buildings and equipment that are quantitatively and qualitatively adequate to provide an environment conducive to teaching and learning. The facilities shall include faculty offices and research laboratories, student classrooms and laboratories, facilities for individual and group study, offices for administrative and support staff, and a library. Access to an auditorium sufficiently large to accommodate the student body is desirable.

(b) Faculty:

(A) Members of the faculty shall have evidence of clinical competence and commitment to teaching. Effective teaching requires understanding of pedagogy, knowledge of the discipline, and construction of a curriculum consistent with learning objectives, subject to internal and external formal evaluation. The Administration and the faculty shall have knowledge of methods for measurement of the student performance in accordance with the stated educational objectives and national norms.

(B) In each of the major disciplines basic to medicine and in the clinical sciences, a critical mass of faculty members shall be appointed who possess, in addition to a comprehensive knowledge of their

major discipline, expertise in one or more subdivisions or specialties within each of their disciplines. In the clinical sciences, the number and kind of specialists appointed shall relate to the amount of patient care activities required to conduct meaningful clinical teaching at the undergraduate level, as well as for graduate and continuing medical education.

(C) There shall be clear policies for the appointment, renewal of appointment, promotion, granting of tenure and dismissal of members of the faculty. The appointment process shall involve the faculty, the appropriate departmental heads, and the dean. Each appointee shall receive a clear definition of the terms of appointment, responsibilities, line of communication, privileges and benefits.

(c) Library: The foreign school of medicine shall have a well-maintained and catalogued library, sufficient in size and breadth to support the educational programs offered by the institution. The library should receive the leading biomedical and clinical periodicals, the current numbers of which should be readily accessible. The library and any other learning resources shall be equipped to allow students to learn methods of retrieving information, as well as the use of self-instruction materials. A professional library staff shall supervise the library and provide instruction in its use.

(d) Clinical Teaching Facilities:

(A) The foreign school of medicine shall have adequate resources to provide clinical instruction to its medical students. Resources shall include ambulatory care facilities and hospitals where the full spectrum of medical care is provided and can be demonstrated. Each hospital shall either be accredited or otherwise demonstrate its capability to provide safe and effective care. The number of hospital beds required for education cannot be specified by formula, but the aggregation of clinical resources shall be sufficient to permit students in each of the major clerkships to work up and follow several new patients each week.

(B) The nature of the relationship of the foreign school of medicine to affiliated hospitals and other clinical resources is extremely important.

(C) There shall be written affiliation agreements that define the responsibilities of each party. The degree of the schools authority shall reflect the extent that the affiliated clinical facility participates in the educational programs of the school. Most critical are the clinical facilities where required clinical clerkships are conducted. In affiliated institutions, the school's department heads and senior clinical faculty members shall have authority consistent with their responsibility for the instruction of the students.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01

847-031-0020

Protocol for Evaluation of Foreign Schools of Medicine

(1) Any foreign school of medicine desiring to be evaluated by the Oregon Board shall complete the medical evaluation form prepared by the Federation of State Medical Boards. This form may be submitted directly to the Oregon Board through the Federation.

(2) Any foreign school of medicine desiring to be evaluated by the Oregon Board shall post a bond of \$20,000 in U.S. Funds with the Oregon Board to cover costs of this evaluation. The Board shall give an accounting of the expenditure of these funds at the conclusion of the evaluation and any excess funds shall be returned to the foreign school of medicine.

(3) The completed evaluation form will be reviewed by an evaluation panel appointed by the Board. This panel may consist of a member or members of the Board and as many non-Board members as the Board may deem necessary.

(4) As part of the evaluation, the panel may decide an on-site visit is necessary.

(5) Sixty days after submitting the initial report, the panel shall submit to the Board its final recommendations and any additional information provided by the school. The Board at its next meeting shall accept, reject or modify the recommendations.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2006, f. & cert. ef. 2-8-06

847-031-0030

Recertification

(1) Approval of a foreign school of medicine shall be valid for a maximum period of five years. If for any reason the Board determines that certification should be terminated the Board may, with reasonable cause, terminate approval at any time.

(2) Provisional approval may be granted for periods of time less than five years.

Stat. Auth.: ORS 183 & 677.265

Stats. Implemented: ORS 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01

847-031-0040

Approval of Foreign Schools of Medicine by Other States

The Oregon Medical Board may accept any foreign school of medicine which has been approved by another state using criteria substantially similar to Oregon's.

Stat. Auth.: ORS 183 & 677.265

Stats. Implemented: ORS 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01

847-031-0050

Approval of Foreign Schools of Medicine by Foreign Accrediting Agencies

The Oregon Medical Board may accept as approved, a foreign school of medicine which has been approved by an agency which utilizes criteria and processes similar to the U.S. Liaison Committee on Medical Education.

Stat. Auth.: ORS 183 & 677.265

Stats. Implemented: ORS 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01

DIVISION 35

EMERGENCY MEDICAL SERVICES PROVIDERS AND SUPERVISING PHYSICIANS

847-035-0001

Definitions

(1) "Advanced Emergency Medical Technician (AEMT or Advanced EMT)" means a person who is licensed by the Authority as an Advanced Emergency Medical Technician (AEMT).

(2) "Agent" means a medical or osteopathic physician licensed under ORS Chapter 677, actively registered and in good standing with the Board, a resident of or actively practicing in the area in which the emergency service is located, designated by the supervising physician to provide direction of the medical services of emergency medical services providers as specified in these rules.

(3) "Authority" means the Public Health Division, Emergency Medical Services and Trauma Systems of the Oregon Health Authority.

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

(5) "Committee" means the EMS Advisory Committee to the Oregon Medical Board.

(6) "Emergency Care" as defined in ORS 682.025(4) means the performance of acts or procedures under emergency conditions in the observation, care and counsel of persons who are ill or injured or who have disabilities; in the administration of care or medications as prescribed by a licensed physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. However, "emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

(7) "Emergency Medical Responder" means a person who is licensed by the Authority as an Emergency Medical Responder.

(8) "Emergency Medical Technician (EMT)" means a person who is licensed by the Authority as an EMT.

(9) "Emergency Medical Technician-Intermediate (EMT-Intermediate)" means a person who is licensed by the Authority as an EMT-Intermediate.

(10) "In Good Standing" means a person who is currently licensed, who does not have any restrictions placed on his/her license, and who is not on probation with the licensing agency for any reason.

(11) "Nonemergency care" as defined in ORS 682.025(8) means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS Chapter 677, insofar as any of these acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board in the course of providing prehospital care.

(12) "Paramedic" means a person who is licensed by the Authority as a Paramedic.

(13) "Scope of Practice" means the maximum level of emergency and nonemergency care that an emergency medical services provider may provide as defined in OAR 847-035-0030.

(14) "Standing Orders" means the written detailed procedures for medical or trauma emergencies and nonemergency care to be performed by an emergency medical services provider issued by the supervising physician commensurate with the scope of practice and level of licensure of the emergency medical services provider.

(15) "Supervising Physician" means a person licensed as a medical or osteopathic physician under ORS Chapter 677, actively registered and in good standing with the Board, approved by the Board, and who provides direction of, and is ultimately responsible for emergency and nonemergency care rendered by emergency medical services providers as specified in these rules. The supervising physician is also ultimately responsible for the agent designated by the supervising physician to provide direction of the medical services of the emergency medical services provider as specified in these rules.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 7-1985, f. & ef. 8-5-85; ME 11-1986, f. & ef. 7-31-86; ME 15-1988, f. & cert. ef. 10-20-88; ME 6-1991, f. & cert. ef. 7-24-91; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 10-2002, f. & cert. ef. 7-22-02; BME 18-2010, f. & cert. ef. 10-25-10; OMB 1-2011, f. & cert. ef. 2-11-11; OMB 13-2011, f. & cert. ef. 7-13-11; OMB 30-2012, f. & cert. ef. 10-22-12

847-035-0011

EMS Advisory Committee

(1) There is created an EMS Advisory Committee, consisting of six members appointed by the Oregon Medical Board. The Board must appoint two physicians, three emergency medical services providers from nominations provided from EMS agencies, organizations, and individuals, and one public member.

(a) The two physician members must be actively practicing physicians licensed under ORS Chapter 677 who are supervising physicians, medical directors, or practicing emergency medicine physicians.

(b) The three EMS members must be Oregon licensed emergency medical services providers for at least two years and have been residents of this state for at least two years. At least two of the three EMS members must be actively practicing prehospital care, and at least one of the three EMS members must be a Paramedic.

(c) Two of the six committee members must be from rural or frontier Oregon.

(d) The public member or the spouse, domestic partner, child, parent or sibling of the public member may not be employed as a health professional.

(2)(a) The term of office of a member of the committee is three years, and members may be reappointed to serve not more than two terms.

(b) Vacancies in the committee must be filled by appointment by the Board for the balance of an unexpired term, and each member must serve until a successor is appointed and qualified.

(3) The members of the advisory committee are entitled to compensation and expenses as provided for Board members in ORS 677.235.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 682.245

Hist.: BME 12-2001, f. & cert. ef. 10-30-01; BME 18-2009, f. & cert. ef. 10-23-09; OMB 14-2012, f. & cert. ef. 4-17-12; OMB 30-2012, f. & cert. ef. 10-22-12; OMB 10-2013, f. & cert. ef. 4-5-13

847-035-0012

Duties of the Committee

(1) The EMS Advisory Committee must:

(a) Review requests for additions, amendments, or deletions to the scope of practice for emergency medical services providers, and recommend to the Board changes to the scope of practice.

(b) Recommend requirements and duties of supervising physicians of emergency medical services providers; and

(c) Recommend physician nominations for the State EMS Committee.

(2) All actions of the EMS Advisory Committee are subject to review and approval by the Board.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 677.265 & 682.245

Hist.: BME 12-2001, f. & cert. ef. 10-30-01; OMB 30-2012, f. & cert. ef. 10-22-12

847-035-0020

Application and Qualifications for a Supervising Physician and Agent

(1) The Board has delegated to the Authority the following:

(a) Designing the supervising physician and agent application;

(b) Approving a supervising physician or agent; and

(c) Investigating and disciplining any emergency medical services provider who violates their scope of practice.

(2) The Authority must provide copies of any supervising physician or agent applications and any emergency medical services provider disciplinary action reports to the Board upon request.

(3) The Authority must immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

(4) A supervising physician and agent must meet the following qualifications:

(a) Be a medical or osteopathic physician currently licensed under ORS Chapter 677, actively registered and in good standing with the Board;

(b) Be in current practice;

(c) Be a resident of or actively practicing in the area in which the emergency service is located;

(d) Possess thorough knowledge of skills assigned by standing order to emergency medical services providers; and

(e) Possess thorough knowledge of laws and rules of the State of Oregon pertaining to emergency medical services providers; and

(f) Have completed or obtained one of the following no later than one calendar year after beginning the position as a supervising physician:

(A) Thirty-six months of experience as an EMS Medical Director;

(B) Completion of the one-day National Association of EMS Physicians (NAEMSP®) Medical Direction Overview Course, or an equivalent course as approved by the Authority;

(C) Completion of the three-day National Association of EMS Physicians (NAEMSP®) National EMS Medical Directors Course and Practicum®, or an equivalent course as approved by the Authority;

(D) Completion of an ACGME-approved Fellowship in EMS; or

(E) Subspecialty board certification in EMS.

(5) A supervising physician must meet ongoing education standards by completing or obtaining one of the following every two calendar years:

(a) Attendance at one Oregon Health Authority EMS supervising physician's forum;

(b) Completion of an average of four hours of EMS-related continuing medical education per year; or

(c) Participation in maintenance of certification in the subspecialty of EMS.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 13-1984, f. & ef. 8-2-84; ME 2-1985(Temp), f. & ef. 1-21-85; ME 5-1985, f. & ef. 5-6-85; ME 7-1985, f. & ef. 8-5-85; ME 6-1991, f. & cert. ef. 7-24-91; ME 1-1996, f. & cert. ef. 2-15-96; OMB 6-2012, f. & cert. ef. 2-10-12; OMB 30-2012, f. & cert. ef. 10-22-12

847-035-0025

Supervision

(1) A supervising physician is responsible for the following:

(a) Issuing, reviewing and maintaining standing orders within the scope of practice not to exceed the licensure level of the emergency medical services provider when applicable;

(b) Explaining the standing orders to the emergency medical services provider, making sure they are understood and not exceeded;

(c) Ascertaining that the emergency medical services provider is currently licensed and in good standing with the Division;

(d) Providing regular review of the emergency medical services provider's practice by:

(A) Direct observation of prehospital emergency care performance by riding with the emergency medical service; and

(B) Indirect observation using one or more of the following:

(i) Prehospital emergency care report review;

(ii) Prehospital communications tapes review;

(iii) Immediate critiques following presentation of reports;

(iv) Demonstration of technical skills; and

(v) Post-care patient or receiving physician interviews using questionnaire or direct interview techniques.

(e) Providing or coordinating formal case reviews for emergency medical services providers by thoroughly discussing a case (whether one in which the emergency medical services provider has taken part or a textbook case) from the time the call was received until the patient was delivered to the hospital. The review should include discussing what the problem was, what actions were taken (right or wrong), what could have been done that was not, and what improvements could have been made; and

(f) Providing or coordinating continuing education. Although the supervising physician is not required to teach all sessions, the supervising physician is responsible for assuring that the sessions are taught by a qualified person.

(2) The supervising physician may delegate responsibility to his/her agent to provide any or all of the following:

(a) Explanation of the standing orders to the emergency medical services provider, making sure they are understood, and not exceeded;

(b) Assurance that the emergency medical services provider is currently licensed and in good standing with the Division;

(c) Regular review of the emergency medical services provider's practice by:

(A) Direct observation of prehospital emergency care performance by riding with the emergency medical service; and

(B) Indirect observation using one or more of the following:

(i) Prehospital emergency care report review;

(ii) Prehospital communications tapes review;

(iii) Immediate critiques following presentation of reports;

(iv) Demonstration of technical skills; and

(v) Post-care patient or receiving physician interviews using questionnaire or direct interview techniques.

(d) Provide or coordinate continuing education. Although the supervising physician or agent is not required to teach all sessions, the supervising physician or agent is responsible for assuring that the sessions are taught by a qualified person.

(3) Nothing in this rule may limit the number of emergency medical services providers that may be supervised by a supervising physician so long as the supervising physician can meet with the emergency medical services providers under his/her direction for a minimum of two hours each calendar year.

(4) An emergency medical services provider may have more than one supervising physician as long as the emergency medical services provider has notified all of the supervising physicians involved, and the emergency medical services provider is functioning under one supervising physician at a time.

(5) The supervising physician must report in writing to the Authority's Chief Investigator any action or behavior on the part of the emergency medical services provider that could be cause for disciplinary action under ORS 682.220 or 682.224.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 13-1984, f. & ef. 8-2-84; ME 6-1991, f. & cert. ef. 7-24-91; ME 1-1996, f. & cert. ef. 2-15-96; OMB 13-2011, f. & cert. ef. 7-13-11; OMB 30-2012, f. & cert. ef. 10-22-12

Scope of Practice

847-035-0030

Scope of Practice

(1) The Oregon Medical Board has established a scope of practice for emergency and nonemergency care for emergency medical services providers. Emergency medical services providers may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001.

(2) The scope of practice for emergency medical services providers is the maximum functions which may be assigned to an emergency medical services provider by a Board-approved supervising physician. The scope of practice is not a set of statewide standing orders, protocols, or curriculum.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual emergency medical services provider may be requested by the Board or Authority and must be furnished upon request.

(5) An emergency medical services provider, including an Emergency Medical Responder, may not function without assigned standing orders issued by a Board-approved supervising physician.

(6) An emergency medical services provider, acting through standing orders, must respect the patient's wishes including life-sustaining treatments. Physician-supervised emergency medical services providers must request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) Whenever possible, medications should be prepared by the emergency medical services provider who will administer the medication to the patient.

(8) An Emergency Medical Responder may:

(a) Conduct primary and secondary patient examinations;

(b) Take and record vital signs;

(c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;

(d) Open and maintain an airway by positioning the patient's head;

(e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(f) Provide care for musculoskeletal injuries;

(g) Assist with prehospital childbirth;

(h) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior emergency medical services provider with the transporting ambulance;

(i) Administer medical oxygen;

(j) Maintain an open airway through the use of:

(A) A nasopharyngeal airway device;

(B) A noncuffed oropharyngeal airway device;

(C) A pharyngeal suctioning device;

(k) Operate a bag mask ventilation device with reservoir;

(L) Provide care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia;

(m) Prepare and administer aspirin by mouth for suspected myocardial infarction (MI) in patients with no known history of allergy to aspirin or recent gastrointestinal bleed;

(n) Prepare and administer epinephrine by automatic injection device for anaphylaxis;

(o) Prepare and administer naloxone via intranasal device or auto-injector for suspected opioid overdose; and

(p) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the Emergency Medical Responder:

(A) Has successfully completed an Authority-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and

(B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Authority; and

(q) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician.

(9) An Emergency Medical Technician (EMT) may:

(a) Perform all procedures that an Emergency Medical Responder may perform;

(b) Ventilate with a non-invasive positive pressure delivery device;

(c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:

(A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or

(B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.

(d) Perform tracheobronchial tube suctioning on the endotracheal intubated patient;

(e) Provide care for suspected shock;

(f) Provide care for suspected medical emergencies, including:

(A) Obtain a capillary blood specimen for blood glucose monitoring;

(B) Prepare and administer epinephrine by subcutaneous injection, intramuscular injection, or automatic injection device for anaphylaxis;

(C) Administer activated charcoal for poisonings; and

(D) Prepare and administer albuterol treatments for known asthmatic and chronic obstructive pulmonary disease (COPD) patients suffering from suspected bronchospasm.

(g) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(h) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(i) Assist the on-scene Advanced EMT, EMT-Intermediate, or Paramedic by:

(A) Assembling and priming IV fluid administration sets; and

(B) Opening, assembling and uncapping preloaded medication syringes and vials;

(j) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(k) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT is summoned to assist that patient;

(L) In the event of a release of organophosphate agents, the EMT who has completed Authority-approved training may prepare and administer atropine sulfate and pralidoxime chloride by autoinjector, using protocols approved by the Authority and adopted by the supervising physician; and

(m) In the event of a declared Mass Casualty Incident (MCI) as defined in the local Mass Casualty Incident plan, monitor patients who have isotonic intravenous fluids flowing.

(10) An Advanced Emergency Medical Technician (AEMT) may:

- (a) Perform all procedures that an EMT may perform;
- (b) Initiate and maintain peripheral intravenous (I.V.) lines;
- (c) Initiate saline or similar locks;
- (d) Obtain peripheral venous blood specimens;
- (e) Initiate and maintain an intraosseous infusion in the pediatric patient;
- (f) Perform tracheobronchial suctioning of an already intubated patient; and

(g) Prepare and administer the following medications under specific written protocols authorized by the supervising physician or direct orders from a licensed physician:

- (A) Analgesics for acute pain: nitrous oxide.
- (B) Anaphylaxis: epinephrine;
- (C) Antihypoglycemics:
- (i) Hypertonic glucose;
- (ii) Glucagon;
- (D) Nebulized bronchodilators:
- (i) Albuterol;
- (ii) Ipratropium bromide;
- (E) Vasodilators: nitroglycerine;
- (F) Naloxone; and
- (G) Physiologic isotonic crystalloid solution.

(11) An EMT-Intermediate may:

(a) Perform all procedures that an Advanced EMT may perform;

(b) Initiate and maintain an intraosseous infusion;

(c) Prepare and administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:

- (A) Vasoconstrictors:
- (i) Epinephrine;
- (ii) Vasopressin;
- (B) Antiarrhythmics:
- (i) Atropine sulfate;
- (ii) Lidocaine;
- (iii) Amiodarone;
- (C) Analgesics for acute pain:
- (i) Morphine;
- (ii) Nalbuphine Hydrochloride;
- (iii) Ketorolac tromethamine;
- (iv) Fentanyl;
- (D) Antihistamine: Diphenhydramine;
- (E) Diuretic: Furosemide;
- (F) Intraosseous infusion anesthetic: Lidocaine;
- (G) Anti-Emetic: Ondansetron;

(d) Prepare and administer immunizations in the event of an outbreak or epidemic as declared by the Governor of the state of Oregon, the State Public Health Officer or a county health officer, as part of an emergency immunization program, under the agency's supervising physician's standing order;

(e) Prepare and administer immunizations for seasonal and pandemic influenza vaccinations according to the CDC Advisory Committee on Immunization Practices (ACIP), and/or the Oregon State Public Health Officer's recommended immunization guidelines as directed by the agency's supervising physician's standing order;

(f) Distribute medications at the direction of the Oregon State Public Health Officer as a component of a mass distribution effort;

(g) Prepare and administer routine or emergency immunizations and tuberculosis skin testing, as part of an EMS Agency's occupational health program, to the EMT-Intermediate's EMS agency personnel, under the supervising physician's standing order;

(h) Insert an orogastric tube;

(i) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, if clear and understandable written and verbal instructions for such

maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;

- (j) Perform electrocardiographic rhythm interpretation; and
- (k) Perform cardiac defibrillation with a manual defibrillator.

(12) A Paramedic may:

(a) Perform all procedures that an EMT-Intermediate may perform;

(b) Initiate the following airway management techniques:

- (A) Endotracheal intubation;
- (B) Cricothyrotomy; and

(C) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway;

(c) Initiate a nasogastric tube;

(d) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(e) Perform emergency cardioversion in the compromised patient;

(f) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(g) Perform electrocardiographic interpretation;

(h) Initiate needle thoracostomy for tension pneumothorax in a prehospital setting;

(i) Obtain peripheral arterial blood specimens under specific written protocols authorized by the supervising physician;

(j) Access indwelling catheters and implanted central IV ports for fluid and medication administration;

(k) Initiate and maintain urinary catheters; and

(L) Prepare and initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 10-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 22-2006, f. & cert. ef. 10-23-06; BME 7-2007, f. & cert. ef. 1-24-07; BME 11-2007, f. & cert. ef. 4-26-07; BME 24-2007, f. & cert. ef. 10-24-07; BME 11-2008, f. & cert. ef. 4-24-08; BME 19-2008, f. & cert. ef. 7-21-08; BME 10-2009, f. & cert. ef. 5-1-09; BME 13-2009, f. & cert. ef. 7-20-09; BME 18-2009, f. & cert. ef. 10-23-09; BME 22-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 5-2010, f. & cert. ef. 1-26-10; BME 8-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10; BME 12-2010, f. & cert. ef. 7-26-10; BME 18-2010, f. & cert. ef. 10-25-10; OMB 1-2011, f. & cert. ef. 2-11-11; OMB 5-2011, f. & cert. ef. 4-8-11; OMB 8-2011, f. & cert. ef. 4-25-11; OMB 15-2012, f. & cert. ef. 4-17-12; OMB 30-2012, f. & cert. ef. 10-22-12; OMB 11-2013, f. & cert. ef. 4-5-13; OMB 14-2014, f. & cert. ef. 10-8-14; OMB 5-2015, f. & cert. ef. 4-3-15; OMB 11-2015, f. & cert. ef. 10-13-15

DIVISION 50

PHYSICIAN ASSISTANT

847-050-0005

Preamble

(1) A physician assistant is a person qualified by education, training, experience, and personal character to provide medical services under the direction and supervision of a physician licensed under ORS Chapter 677, in active practice and in good standing with the Board. The purpose of the physician assistant program is to enable physicians licensed under ORS 677 to extend high quality medical care to more people throughout the state.

(2) The licensed physician is in all cases regarded as the supervisor of the physician assistant.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.495 - 677.535

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 13-2003, f. & cert. ef. 7-15-03; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0010

Definitions

As used in OAR 847-050-0005 to 847-050-0065:

(1) "Agent" means a physician designated in writing and retained at the primary practice location by the supervising physician who provides direction and regular review of the medical services of the physician assistant when the supervising physician is unavailable for short periods of time, such as but not limited to when the supervising physician is on vacation.

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

(3) "Committee" means Physician Assistant Committee.

(4) "Grandfathered physician assistant" means the physician assistant registered prior to July 12, 1984 who does not possess the qualifications of OAR 847-050-0020. Grandfathered physician assistants may retain all practice privileges which have been granted prior to July 12, 1984.

(5) "Physician assistant" means a person who is licensed as such in accordance with ORS 677.265, 677.495, 677.505, 677.510, 677.515, 677.520 and 677.525.

(6) "Practice agreement" means a written agreement between a physician assistant and a supervising physician or supervising physician organization that describes the manner in which the services of the physician assistant will be used.

(7) "Practice description" means a written description of the duties and functions of the physician assistant in relation to the physician's practice, submitted by the supervising physician and the physician assistant to the Board and approved prior to January 1, 2012.

(8) "Supervising physician organization" means a group of supervising physicians who collectively supervises a physician assistant. One physician within the supervising physician organization must be designated as the primary supervising physician of the physician assistant.

(9) "Supervising physician" means a physician licensed under ORS Chapter 677, actively registered and in good standing with the Board as a Medical Doctor or Doctor of Osteopathic Medicine, and approved by the Board as a supervising physician, who provides direction and regular review of the medical services provided by the physician assistant.

(10) "Supervision" means the routine review by the supervising physician or designated agent, as described in the practice agreement or Board-approved practice description of the medical services provided by the physician assistant. The supervising physician or designated agent and the physician assistant must maintain direct communication, either in person, by telephone, or other electronic means. There are three categories of supervision:

(a) "General Supervision" means the supervising physician or designated agent is not on-site with the physician assistant, but must be available for direct communication, either in person, by telephone, or other electronic means.

(b) "Direct Supervision" means the supervising physician or designated agent must be in the facility when the physician assistant is practicing.

(c) "Personal Supervision" means the supervising physician or designated agent must be at the side of the physician assistant at all times, personally directing the action of the physician assistant.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.495

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME

2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2003, f. & cert. ef. 7-15-03; BME 12-2006, f. & cert. ef. 5-8-06; BME 19-2010, f. & cert. ef. 10-25-10; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0015

Application

(1) Each application for the licensure of a physician assistant must meet the licensing requirements as set forth in ORS 677.512.

(2) No applicant is entitled to licensure who:

(a) Has failed an examination for licensure in the State of Oregon;

(b) Has had a license or certificate revoked or suspended in this or any other state unless the said license or certificate has been restored or reinstated and the applicant's license or certificate is in good standing in the state which had revoked the same;

(c) Has been refused a license or certificate in any other state on any grounds other than failure in a medical licensure examination; or

(d) Has been guilty of conduct similar to that which would be prohibited by or to which ORS 677.190 would apply.

(3) A person applying for licensure under these rules who has not completed the licensure process within a 12 month consecutive period from date of receipt of the application must file a new application, documents, letters and pay a full filing fee as if filing for the first time.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 677.512

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2010(Temp), f. & cert. ef. 7-26-10 thru 1-10-11; BME 19-2010, f. & cert. ef. 10-25-10; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0020

Qualifications

On or after January 25, 2008, an applicant for licensure as a physician assistant in this state must possess the following qualifications:

(1) Have successfully completed a physician assistant education program which is approved by the American Medical Association Committee on Allied Health Education and Accreditation (C.A.H.E.A.), the Commission on Accreditation for Allied Health Education Programs (C.A.A.H.E.P.), or the Accreditation Review Commission on Education for the Physician Assistant (A.R.C.P.A.).

(2) Have passed the Physician Assistant National Certifying Examination (PANCE) given by the National Commission on Certification of Physician Assistants (N.C.C.P.A.).

(a) The applicant may take the PANCE once in a 90-day period or three times per calendar year, whichever is fewer.

(A) The applicant has no more than four attempts in six years to pass the PANCE. If the applicant does not pass the PANCE within four attempts, the applicant is not eligible for licensure.

(B) An applicant who has passed the NCCPA certification exam, but not within the four attempts required by this rule, may request a waiver of this requirement if he/she has current certification by the NCCPA.

(b) Those who have met the requirements of section (1) of this rule may make application for a Limited License, Pending Examination before passing the PANCE examination with the stipulation that if the examination is not passed within one year from the date of application, the Board withdraws its approval.

(3) Applicants seeking prescription privileges must meet the requirements specified in OAR 847-050-0041.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 677.512

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1993, f. & cert. ef. 4-22-93; ME 17-1994, f. & cert. ef. 10-25-94; BME 1-1998, f. & cert. ef. 1-30-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 1-2001, f. & cert. ef. 1-25-01; BME 6-2003, f. & cert. ef. 1-27-03; BME 6-2008, f. & cert. ef. 1-22-08; BME 10-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10; BME 14-2010, f. & cert. ef. 7-26-10; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 5-2014, f. & cert. ef. 1-14-14

847-050-0022

Application for Licensure by Military Spouse or Domestic Partner

(1) "Military spouse or domestic partner" means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify for licensure under this rule, the military spouse or domestic partner must:

(a) Meet the qualifications for licensure as stated in OAR 847-050-0020;

(b) Be married to, or in a domestic partnership with, a member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Be licensed to practice as a physician assistant in another state or territory of the United States;

(d) Be in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has been licensed; and

(e) Have at least one year of active practice as a physician assistant or teaching at a physician assistant education program during the three years immediately preceding the application.

(3) If a military spouse or domestic partner applies for a license to practice as a physician assistant, the Board may accept:

(a) A copy of the physician assistant education program diploma to fulfill the requirement for the Verification of Medical Education form; and

(b) Verification of licensure in good standing from the jurisdiction of current or most recent practice as a physician assistant to fulfill the requirement of verifications of licensure from all jurisdictions of prior and current health related licensure.

(4) If a military spouse or domestic partner applies for a license to practice as a physician assistant, the Board will obtain the following on behalf of the applicant:

(a) The results of a query of the National Practitioner Data Bank; and

(b) The results of a query of the Federation of State Medical Boards' Board Action Data Bank.

(5) In addition to the documents required in section (3) of this rule and by OAR 847-050-0015 and 847-050-0020, the military spouse or domestic partner must submit a copy of the:

(a) Marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States; and

(b) Assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration.

Stat. Auth.: ORS 677.265 & HB 2037 (2013)

Stats. Implemented: ORS 677.265, 677.512 & HB 2037 (2013)

Hist.: OMB 21-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 35-2013, f. & cert. ef. 10-15-13

847-050-0023

Limited License, Pending Examination

(1) An applicant for a Physician Assistant license who has successfully completed a physician assistant education program approved by the American Medical Association Council on Allied Health Education and Accreditation (CAHEA), or the Commission on Accreditation for Allied Health Education Programs (CAAHEP), or the Accreditation Review Commission on Education for the Physi-

cian Assistant (ARCPA) but has not yet passed the Physician Assistant National Certifying Examination (PANCE) given by the National Commission for the Certification of Physician Assistants (NCCPA) may be issued a Limited License, Pending Examination, if the following are met:

(a) The application file is complete with the exception of certification by the NCCPA to the satisfaction of the Board; and

(b) The applicant has submitted the appropriate form and fee prior to being issued a Limited License, Pending Examination.

(2) A practice agreement must be submitted to the Board within ten days after the physician assistant begins practice in accordance with OAR 847-050-0040.

(3) A Limited License, Pending Examination may include prescriptive privileges for Schedules III through V if the supervising physician specifies these prescription privileges for the physician assistant in the practice agreement;

(4) A Limited License, Pending Examination may be granted for a period of six months.

(5) Upon receipt of verification that the applicant has passed the NCCPA examination, and if their application file is otherwise satisfactorily complete, the applicant will be considered for a permanent license.

(6) The Limited License, Pending Examination will automatically expire if the applicant fails the NCCPA examination.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132 & 677.535

Hist.: ME 5-1993, f. & cert. ef. 4-22-93; ME 9-1995, f. & cert. ef. 7-28-95; BME 14-2002, f. & cert. ef. 10-25-02; BME 13-2003, f. & cert. ef. 7-15-03; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 5-2014, f. & cert. ef. 1-14-14; OMB 15-2014, f. & cert. ef. 10-8-14

847-050-0025

Interview and Examination

(1) In addition to all other requirements for licensure, the Board may require the applicant to appear for a personal interview regarding information received in the application process. Unless excused in advance, failure to appear before the Board for a personal interview violates ORS 677.190(17) and may subject the applicant to disciplinary action.

(2) The applicant is required to pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and Oregon Administrative Rules (OAR) chapter 847, division 050. If an applicant fails the open-book examination three times, the applicant's application will be reviewed by the Board. An applicant who has failed the open-book examination three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination, before being given a fourth and final attempt to pass the examination. If the applicant does not pass the examination on the fourth attempt, the applicant may be denied licensure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.190, 677.265, 677.512

Hist.: ME 23(Temp), f. & ef. 1-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 8-1985, f. & ef. 8-5-85; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 9-1995, f. & cert. ef. 7-28-95; BME 11-1998, f. & cert. ef. 7-22-98; BME 13-2003, f. & cert. ef. 7-15-03; BME 13-2006, f. & cert. ef. 5-8-06; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 6-2014, f. & cert. ef. 1-14-14; OMB 10-2015(Temp), f. 10-13-15, cert. ef. 1-1-16 thru 6-28-16

847-050-0027

Approval of Supervising Physician

(1) Prior to using the services of a physician assistant under a practice agreement, a supervising physician or primary supervising physician of a supervising physician organization must be approved as a supervising physician by the Board.

(2) The primary supervising physician of a supervising physician organization must apply as a supervising physician with the Board and must attest that each supervising physician in the super-

vising physician organization has reviewed statutes and rules relating to the practice of physician assistants and the role of a supervising physician.

(3) Physicians applying to be a supervising physician or the primary supervising physician of a supervising physician organization must:

(a) Submit a supervising physician application and application fee; and

(b) Take an online course and pass an open-book exam on the supervising physician requirements and responsibilities given by the Board. A passing score on the exam is 75%. If the supervising physician applicant fails the exam three times, the physician's application will be reviewed by the Board. A supervising physician applicant who has failed the exam three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the exam, before being given a fourth and final attempt to pass the examination. If the applicant does not pass the exam on the fourth attempt, the physician's application may be denied.

(4) The physician may be subject to Board investigation prior to approval or may be limited or denied approval as a supervising physician for the following:

(a) There are restrictions upon or actions against the physician's license;

(b) Fraud or misrepresentation in applying to use the services of a physician assistant.

(5) The Board may defer taking action upon a request for approval as a supervising physician pending the outcome of the investigation of the physician for violations of ORS 677.010-990.

(6) Failure to apply and be approved as a supervising physician by the Board prior to using the services of a physician assistant under a practice agreement is a violation of ORS 677.510 and is grounds for a \$195 fine. The licensee may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.205 & 677.510

Hist.: ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 5-1984, f. & ef. 1-20-84; ME 8-1985, f. & ef. 8-5-85; ME 5-1986, f. & ef. 4-23-86; ME 21-1989, f. & cert. ef. 10-20-89; ME 2-1990, f. & cert. ef. 1-29-90; ME 5-1994, f. & cert. ef. 1-24-94; ME 9-1995, f. & cert. ef. 7-28-95; BME 13-2003, f. & cert. ef. 7-15-03; OMB 2-2011, f. & cert. ef. 2-11-11; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 11-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 26-2012, f. & cert. ef. 8-3-12; OMB 2-2013, f. & cert. ef. 1-11-13; OMB 17-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 37-2013, f. & cert. ef. 10-15-13

847-050-0029

Locum Tenens Assignments

Locum tenens means a temporary absence by the physician assistant or supervising physician which is filled by a substitute physician assistant or supervising physician. The following is required for a locum tenens assignment:

(1) Within ten days of the start of the locum tenens assignment, the supervising physician of the practice which desires the substitute must submit a notification of locum tenens assignment to the Board.

(2) The notification of locum tenens assignment must include the name of the substitute physician assistant or supervising physician who is filling the locum tenens assignment, duration of the locum tenens assignment, a description of how supervision of the physician assistant will be maintained, and any changes in the practice agreement or Board-approved practice description for the practice during the locum tenens assignment.

(3) The substitute physician assistant or supervising physician who is filling the locum tenens assignment must be currently licensed in Oregon, with active, locums tenens, or emeritus registration status, and be in good standing with the Board.

(4) The physician assistant must be qualified to provide the same type of service as described in the current practice agreement or Board-approved practice description for the locum tenens.

(5) The supervising physician who is filling the locum tenens assignment must be approved as a supervising physician by the

Board in accordance with OAR 847-050-0027 (Approval of Supervising Physician).

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 677.510

Hist.: ME 1-1986, f. & ef. 1-21-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 7-1990, f. & cert. ef. 4-25-90; BME 6-2003, f. & cert. ef. 1-27-03; BME 11-2005, f. & cert. ef. 10-12-05; BME 14-2010, f. & cert. ef. 7-26-10; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0035

Grounds for Discipline

(1) The performance of unauthorized medical services by the physician assistant constitutes a violation of the Medical Practice Act. The supervising physician and/or agent is responsible for the acts of the physician assistant and may be subject to disciplinary action for such violations by the physician assistant. The physician assistant is also subject to disciplinary action for violations. Proceedings under these rules are conducted in the manner specified in ORS 677.200.

(2) In addition to any of the reasons cited in ORS 677.190, the Board may refuse to grant, or may suspend or revoke a license to practice as a physician assistant for any of the following reasons:

(a) The physician assistant has held himself/herself out, or permitted another to represent the physician assistant to be a licensed physician.

(b) The physician assistant has in fact performed medical services without the direction or under the supervision of a Board-approved supervising physician or agent.

(c) The physician assistant has performed a task or tasks beyond the physician assistant's competence or outside the scope of practice of the supervising physician or outside the practice agreement as stated in OAR 847-050-0040. This is not intended to limit the ability of a physician assistant to learn new procedures under personal supervision.

Stat. Auth.: ORS 677.190, 677.205 & 677.265

Stats. Implemented: ORS 677.190, 677.205, 677.265 & 677.505

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 23-2007, f. & cert. ef. 10-24-07; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0037

Supervision

(1) A physician may not use the services of a physician assistant without first obtaining Board approval as a supervising physician.

(2) The supervising physician, agent, or in the case of a supervising physician organization, the primary supervising physician and acting supervising physician, are personally responsible for the direction, supervision and regular review of the medical services provided by the physician assistant, in keeping with the practice agreement or Board-approved practice description.

(3) The type of supervision and maintenance of supervision provided for each physician assistant must be described in the practice agreement or Board-approved practice description. The supervising physician must provide for maintenance of verbal communication with the physician assistant at all times, whether the supervising physician and physician assistant practice in the same practice location or a practice location separate from each other, as described in the following:

(a) The practice setting is listed in the practice agreement or Board-approved practice description of the physician assistant.

(b) Practice locations, other than primary or secondary practice locations, such as schools, sporting events, health fairs and long term care facilities, are not required to be listed in the practice agreement or Board-approved practice description if the duties are the same as those listed in the practice agreement or Board-approved practice description. The medical records for the patients seen at these additional practice locations must be held either at the supervising

physician's primary practice location or the additional practice locations. The supervision of the physician assistant at locations other than the primary or secondary practice location must be the same as for the primary or secondary practice location.

(c) The supervising physician or designated agent must provide a minimum of eight (8) hours of on-site supervision every month, or as approved by the Board.

(d) The supervising physician or designated agent must provide chart review of a number or a percentage of the patients the physician assistant has seen as stated in the practice agreement or Board-approved practice description.

(4) The supervising physician may limit the degree of independent judgment that the physician assistant uses but may not extend it beyond the limits of the practice agreement or Board-approved practice description.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510 & 677.515

Hist.: ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 8-1985, f. & ef. 8-5-85; ME 2-1990, f. & cert. ef. 1-29-90; BME 1-1998, f. & cert. ef. 1-30-98; BME 9-1999, f. & cert. ef. 4-22-99; BME 2-2000, f. & cert. ef. 2-7-00; BME 4-2002, f. & cert. ef. 4-23-02; BME 4-2005, f. & cert. ef. 4-21-05; BME 20-2008, f. & cert. ef. 7-21-08; BME 12-2009(Temp), f. & cert. ef. 7-14-09 thru 12-14-09; BME 19-2009, f. & cert. ef. 10-23-09; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0038

Agents

(1) The supervising physician who is not a member of a supervising physician organization may designate an agent or agents to direct and supervise the physician assistant when the supervising physician is unavailable for short periods of time. The agents must meet the following requirements:

(a) Be licensed as a medical or osteopathic physician under ORS 677, actively registered and in good standing with the Board;

(b) Practice in the same city or practice area as the supervising physician or physician assistant.

(c) Be qualified to supervise as designated in the practice agreement, and be competent to perform the duties delegated to the physician assistant.

(2) The supervising physician is responsible for informing the agent of the duties of an agent. Prior to such time as the physician assistant is acting under the direction of an agent, the supervising physician must determine that the agent understands and accepts supervisory responsibility. The agent must sign an acknowledgement of all practice agreements between the supervising physician and the physician assistant(s) the agent will supervise, and a copy must be kept at the primary practice location. Supervision by the agent will continue for a certain, predetermined, limited period of time, after which supervisory duties revert to the supervising physician.

(3) In the absence of the supervising physician, the agent assumes the same responsibilities as the supervising physician.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.495 & 677.510

Hist.: ME 8-1985, f. & ef. 8-5-85; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; BME 4-2002, f. & cert. ef. 4-23-02; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0040

Method of Performance

(1) The physician assistant may perform at the direction of the supervising physician and/or agent only those medical services as included in the practice agreement or Board-approved practice description.

(2) The physician assistant or student must be clearly identified as such when performing duties. The physician assistant must at all times when on duty wear a name tag with the designation of "physician assistant" or "PA" thereon and clearly identify himself or herself as a "physician assistant" or "PA" in oral communications with patients and other professionals.

(3) The supervising physician must furnish reports, as required by the Board, on the performance of the physician assistant or student.

(4) The practice agreement must be submitted to the Board within ten days after the physician assistant begins practice with the supervising physician or supervising physician organization.

(5) The supervising physician must notify the Board of any changes to the practice agreement within ten days of the effective date of the change.

(6) Supervising physicians must update the practice agreement biennially during the supervising physician's license renewal process.

(7) A supervising physician and physician assistant who have a Board-approved practice description that was approved prior to January 1, 2012 and who wish to make changes to the practice description must enter into a practice agreement in accordance with ORS 677.510(6)(a).

(8) Failure to comply with any section of this rule is a violation of ORS 677.510 and is grounds for a \$195 fine. The licensee may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 8-1985, f. & ef. 8-5-85; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 31-2012, f. & cert. ef. 10-22-12

847-050-0041

Prescribing and Dispensing Privileges

(1) An Oregon grandfathered physician assistant may issue written, electronic or oral prescriptions for Schedule III-V medications, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description, if the physician assistant has passed a specialty examination approved by the Board prior to July 12, 1984, and the following conditions are met:

(a) The Oregon grandfathered physician assistant has passed the Physician Assistant National Certifying Examination (PANCE); and

(b) The Oregon grandfathered physician assistant has documented adequate education or experience in pharmacology commensurate with the practice agreement or Board-approved practice description.

(2) A physician assistant may issue written, electronic or oral prescriptions for Schedule III-V medications, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description, if the physician assistant has met the requirements of OAR 847-050-0020(1).

(3) A physician assistant may issue written or electronic prescriptions or emergency oral prescriptions followed by a written authorization for Schedule II medications if the requirements in (1) or (2) are fulfilled and if the following conditions are met:

(a) A statement regarding Schedule II controlled substances prescription privileges is included in the practice agreement or Board-approved practice description. The Schedule II controlled substances prescription privileges of a physician assistant are limited by the practice agreement or Board-approved practice description and may be restricted further by the supervising physician at any time.

(b) The physician assistant is currently certified by the National Commission for the Certification of Physician Assistants (NCCPA) and must complete all required continuing medical education coursework.

(4) All prescriptions given whether written, electronic, or oral must include the name, office address, and telephone number of the supervising physician and the name of the physician assistant. The prescription must also bear the name of the patient and the date on which the prescription was written. The physician assistant must sign the prescription and the signature must be followed by the letters

"P.A." Also the physician assistant's Federal Drug Enforcement Administration number must be shown on prescriptions for controlled substances.

(5) A supervising physician or primary supervising physician of a supervising physician organization may apply to the Board for a physician assistant to dispense drugs specified by the supervising physician or supervising physician organization.

(a) The physician assistant must have prescribing privileges and be in good standing with the Board and the NCCPA to qualify for dispensing authority. The physician assistant may dispense Schedule II medications only if the physician assistant has been delegated Schedule II prescription privileges by the supervising physician.

(b) If the facility where the physician assistant will dispense medications serves population groups federally designated as underserved, geographic areas federally designated as health professional shortage areas or medically underserved areas, or areas designated as medically disadvantaged and in need of primary health care providers as designated by the State, the application must include:

- (A) Location of the practice site;
- (B) Accessibility to the nearest pharmacy; and
- (C) Medical necessity for dispensing.

(c) If the facility where the physician assistant will be dispensing medications is not in one of the designated areas or populations described in subsection (5)(b) of this rule:

(A) The physician assistant may not dispense Schedule I through IV controlled substances;

(B) The physician assistant must complete a drug dispensing training program jointly developed by the Oregon Medical Board and the State Board of Pharmacy; and

(C) The supervising physician or primary supervising physician of a supervising physician organization must submit to the Board:

- (i) A plan for drug delivery and control;
- (ii) An annual report on the physician assistant's use of dispensing authority;
- (iii) A list of the drugs or classes of drugs the physician assistant will dispense; and

(iv) A list of all facilities where the physician assistant will dispense and documentation that each of these facilities has been registered with the State Board of Pharmacy as a supervising physician dispensing outlet.

(6) A physician assistant with dispensing authority must:

- (a) Dispense medications personally;
- (b) Dispense only medications that are pre-packaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS 689, and the physician assistant must maintain records of receipt and dispensing; and

(c) Register with the Drug Enforcement Administration and maintain a controlled substances log as required in OAR 847-015-0015.

(7) Distribution of samples, without charge, is not dispensing under this rule. Administering drugs in the facility is not dispensing under this rule. Distribution of samples and administration of drugs must be documented in the patient record. Documentation must include the name of the drug, the dose, the quantity distributed or administered, and the directions for use if applicable.

(8) A supervising physician or primary supervising physician of a supervising physician organization for a physician assistant who is applying for dispensing authority must be registered with the Oregon Medical Board as a dispensing physician.

(9) Failure to comply with any subsection of this rule is a violation of the ORS Chapter 677 and is grounds for a \$195 fine. The licensee may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190, 677.205, 677.470, 677.515 & 677.545

Hist.: ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 6-1982, f. & ef. 10-27-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 16-1987, f. & ef. 8-3-87; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1994, f. & cert. ef. 1-24-94; BME 2-2000, f. & cert. ef. 2-7-00; BME 4-2002, f. & cert. ef. 4-23-02; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2003, f. & cert. ef. 7-15-03; BME 8-2004, f. & cert. ef. 4-22-04; BME 3-2005, f. & cert. ef. 1-27-05; BME 6-2006, f. & cert. ef. 2-8-06; [OMB 21-

2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 16-2012(Temp), f. 5-8-12, cert. ef. 6-1-12 thru 11-28-12; OMB 34-2012(Temp), f. 11-8-12, cert. e. 11-28-12 thru 5-27-13; OMB 3-2013, f. & cert. ef. 1-11-13

847-050-0042 Registration

(1) The registration renewal form and fee must be received in the Board office during regular business hours and must be satisfactorily complete on or before December 31 of each odd-numbered year in order for the physician assistant's registration to be renewed for the next 24 months. This application must also include submission of an updated practice agreement or validation of an existing practice agreement or Board-approved practice description.

(2) Upon failure to comply with section (1) of this rule, the license will automatically lapse as per ORS 677.228.

(3) A one-time surcharge is required for each physician assistant renewing his or her license for the 2014-2015 biennial registration period or applying for an initial license during calendar years 2014 and 2015.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510 & 677.512

Hist.: ME 1-1979, f. & ef. 1-2-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 7-1984, f. & ef. 1-26-84; ME 2-1990, f. & cert. ef. 1-29-90; ME 7-1990, f. & cert. ef. 4-25-90; ME 7-1991, f. & cert. ef. 7-24-91; ME 5-1994, f. & cert. ef. 1-24-94; BME 6-2003, f. & cert. ef. 1-27-03; BME 25-2008, f. & cert. ef. 10-31-08; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 17-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 37-2013, f. & cert. ef. 10-15-13

847-050-0043 Inactive Registration, Initial Licensure, and Re-Entry to Practice

(1) Any physician assistant licensed in this state who changes location to some other state or country, or who is not in a current supervisory relationship with a licensed physician for six months or more, will be listed by the Board as inactive.

(2) If the physician assistant wishes to resume active status to practice in Oregon, the physician assistant must submit the Affidavit of Reactivation and processing fee, satisfactorily complete the reactivation process and be approved by the Board before beginning active practice in Oregon.

(3) The Board may deny active registration if it judges the conduct of the physician assistant during the period of inactive registration to be such that the physician assistant would have been denied a license if applying for an initial license.

(4) If a physician assistant applicant has ceased practice for a period of 12 or more consecutive months immediately preceding the application for licensure or reactivation, the applicant may be required to do one or more of the following:

- (a) Obtain certification or re-certification by the National Commission on the Certification of Physician Assistants (N.C.C.P.A.);
- (b) Provide documentation of current N.C.C.P.A. certification;
- (c) Complete 30 hours of Category I continuing medical education acceptable to the Board for every year the applicant has ceased practice;

(d) Agree to increased chart reviews upon re-entry to practice.

(5) The physician assistant applicant who has ceased practice for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the re-entry plan may contain one or more of the requirements listed in section (4) of this rule and such additional requirements as determined appropriate by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.512

Hist.: ME 12-1986, f. & ef. 7-31-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1996, f. & cert. ef. 7-26-96; BME 11-1998, f. & cert. ef. 7-22-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 25-2008, f. & cert.

ef. 10-31-08; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 29-2011, f. & cert. ef. 10-27-11; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 11-2014, f. & cert. ef. 4-9-14

847-050-0046

Active Status for Temporary, Rotating Assignments

(1) A physician assistant, upon notification to the Board, may retire from active, permanent practice and change to Emeritus status which allows the physician assistant to practice temporary, volunteer assignments. A physician assistant with Emeritus status who wishes to volunteer at a medical facility must have a practice agreement or Board-approved practice description prior to starting practice at each assignment.

(2) A physician assistant, upon notification to the Board, may retire from active, permanent practice and maintain Active status by practicing at medical facilities for assignments on a rotating basis. A physician assistant who wishes to maintain active status and practice in rotating assignments at permanent locations must have a practice agreement or Board-approved practice description and must provide the Board with timely notification of the dates of each assignment prior to beginning each rotating assignment.

Stat. Auth.: ORS 677.265 & 677.545

Stats. Implemented: ORS 677.265, 677.510 & 677.515

Hist.: BME 9-2010, f. & cert. ef. 4-26-10; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0050

Termination of Supervision

Upon termination of a supervisory relationship both the supervising physician and the physician assistant must submit to the Board a written report concerning the reason(s) for termination of the relationship. Such report must be submitted to the Board within 15 days following termination of supervision.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.510

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0055

Professional Corporation or Partnership

Whenever the supervising physician is a member of a professional corporation or employee of a professional corporation or partnership, the primary supervising physician and any acting supervising physician are in all cases personally responsible for the direction and supervision of the physician assistant's work. Such responsibility for supervision cannot be transferred to the corporation or partnership even though such corporation or partnership may pay the supervising physician and the physician assistant's salaries or enter into an employment agreement with such physician assistant or supervising physician.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 58.185

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0060

Physician Assistant Student

(1) Where applicable, any person who is enrolled as a student in any school offering an accredited physician assistant education program must comply with OAR 847-050-0005 to 847-050-0065.

(2) Notwithstanding any other provisions of these rules, a physician assistant student may perform medical services when such ser-

vices are rendered within the scope of an accredited physician assistant education program.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.515

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-2-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12

847-050-0063

Physician Assistant Committee

(1) There is created a Physician Assistant Committee consisting of five members. Members of the committee are appointed as follows:

(a) The Oregon Medical Board for the State of Oregon must appoint one of its members and one physician. The physician who is not a member of the Board must supervise a physician assistant.

(b) The Oregon Medical Board must appoint three physician assistants after considering persons nominated by the Oregon Society of Physician Assistants.

(2) The term of each member of the committee is three years. A member must serve until a successor is appointed. If a vacancy occurs, it must be filled for the unexpired term by a person with the same qualifications as the retiring member.

(3) If any vacancy under section (1) of this rule is not filled within 45 days, the Governor must make the necessary appointment from the category which is vacant.

(4) The committee elects its own chairperson with such powers and duties as fixed by the committee.

(5) A quorum of the committee is three members. The committee must hold a meeting at least once quarterly and at such other times the committee considers advisable to review requests to use the services of physician assistants and for dispensing privileges and to review applications for licensure or renewal.

(6) The chairperson may call a special meeting of the Physician Assistant Committee upon at least 10 days' notice in writing to each member, to be held at any place designated by the chairperson.

(7) The committee members are entitled to compensation and expenses as provided for Board members in ORS 677.235.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.235, 677.540

Hist.: BME 15-1999, f. & cert. ef. 10-28-99; BME 1-2001, f. & cert. ef. 1-25-01; BME 25-2008, f. & cert. ef. 10-31-08; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 32-2012, f. & cert. ef. 10-22-12; Suspended by OMB 10-2015(Temp), f. 10-13-15, cert. ef. 1-1-16 thru 6-28-16

847-050-0065

Duties of the Committee

(1) The Physician Assistant Committee must:

(a) Review physician assistants' applications for licensure and renewal of licensure.

(b) Recommend approval or disapproval of physician assistants' applications for licensure and renewal of licensure.

(c) Review requests to use the services of physician assistants.

(d) Review the criteria for prescriptive privileges for physician assistants.

(e) Review any other matters related to physician assistant practice in Oregon.

(2) All actions of the physician assistant committee are subject to review and approval by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.540

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 15-1999, f. & cert. ef. 10-28-99; BME 6-2006, f. & cert. ef. 2-8-06; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 16-2012(Temp),

f. 5-8-12, cert. ef. 6-1-12 thru 11-28-12; OMB 34-2012(Temp), f. 11-8-12, cert. e. 11-28-12 thru 5-27-13; OMB 3-2013, f. & cert. ef. 1-11-13; Suspended by OMB 10-2015(Temp), f. 10-13-15, cert. ef. 1-1-16 thru 6-28-16

DIVISION 65

HEALTH PROFESSIONALS' SERVICES PROGRAM

847-065-0005

Licensees with Mental Illness Treated in Hospital Exceeding 25 Consecutive Days

A licensee's participation in the Health Professionals' Services Program (HPSP), to include inpatient evaluations or treatment in a treatment facility that exceeds 25 consecutive days, does not require an automatic suspension of a licensee, if the licensee is in compliance with their HPSP agreement and does not practice medicine during a period of impairment. If the HPSP makes a determination that the licensee has a mental illness that affects the ability of the licensee to safely practice medicine, the HPSP will ask the licensee to immediately withdraw from practice. If the licensee declines, the HPSP will immediately report to the Board that the licensee has a mental illness that affects the ability of the licensee to safely practice, and with this report provide a copy of the evaluation upon which this determination is based.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.225, 677.645

Hist.: BME 20-2009, f. & cert. ef. 10-23-09; OMB 3-2011, f. & cert. ef. 2-11-11

847-065-0010

Purpose, Intent and Scope

The Oregon Medical Board recognizes that substance use disorders and/or mental disorders are potentially progressive, chronic diseases. The Board believes that physicians, podiatric physicians, physician assistants and acupuncturists who develop these diseases can, with appropriate treatment, be assisted with recovery and return to the practice of medicine and acupuncture. It is the intent of the Board that a licensee with a substance use disorder and/or mental disorder may have the opportunity to enter the Health Professionals' Services Program (HPSP). Participation in the HPSP does not shield a licensee from possible disciplinary action.

Stat. Auth.: ORS 676.185–676.200 & 677.265

Stats. Implemented: ORS 676.185–676.200 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12

847-065-0015

Definitions

The following definitions apply to OAR chapter 847, division 065, except as otherwise stated in the definition:

(1) "Assessment or evaluation" means the process an independent third-party evaluator uses to diagnose the licensee and to recommend treatment options for the licensee.

(2) "Board" means the Oregon Medical Board.

(3) "Business day" means Monday through Friday, except legal holidays as defined in ORS 187.010 (or ORS 187.020).

(4) "Contractor" means the entity that has contracted with the Division to conduct the HPSP.

(5) "Diagnosis" means the principal mental health or substance use diagnosis listed in the current Diagnostic Statistical Manual (DSM). The diagnosis is determined through the assessment and any examinations, tests or consultations suggested by the assessment.

(6) "Division" means the Department of Human Services, Addictions and Mental Health Division.

(7) "DSM" means the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(8) "Federal regulations" means:

(a) As used in ORS 676.185(5)(d), a "positive toxicology test result as determined by federal regulations pertaining to drug testing" means a test result that meets or exceeds the cutoff concentrations shown in 49 CFR § 40.87 (2009); and

(b) As used in ORS 676.190(5)(g), requiring a "licensee to submit to random drug or alcohol testing in accordance with federal regulations" means licensees are selected for random testing by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with licensees' unique identification numbers or other comparable identifying numbers. Under the selection process used, each covered licensee must have an equal chance of being tested each time selections are made, as described in 40 CFR § 199.105(c)(5) (2009). Random drug tests must be unannounced and the dates for administering random tests must be spread reasonably throughout the calendar year, as described in 40 CFR § 199.105(c)(7) (2009).

(9) "Fitness to practice evaluation" means the process a qualified, independent third-party evaluator uses to determine if the licensee can safely perform the essential functions of the licensee's health practice.

(10) "Final enrollment" means a licensee has provided all documentation required by OAR 847-065-0035 and has met all eligibility requirements to participate in the HPSP.

(11) "Independent third-party evaluator" means an individual or center who is approved by the Board to evaluate, diagnose, and offer treatment options for substance use disorders and/or mental disorders.

(12) "Licensee" means a licensed physician, podiatric physician, physician assistant or acupuncturist who is licensed or certified by the Board.

(13) "Mental disorder" means a clinically significant syndrome identified in the current DSM that is associated with disability or with significantly increased risk of disability.

(14) "Monitoring agreement" means an individualized agreement between a licensee and the contractor that meets the requirements for a diversion agreement set by ORS 676.190.

(15) "Positive toxicology test result" means a test result that meets or exceeds the cutoff concentrations shown in 49 CFR 40.87 (2009), a test result that shows other drugs or alcohol, or a test result that fails to show the appropriate presence of a currently prescribed drug that is part of a treatment program related to a condition being monitored by HPSP.

(16) "Provisional enrollment" means temporary enrollment, pending verification that a licensee meets all program eligibility criteria.

(17) "Self-referred licensee" means a licensee who seeks to participate in the program without a referral from the Board.

(18) "Substance abuse" means a disorder related to the taking of a drug of abuse (including alcohol); to the side effects of a medication; and to a toxin exposure, including: substance use disorders (substance dependence and substance abuse) and substance-induced disorders (including but not limited to substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorders and mood disorders), as defined in DSM criteria.

(19) "Substantial non-compliance" means that a licensee is in violation of the terms of his or her monitoring agreement in a way that gives rise to concerns about the licensee's ability or willingness to participate in the HPSP. Substantial non-compliance and non-compliance include, but are not limited to, the factors listed in ORS 676.185(5). Conduct that occurred before a licensee entered into a monitoring agreement does not violate the terms of that monitoring agreement.

(20) "Toxicology testing" means urine testing or alternative chemical monitoring including blood, saliva, breath or hair as conducted by a laboratory certified, accredited or licensed and approved for toxicology testing.

(21) "Treatment" means the planned, specific, individualized health and behavioral-health procedures, activities, services and supports that a treatment provider uses to remediate symptoms of a substance use disorder and/or mental disorder.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265

Stats. Implemented: ORS 676.185 - 676.200 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0020

Participation in Health Professionals Services Program

Effective July 1, 2010, the Board must participate in the Health Professionals' Services Program and may refer eligible licensees to the contractor in lieu of or in addition to discipline. Only licensees who meet the eligibility criteria may be referred by the Board to the contractor.

Stat. Auth.: ORS 676.185–676.200 & 677.265
Stats. Implemented: ORS 676.185–676.200 & 677.265
Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12

847-065-0025

Eligibility for Participation in Health Professionals Services Program

(1) Licensee must be evaluated by an independent third-party evaluator.

(2) The evaluation must include a diagnosis of a substance use disorder and/or mental disorder with the appropriate diagnostic code from the DSM, and treatment options.

(3) Licensee must provide a written statement agreeing to enter the HPSP and agreeing to abide by all rules established by the Board.

(4) Licensee must enter into the "HPSP Monitoring Agreement."

(5) The Board will determine whether a Board-referred licensee's practice has presented or presents a danger to the public. The contractor will determine whether a self-referred licensee's practice has presented or presents a danger to the public.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265
Stats. Implemented: ORS 676.185 - 676.200 & 677.265
Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. & cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0030

Procedure for Board Referrals

(1) When the Board receives information involving a licensee who may have substance abuse and/or a mental disorder, the Board staff will investigate and complete a report to be presented at a Board meeting.

(2) If licensee meets eligibility criteria and the Board approves entry into the HPSP, the Board will provide a written referral. The referral must include:

(a) A copy of the report from the independent third-party evaluator who diagnosed the licensee;

(b) The treatment options developed by the independent third-party evaluator;

(c) A statement that the Board has investigated the licensee's professional practice and conduct;

(d) A description of any restrictions or requirements imposed by the Board or recommended by the Board on the licensee's professional practice;

(e) A written statement from the licensee agreeing to enter the HPSP and agreeing to abide by all terms and conditions established by the contractor; and

(f) A statement that the licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the Board within three business days after the licensee is arrested or convicted.

Stat. Auth.: ORS 676.185–676.200 & 677.265
Stats. Implemented: ORS 676.185–676.200 & 677.265
Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12

847-065-0035

Procedure for Self-Referred Licensees

Board licensees may self-refer to the HPSP.

(1) Provisional Enrollment: To be provisionally enrolled in the program, a self-referred licensee must:

(a) Sign a written consent allowing disclosure and exchange of information among the contractor, the licensee's employer, independent third-party evaluators and treatment providers;

(b) Sign a written consent allowing disclosure and exchange of information among the contractor, the Board, the licensee's employer, independent third-party evaluators and treatment providers in the event the contractor determines the licensee to be in substantial non-compliance with his or her monitoring agreement as defined in OAR 847-065-0065;

(c) Attest that the licensee is not, to the best of the licensee's knowledge, under investigation by the Board; and

(d) Agree to and sign a monitoring agreement.

(2) Final Enrollment: To move from provisional enrollment to final enrollment in the program, a self-referred licensee must:

(a) Obtain at the licensee's own expense and provide to the contractor, an independent third-party evaluator's written evaluation containing a DSM diagnosis and diagnostic code and treatment recommendations;

(b) Agree to cooperate with the contractor's investigation to determine whether the licensee's practice while impaired presents or has presented a danger to the public; and

(c) Enter into an amended monitoring agreement, if required by the contractor.

(3) Once a self-referred licensee seeks enrollment in the HPSP, failure to complete final enrollment may constitute substantial non-compliance and may be reported to the Board.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265
Stats. Implemented: ORS 676.185 - 676.200 & 677.265
Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. & cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0040

Disqualification Criteria

Licensees, either Board-referred or self-referred, may be disqualified from entering the HPSP for factors including, but not limited to:

(1) Licensee's disciplinary history;

(2) Severity and duration of the licensee's impairment;

(3) Extent to which licensee's practice can be limited or managed to eliminate danger to the public;

(4) If licensee's impairment cannot be managed with treatment and monitoring;

(5) Evidence of criminal history that involves injury or endangerment to others;

(6) Evidence of sexual misconduct;

(7) Evidence of non-compliance with a monitoring program from another state;

(8) Pending investigations with the Board or boards from other states;

(9) Previous Board investigations with findings of substantiated abuse or dependence; and

(10) Prior enrollment in, but failure to successfully complete, the Oregon Medical Board Health Professionals Program or HPSP.

Stat. Auth.: ORS 676.185–676.200 & 677.265
Stats. Implemented: ORS 676.185–676.200 & 677.265
Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12

847-065-0045

Approval of Independent Third-Party Evaluators

(1) To be approved by the Board as an independent third-party evaluator, an evaluator must be:

(a) Licensed as required by the jurisdiction in which the evaluator works;

(b) Able to provide a comprehensive assessment of and written report describing a licensee's diagnosis, degree of impairment, and treatment options; and

(c) Able to facilitate a urinalysis of the licensee at intake.

(2) The Board reserves the right to not approve an independent third-party evaluator for any reason.

(3) The Board or contractor will not accept an evaluator as independent in a particular case if, in the Board's or contractor's judgment, the evaluator's judgment is likely to be influenced by a personal or professional relationship with a licensee.

Stat. Auth.: ORS 676.185-676.200 & 677.265
 Stats. Implemented: ORS 676.185-676.200 & 677.265
 Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12

847-065-0050

Approval of Treatment Providers

(1) To be approved by the Board as a treatment provider, a provider must be:

(a) Licensed as required by the jurisdiction in which the provider works;

(b) Able to provide appropriate treatment considering licensee's diagnosis, degree of impairment, and treatment options proposed by the independent third-party evaluator; and

(c) Able to facilitate a urinalysis of the licensee at intake.

(2) A treatment provider may not have a personal or professional relationship with a licensee.

(3) The Board will maintain a list of treatment providers available to licensees upon request.

Stat. Auth.: ORS 676.185-676.200 & 677.265
 Stats. Implemented: ORS 676.185-676.200 & 677.265
 Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12

847-065-0055

Licensee Responsibilities

All licensees must:

(1) Agree to report any arrest for or conviction of a misdemeanor or felony crime to the contractor within three business days after the licensee is arrested or convicted of the crime;

(2) Comply continuously with his or her monitoring agreement, including any restrictions on his or her practice, for at least two years or longer, as specified in the monitoring agreement;

(3) Abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless the drug is approved by the contractor and prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee;

(4) Report use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours to contractor;

(5) Participate in a treatment plan approved by a third-party evaluator or treatment provider;

(6) Limit practice as required by the contractor or the Board;

(7) Cooperate with supervised monitoring of practice;

(8) Participate in a follow-up evaluation, when necessary, of licensee's fitness to practice;

(9) Submit to random drug or alcohol testing, unless the licensee is diagnosed with solely a mental health disorder and the Board does not otherwise require the licensee to submit to random drug and alcohol testing;

(10) Report at least weekly to the contractor regarding the licensee's compliance with the monitoring agreement;

(11) Report applications for licensure in other states, changes in employment and changes in practice setting to the contractor;

(12) Agree to be responsible for the cost of evaluations, toxicology testing, treatment and monitoring;

(13) Report to the contractor any investigations or disciplinary action by any state, or state or federal agency, including Oregon;

(14) Participate in required meetings according to the treatment plan; and

(15) Maintain current license status and/or report any changes in license status.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265
 Stats. Implemented: ORS 676.185 - 676.200 & 677.265
 Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0060

Completion Requirements

(1) The time spent participating in a monitored program before transferring from the Health Professionals Program to the Health Professionals' Services Program effective July 1, 2010, will be counted toward the required term of monitored practice.

(2) The licensee will remain enrolled in the program for a minimum of two consecutive years.

(3) The Board-referred licensee must have complied with the licensee's monitoring agreement to the satisfaction of the Board. The self-referred licensee must have complied with the licensee's monitoring agreement to the satisfaction of the contractor.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265
 Stats. Implemented: ORS 676.185 - 676.200 & 677.265
 Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0065

Substantial Non-Compliance Criteria

(1) The contractor will report substantial non-compliance with a diversion agreement to the Board within one business day after the contractor learns of the substantial non-compliance, including but not limited to information that a licensee:

(a) Engaged in criminal behavior;

(b) Engaged in conduct that caused injury, death or harm to the public, including engaging in sexual impropriety with a patient;

(c) Was impaired in a health care setting in the course of the licensee's employment;

(d) Received a positive toxicology test result;

(e) Violated a restriction on the licensee's practice imposed by the contractor or the Board;

(f) Was civilly committed for mental illness;

(g) Entered into a diversion agreement, but failed to participate in the HPSP;

(h) Was referred to the HPSP, but failed to enroll in the HPSP;

(i) Forged, tampered with, or modified a prescription;

(j) Violated any rules of prescriptive authority;

(k) Violated any provisions of OAR 847-065-0055;

(L) Violated any terms of the diversion agreement; or

(m) Failed to complete the monitored practice requirements as stated in OAR 847-065-0060.

(2) The Board will review reports from the program. The Board may request the contractor to provide the licensee's complete record, and the contractor must send these records to the Board as long as a valid release of information is in place.

(3) If the Board finds that a licensee is substantially noncompliant with a diversion agreement, the Board may investigate and determine the appropriate sanction.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265
 Stats. Implemented: ORS 676.185 - 676.200 & 677.265
 Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0070

Licensees with Primary Residence or Work Site Outside of Oregon

If a licensee's primary residence or work site is located outside the State of Oregon, the licensee must enroll in the HPSP, in accordance with OAR 847-065-0025 and 847-065-0030 for Board-referred or 847-065-0035 for self-referred licensees, and may choose to be monitored by the out-of-state's health professional program if the following conditions are met:

(1) The other state's health professional program is substantially similar with the relevant Oregon statutes. It is the duty of the contractor to verify this information and notify the Board of any discrepancies;

(2) The other state's health professional program sends quarterly reports on the licensee to the contractor; and

(3) The other state's health professional program will promptly report any substantial non-compliance with the licensee's diversion agreement to the contractor.

Stat. Auth.: ORS 676.185-676.200 & 677.265

Stats. Implemented: ORS 676.185-676.200 & 677.265

Hist.: OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12

DIVISION 70

ACUPUNCTURE

847-070-0005

Definitions

As used in the rules regulating the practice of acupuncture:

(1)(a) "Acupuncture" means an Oriental health care practice used to promote health and to treat neurological, organic or functional disorders by the stimulation of specific points on the surface of the body by the insertion of needles. "Acupuncture" includes the treatment method of moxibustion, as well as the use of electrical, thermal, mechanical or magnetic devices, with or without needles, to stimulate acupuncture points and acupuncture meridians and to induce acupuncture anesthesia or analgesia.

(b) The practice of acupuncture also includes the following modalities as authorized by the Oregon Medical Board:

(A) Traditional and modern Oriental Medical and acupuncture techniques of diagnosis and evaluation;

(B) Oriental massage, exercise and related therapeutic methods; and

(C) The use of Oriental pharmacopoeia, vitamins, minerals and dietary advice.

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

(3) "Clinical training" means supervised clinical training which consists of diagnosis and actual patient treatment which includes insertion of acupuncture needles.

(4) "Committee" means the Acupuncture Advisory Committee.

(5) "Licensed Acupuncturist" means an individual authorized by the Board to practice acupuncture pursuant to ORS Chapter 677.

(6) "Physician" means an individual licensed to practice medicine pursuant to ORS Chapter 677.

Stat. Auth.: ORS 677.265 & 677.759

Stats. Implemented: ORS 677.265, 677.757, 677.759 & 677.780

Hist.: ME 31, f. 9-9-75, ef. 10-11-75; ME 4-1979, f. & ef. 5-1-79; ME 2-1981, f. & ef. 2-3-81; ME 9-1982, f. & ef. 10-27-82; ME 6-1984, f. & ef. 1-20-84; ME 6-1993, f. & cert. ef. 4-22-93; ME 4-1995, f. & cert. ef. 5-3-95; BME 21-2008, f. & cert. ef. 7-21-08; OMB 3-2015, f. & cert. ef. 1-13-15

847-070-0007

Practice of Acupuncture

(1) No person may practice acupuncture without first obtaining a license to practice medicine and surgery or a license to practice acupuncture from the Oregon Medical Board.

(2) A physician who desires to be approved as a clinical supervisor must meet the requirements of OAR 847-070-0015.

Stat. Auth.: ORS 677.265 & 677.756 & 677.759

Stats. Implemented: ORS 677.759

Hist.: ME 6-1984, f. & ef. 1-20-84; ME 4-1995, f. & cert. ef. 5-3-95; OMB 3-2015, f. & cert. ef. 1-13-15

847-070-0015

Application

(1) Every applicant must satisfactorily complete an application and document evidence of qualifications listed in OAR 847-070-0016 to the satisfaction of the Board. Such application and documentation must be complete before an applicant may be considered eligible for licensure.

(2) False documentation is grounds for denial of licensure or disciplinary action by the Board.

(3) An applicant applying for licensure under these rules who has not completed the licensure process within a 12 month consecutive period must file a new application, documents, letters and pay a full filing fee as if filing for the first time.

(4) No applicant is entitled to licensure who:

(a) Has had his/her license or certificate revoked or suspended in this or any other state unless the said license or certificate has been restored or reinstated and the applicant's license or certificate is in good standing in the state which had revoked the same;

(b) Has been refused a license or certificate in any other state on any grounds other than failure in an acupuncture licensure examination; or

(c) Has been guilty of conduct similar to that which would be prohibited by or to which ORS 677.190 would apply.

Stat. Auth.: ORS 677.265 & 677.759

Stats. Implemented: ORS 677.759

Hist.: ME 31, f. 9-9-75, ef. 10-11-75; ME 4-1979, f. & ef. 5-1-79; ME 2-1980, f. & ef. 1-30-80; ME 2-1981, f. & ef. 2-3-81; ME 9-1982, f. & ef. 10-27-82; ME 6-1984, f. & ef. 1-20-84; ME 1-1985, f. & ef. 1-21-85; ME 10-1985, f. & ef. 8-5-85; ME 13-1986, f. & ef. 7-31-86; ME 6-1987, f. & ef. 1-23-87; ME 19-1987(Temp), f. & ef. 8-7-87; ME 24-1987, f. & ef. 10-29-87; ME 8-1988, f. 6-10-88, cert. ef. 6-6-88; ME 22-1989, f. & cert. ef. 10-20-89; ME 3-1991(Temp), f. & cert. ef. 4-19-91; ME 8-1991, f. & cert. ef. 7-24-91; ME 1-1992, f. & cert. ef. 1-21-92; ME 6-1993, f. & cert. ef. 4-22-93; ME 7-1993(Temp), f. 4-22-93, cert. ef. 4-23-93; ME 11-1993, f. & cert. ef. 7-27-93; ME 6-1994, f. & cert. ef. 1-24-94; ME 4-1995, f. & cert. ef. 5-3-95; ME 11-1995, f. & cert. ef. 11-21-95; ME 5-1997, f. & cert. ef. 11-3-97; BME 5-1998, f. & cert. ef. 4-22-98; OMB 3-2015, f. & cert. ef. 1-13-15

847-070-0016

Qualifications

(1) An applicant for licensure as an acupuncturist must have:

(a) Graduated from an acupuncture program that satisfies the standards of the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), or its successor organization, or an equivalent accreditation body that are in effect at the time of the applicant's graduation. An acupuncture program may be established as having satisfied those standards by demonstration of one of the following:

(A) Accreditation, or candidacy for accreditation by ACAOM at the time of graduation from the acupuncture program; or

(B) Approval by a foreign government's Ministry of Education, or Ministry of Health, or equivalent foreign government agency at the time of graduation from the acupuncture program. Each applicant must submit their documents to a foreign credential equivalency service, which is approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) for the purpose of establishing equivalency to the ACAOM accreditation standard. Acupuncture programs that wish to be considered equivalent to an ACAOM accredited program must also meet the curricular requirements of ACAOM in effect at the time of graduation.

(b) Current certification in acupuncture by the NCCAOM. An applicant will be deemed certified by the NCCAOM in Acupuncture if the applicant has passed the NCCAOM Acupuncture Certification Examinations or has been certified through the NCCAOM Credentials Documentation Examination. The applicant has no more than four attempts to pass the NCCAOM Acupuncture Certification Examinations. If the applicant does not pass the NCCAOM Certification Examinations within four attempts, the applicant is not eligible for licensure.

(2) An applicant who does not meet the criteria in OAR 847-070-0016(1) must have the following qualifications:

(a) Five years of licensed clinical acupuncture practice in the United States. This practice must include a minimum of 500 acupuncture patient visits per year. Documentation must include:

(A) Two affidavits from office partners, clinic supervisors, accountants, or others approved by the Board, who have personal knowledge of the years of practice and number of patient visits per year; and

(B) Notarized copies of samples of appointment books, patient charts and financial records, or other documentation as required by the Board; and

(b) Practice as a licensed acupuncturist in the U.S. during five of the last seven years prior to application for Oregon licensure. Licensed practice includes clinical practice, clinical supervision, teaching, research, and other work as approved by the Board within the field of acupuncture and oriental medicine. Documentation of this practice will be required and is subject to Board approval; and

(c) Successful completion of the ACAOM western medicine requirements in effect at the time of graduation from the acupuncture program, unless the applicant graduated from a non-accredited acupuncture program prior to 1989; and

(d) Current certification in acupuncture by the NCCAOM. An applicant will be deemed certified in Acupuncture by the NCCAOM if the applicant has passed the NCCAOM Acupuncture Certification Examinations or has been certified through the NCCAOM Credentials Documentation Examination. The applicant has no more than four attempts to pass the NCCAOM Acupuncture Certification Examinations. If the applicant does not pass the NCCAOM Certification Examinations within four attempts, the applicant is not eligible for licensure.

(3) An individual whose acupuncture training and diploma were obtained in a foreign country and who cannot document the requirements of subsections (1) or (2) of this rule because the required documentation is now unobtainable, may be considered eligible for licensure if it is established to the satisfaction of the Board that the applicant has equivalent skills and training and can document one year of training or supervised practice under a licensed acupuncturist in the United States.

(4) In addition to meeting the requirements in (1), (2) or (3) of this rule, all applicants for licensure must have the following qualifications:

(a) Licensure in good standing from the state or states of all prior and current health related licensure; and

(b) Have good moral character as those traits would relate to the applicant's ability properly engage in the practice of acupuncture; and

(c) Have the ability to communicate in the English language well enough to be understood by patients and physicians. This requirement is met if the applicant passes the NCCAOM written acupuncture examination in English, or if in a foreign language, must also have passed an English language proficiency examination, such as TOEFL (Test of English as a Foreign Language), or TSE (Test of Spoken English). An applicant must obtain a TOEFL score of 500 or more for the written TOEFL exam and 173 or more for the computer based TOEFL exam, or a TSE score of 200 or more prior to July 1995, and a score of 50 or more after July 1995. An applicant who is certified through the NCCAOM Credentials Documentation Examination must also have passed an English proficiency examination.

Stat. Auth.: ORS 677.265 & 677.759

Stats. Implemented: ORS 677.265, 677.759 & 677.780

Hist.: ME 5-1997, f. & cert. ef. 11-3-97; BME 5-1998, f. & cert. ef. 4-22-98; BME 15-1998, f. & cert. ef. 10-26-98; BME 15-1998, f. & cert. ef. 10-26-98; BME 16-1999, f. & cert. ef. 10-28-99; BME 13-2001, f. & cert. ef. 10-30-01; BME 6-2002, f. & cert. ef. 4-23-02; BME 12-2005, f. & cert. ef. 10-12-05; BME 21-2006, f. & cert. ef. 10-23-06; BME 10-2007, f. & cert. ef. 4-26-07; BME 7-2008(Temp), f. & cert. ef. 4-24-08 thru 10-6-08; BME 21-2008, f. & cert. ef. 7-21-08; BME 14-2009, f. & cert. ef. 7-20-09; OMB 3-2015, f. & cert. ef. 1-13-15

847-070-0017

Clinical Training

(1) A clinical supervisor must meet the following requirements:

(a) Be an actively licensed Oregon acupuncturist who has practiced as an acupuncturist for a period of at least five years, and is in good standing with the Board; or

(b) Be an actively licensed Oregon physician who is in good standing with the Board, who has been practicing acupuncture for a period of at least five years, and has passed the examination for acupuncture; or

(c) Be an acupuncturist or physician licensed, registered, or certified by another jurisdiction, who is in good standing with such jurisdiction, who has been practicing acupuncture for a period of at least five years and has passed a qualifying examination for acupuncture, or been certified in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine (N.C.C.A.O.M.) through its Credentials Documentation Examination. If a portion of those five or more years was prior to licensing, registration, or certification, then prior practice must be documented to the Board's satisfaction. The N.C.C.A.O.M. Certification Standards for Documen-

tation will be used. All clinical supervisors under this section are subject to Board approval.

(2) Board approved clinical supervisors, acupuncturists or physicians shall supervise no more than two acupuncture trainees in an informal private clinical setting.

(3) Where applicable, an individual shall comply with OAR 847-070-0005 to 847-070-0055 if they are:

(a) Enrolled in a school approved to offer credit for post-secondary clinical education in Oregon; or

(b) A practitioner licensed to practice acupuncture in another state or foreign country who is enrolled in clinical training approved by the Oregon Medical Board.

(4) Where applicable, an individual may perform acupuncture in a training situation only when such services are rendered by an acupuncture student:

(a) Who is enrolled in a school approved to offer credit for post-secondary clinical education in Oregon; or

(b) Who is a practitioner licensed to practice acupuncture in another state or foreign country who is enrolled in clinical training approved by the Oregon Medical Board.

(5) An individual who is a trainee or student of acupuncture may not perform any act that constitutes the practice of medicine or the practice of acupuncture, except under direct supervision of a person approved by the Board to provide clinical training as described in rule 847-070-0017.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.060(3)

Hist.: ME 6-1984, f. & ef. 1-20-84; ME 14-1984, f. & ef. 8-2-84; ME 10-1985, f. & ef. 8-5-85; ME 13-1986, f. & ef. 7-31-86; ME 8-1988, f. 6-10-88, cert. ef. 6-6-88; ME 6-1993, f. & cert. ef. 4-22-93; ME 6-1994, f. & cert. ef. 1-24-94; BME 5-1999, f. & cert. ef. 4-22-99; BME 15-2000, f. & cert. ef. 10-30-00

847-070-0019

Interview and Examination

(1) In addition to all other requirements for licensure, the Board may require an applicant to appear for a personal interview regarding information received in the application process. Unless excused in advance, failure to appear before a Committee of the Board for a personal interview violates ORS 677.190(17) and may subject the applicant to disciplinary action.

(2) If there is reasonable cause to question the qualifications of an applicant, the Board in its discretion may require the applicant to do one or more of the following:

(a) Obtain certification or re-certification in Acupuncture or Oriental Medicine by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM);

(b) Pass an evaluation which may be written, oral, practical, or any combination thereof;

(c) Provide documentation of current NCCAOM Acupuncture certification;

(d) Complete 15 hours of continuing education acceptable to the Board for every year the applicant has ceased practice prior to application for Oregon licensure. Continuing education that meets NCCAOM's recertification requirements would qualify as Board-approved continuing education;

(e) Complete a mentorship of at least 20 hours under a Board-approved mentor who must individually supervise the applicant. The mentor must report the successful completion of the mentorship to the Board.

(3) An applicant must pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and Oregon Administrative Rules (OAR chapter 847, division 70).

Stat. Auth.: ORS 677.265, 677.759

Stats. Implemented: ORS 677.175 & 677.759

Hist.: BME 12-2005, f. & cert. ef. 10-12-05; BME 21-2006, f. & cert. ef. 10-23-06; BME 5-2009, f. & cert. ef. 1-22-09; OMB 8-2014, f. & cert. ef. 1-14-14; OMB 3-2015, f. & cert. ef. 1-13-15

847-070-0020

Regulation of Activities of Acupuncturists

(1) An individual other than a physician who is not authorized by the Board to engage in the practice of acupuncture shall not administer acupuncture treatment to any other individual.

(2) An acupuncturist shall report promptly to the referring physician, if requested, the method of acupuncture treatment and the results of such treatment together with such other information as the referring physician requires to maintain the records regarding acupuncture treatment.

(3) An acupuncturist must clearly indicate that he/she is an acupuncturist to individuals being treated. The acupuncturist must wear a name tag with the designation "Acupuncturist" thereon when practicing in a hospital or clinic setting where other health care providers practice. Acupuncturists are not required to wear name tags in a private practice setting.

(4) An acupuncturist shall not represent him/herself as a physician or permit another to so represent him/her.

(5) An acupuncturist who has completed a program that leads to a doctoral degree in Acupuncture and Oriental Medicine from a school that has federally recognized accreditation may identify him/herself as a "doctor of acupuncture and oriental medicine."

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.759

Hist.: ME 31, f. 9-9-75, ef. 10-11-75; ME 4-1979, f. & ef. 5-1-79; ME 9-1982, f. & ef. 10-27-82; ME 6-1984, f. & ef. 1-20-84; BME 16-1999, f. & cert. ef. 10-28-99; BME 5-2009, f. & cert. ef. 1-22-09

847-070-0022

Documents to be Submitted for Licensure

The documents submitted must be legible and no larger than 8 1/2" x 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. Official translations are required for documents issued in a foreign language. The following documents are required:

(1) Application: Completed formal application provided by the Board. Required dates must include month, day and year.

(2) Birth Certificate: A copy of birth certificate and a copy of Change of Name documentation, Marriage Certificate, or Divorce Decree if the applicant's name has been changed by court order, adoption, marriage, divorce, etc.

(3) Acupuncture School Diploma: A copy of a diploma showing graduation from an approved school of acupuncture for those applicants who qualify under OAR 847-070-0016(1).

(4) Photograph: A close-up, passport-quality photograph, front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application.

(5) A letter from the Dean of the applicant's program of acupuncture for those applicants who qualify under OAR 847-070-0016(1).

(6) A letter from the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) verifying current certification in acupuncture by the NCCAOM for those applicants who qualify under OAR 847-070-0016(1) or (2).

(7) A letter verifying licensure in good standing from the state or states of all prior and current health-related licensure.

(8) A letter from the Director or other official for practice and employment to include an evaluation of overall performance and specific beginning and ending dates of practice and employment, for the past five (5) years only. For acupuncturists who have been or are in solo practice, three reference letters from acupuncturists in the local treatment community who are familiar with the applicant's practice and who have known the applicant for more than six months.

Stat. Auth.: ORS 677.265 & 677.759

Stats. Implemented: ORS 677.275 & 677.759

Hist.: BME 21-2006, f. & cert. ef. 10-23-06; BME 19-2007, f. & cert. ef. 10-24-07; OMB 3-2015, f. & cert. ef. 1-13-15

847-070-0024

Application for Licensure by Military Spouse or Domestic Partner

(1) "Military spouse or domestic partner" means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify for licensure under this rule, the military spouse or domestic partner must:

(a) Meet the qualifications for licensure as stated in OAR 847-070-0016;

(b) Be married to, or in a domestic partnership with, a member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Be licensed to practice acupuncture in another state or territory of the United States;

(d) Be in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has been licensed; and

(e) Have at least one year of active practice or teaching of acupuncture during the three years immediately preceding the application.

(3) If a military spouse or domestic partner applies for a license to practice acupuncture, the Board may accept:

(a) A copy of the acupuncture school diploma to fulfill the requirement for a letter from the Dean of the applicant's acupuncture school; and

(b) Verification of licensure in good standing from the jurisdiction of current or most recent practice of acupuncture to fulfill the requirement of verifications of licensure from all jurisdictions of prior and current health related licensure.

(4) In addition to the documents required in section (3) of this rule and in OAR 847-070-0022, the military spouse or domestic partner must submit a copy of the:

(a) Marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States; and

(b) Assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration.

Stat. Auth.: ORS 677.265 & HB 2037 (2013)

Stats. Implemented: ORS 677.275, 677.759 & HB 2037 (2013)

Hist.: OMB 21-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 35-2013, f. & cert. ef. 10-15-13

847-070-0025

Disciplinary Proceedings

The Board may suspend or revoke the authority of an acupuncturist to engage in the practice of acupuncture and any disciplinary proceedings against an acupuncturist or any individual charged with the unlawful practice of acupuncture shall be in accordance with ORS Chapter 183.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.190

Hist.: ME 31, f. 9-9-75, ef. 10-11-75; ME 4-1979, f. & ef. 5-1-79; ME 9-1982, f. & ef. 10-27-82

847-070-0030

Revocation or Suspension of Authority to Engage in the Practice of Acupuncture

The Board may suspend or revoke the authority of an acupuncturist to engage in the practice of acupuncture if the Board finds that:

(1) The acupuncturist has represented him/herself as a physician or permitted another to so represent him/her.

(2) The acupuncturist has performed any act involving the practice of acupuncture in violation of any applicable law or rules regulating the practice of acupuncture.

(3) The acupuncturist has engaged in conduct constituting gross negligence in the practice of acupuncture.

(4) The acupuncturist is manifestly incapable to engage in the practice of acupuncture.

(5) The acupuncturist has violated any of the provisions of ORS 677.190.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.190

Hist.: ME 31, f. 9-9-75, ef. 10-11-75; ME 4-1979, f. & ef. 5-1-79; ME 9-1982, f. & ef. 10-27-82; ME 6-1984, f. & ef. 1-20-84

847-070-0033

Visiting Acupuncturist Requirements

(1) The Oregon Medical Board may grant approval for a visiting acupuncturist to demonstrate acupuncture needling as part of a

seminar, conference, or workshop sponsored by an Oregon school or an Oregon school's program of acupuncture or oriental medicine, or professional organization of acupuncture, or any seminar, conference, or workshop approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) to provide continuing education training for a period up to ten days no more than three times a year. The visiting acupuncturist who requests additional time beyond the ten days, or submits more than three requests in a year, must apply for and obtain a license to practice in the state of Oregon. An Oregon licensed acupuncturist must be in attendance at the seminar, conference or workshop.

(2) Prior to being granted approval, the following information must be submitted to the Oregon Medical Board:

(a) A letter from the school or program of acupuncture or oriental medicine, or organization which will have an out-of-state acupuncturist demonstrate needling as part of a seminar, conference, or workshop with the following information:

(A) Dates of the seminar, conference, or workshop in which the visiting acupuncturist will be demonstrating acupuncture needling;

(B) Description of the seminar, conference or workshop;

(C) Name of the responsible Oregon acupuncturist, licensed under ORS 677, actively registered and in good standing with the Board, who will be in attendance and responsible for the conduct of the visiting acupuncturist at the seminar, conference or workshop.

(D) A curriculum vitae for the visiting acupuncturist; and

(b) If the visiting acupuncturist is licensed, certified or registered to practice as an acupuncturist in the state in which the acupuncturist is practicing, the visiting acupuncturist must provide documentation that their license, certificate, or registration is active and in good standing.

(3) The request for approval to practice in the state of Oregon as a visiting acupuncturist must be received at least two weeks prior to the beginning date of such practice.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265(1) & (2)

Hist.: BME 9-2004, f. & cert. ef. 4-22-04; BME 19-2004, f. & cert. ef. 10-20-04

847-070-0037

Limited License, Pending Examination

(1) An acupuncturist who meets all requirements for Oregon acupuncture licensure but has not yet passed the acupuncture certification examination given by the National Certification Commission on Acupuncture and Oriental Medicine (NCCAOM) may be issued a Limited License, Pending Examination for the purpose of obtaining clinical training in Oregon under the supervision of a Board approved clinical supervisor if the following criteria are met:

(a) The application file is complete to the satisfaction of the Board.

(b) Certification by the NCCAOM is pending.

(c) The clinical supervisor approved to supervise the applicant meets the qualifications in OAR 847-070-0017 and is on-site and available to supervise at all times when the applicant is training.

(d) The applicant has submitted the appropriate form and fee prior to being issued a Limited License, Pending Examination.

(2) Any person obtaining clinical training under a Limited License, Pending Examination must identify themselves to patients as an acupuncture trainee and wear a name tag identifying themselves as a trainee.

(3) A Limited License, Pending Examination may be granted for a period of six months.

(4) Upon receipt of verification that the applicant has passed the acupuncture certification examination given by the NCCAOM, and if the applicant's application file is otherwise satisfactorily complete, the applicant shall be scheduled for approval of permanent licensure.

(5) The Limited License, Pending Examination will automatically be canceled if the applicant fails the acupuncture certification examination given by the NCCAOM.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.759

Hist.: BME 5-1999, f. & cert. ef. 4-22-99; BME 19-2007, f. & cert. ef. 10-24-07;

OMB 7-2014, f. & cert. ef. 1-14-14; OMB 16-2014, f. & cert. ef. 10-8-14

847-070-0038

Limited License, Visiting Professor

(1) An acupuncturist who has received a teaching position in a school of acupuncture in this state may be issued a Limited License, Visiting Professor if the following criteria are met:

(a) The applicant has established to the satisfaction of the Board that he/she has the skills and training equivalent to OAR 847-070-0016 (1);

(b) The applicant has at least five years experience as an acupuncturist; and

(c) The applicant has submitted the appropriate form and fee for a Limited License, Visiting Professor.

(2) The head of the acupuncture school in which the applicant will be teaching shall certify in writing to the Board that the applicant has been offered a teaching position which will be under the direction of the head of the department and will not be permitted to practice acupuncture unless as a necessary part of the applicant's teaching position as approved by the Board.

(3) An acupuncturist who is applying for a Limited License, Visiting Professor may also be approved as a clinical supervisor if the applicant meets the requirements of OAR 847-070-0017.

(4) The Limited License, Visiting Professor may be granted for one year and may be granted a total of two one-year extensions upon annual review of the written justification of the need based upon academic necessity. The renewal form and fee must be submitted 30 days before the end of the year if an extension of the Limited License, Visiting Professor is requested.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265, 677.759

Hist.: ME 2-1981, f. & ef. 2-3-81; ME 9-1982, f. & ef. 10-27-82; ME 6-1984, f. & ef. 1-20-84; ME 1-1985, f. & ef. 1-21-85; ME 13-1989, f. & cert. ef. 8-4-89; ME 8-1990, f. & cert. ef. 4-25-90; ME 9-1991, f. & cert. ef. 7-24-91; ME 6-1993, f. & cert. ef. 4-22-93; ME 10-1996, f. & cert. ef. 10-29-96; ME 5-1997, f. & cert. ef. 11-3-97; BME 14-2001, f. & cert. ef. 10-30-01; BME 15-2003, f. & cert. ef. 10-23-03; BME 10-2007, f. & cert. ef. 4-26-07

847-070-0039

Registration

(1) Upon Board approval of an applicant to be licensed to practice acupuncture, the applicant must pay the registration fee before being issued a certificate.

(2) An application for renewal of the biennial registration and the statutory registration fee shall be submitted to the Oregon Medical Board prior to midnight June 30 of every even-numbered year.

(3) Upon failure to comply with section (1) and (2) of this rule, the license shall lapse as per ORS 677.228.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.228 & 677.265

Hist.: ME 6-1993, f. & cert. ef. 4-22-93; ME 6-1994, f. & cert. ef. 1-24-94; ME 10-1996, f. & cert. ef. 10-29-96

847-070-0045

Inactive Registration and Re-Entry to Practice

(1) Any acupuncturist licensed in this state who changes location to some other state or country shall be listed by the Board as inactive.

(2) If the acupuncturist wishes to resume active status, the acupuncturist must file an Affidavit of Reactivation and pay a processing fee, satisfactorily complete the reactivation process and be approved by the Board before beginning active practice in Oregon.

(3) The Board may deny active registration if it judges the conduct of the acupuncturist during the period of inactive registration to be such that the acupuncturist would have been denied a license if applying for an initial license.

(4) If an acupuncturist applicant has ceased practice for a period of 24 or more consecutive months immediately preceding the application for licensure or reactivation, the applicant may be required to do one or more of the following:

(a) Obtain certification or re-certification in Acupuncture or Oriental Medicine by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM);

(b) Provide documentation of current NCCAOM Acupuncture or Oriental Medicine certification;

(c) Complete 15 hours of continuing education acceptable to the Board for every year the applicant has ceased practice;

(d) Complete a mentorship of at least 20 hours under a Board-approved mentor who must individually supervise the licensee. The mentor must report the successful completion of the mentorship to the Board.

(5) The acupuncturist applicant who has ceased practice for a period of five or more consecutive years may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the re-entry plan may contain one or more of the requirements listed in section (4) of this rule and such additional requirements as determined appropriate by the Board.

Stat. Auth.: ORS 677.265 & 677.759

Stats. Implemented: ORS 677.175 & 677.759

Hist.: ME 24-1987, f. & ef. 10-29-87; ME 6-1993, f. & cert. ef. 4-22-93; ME 10-1996, f. & cert. ef. 10-29-96; BME 16-1999, f. & cert. ef. 10-28-99; BME 12-2005, f. & cert. ef. 10-12-05; BME 5-2009, f. & cert. ef. 1-22-09; OMB 8-2012, f. & cert. ef. 2-10-12; OMB 11-2014, f. & cert. ef. 4-9-14; OMB 3-2015, f. & cert. ef. 1-13-15

847-070-0050

Acupuncture Advisory Committee

(1) An Acupuncture Advisory Committee is established. The committee must consist of six members appointed by the Board. The Board must appoint one of its members, two physicians, and three acupuncturists licensed by the Board. The acupuncture members may be appointed from nominations of the Oregon Association of Acupuncture and Oriental Medicine and other professional acupuncture organizations.

(2) The term of office of a member of the committee is three years, and members may be reappointed to serve not more than two terms. Vacancies in the committee must be filled by appointment by the Board for the balance of the unexpired term, and each member must serve until a successor is appointed and qualified.

(3) The Board may remove any member from the committee.

(4) The committee elects its own chairperson with such powers and duties as fixed by the committee.

(5) The committee members are entitled to compensation and expenses as provided for Board members in ORS 677.235.

Stat. Auth.: ORS 677.265 & 677.759

Stats. Implemented: ORS 677.235, 677.265, 677.759 & 677.780

Hist.: ME 4-1995, f. & cert. ef. 5-3-95; ME 10-1996, f. & cert. ef. 10-29-96; BME 15-1998, f. & cert. ef. 10-26-98; BME 14-2001, f. & cert. ef. 10-30-01; BME 19-2007, f. & cert. ef. 10-24-07; OMB 16-2011, f. & cert. ef. 7-13-11; OMB 18-2013, f. & cert. ef. 7-12-13

847-070-0055

Duties of the Committee

The Acupuncture Advisory Committee shall:

(1) Review and recommend approval or disapproval of all applications submitted to the Board for acupuncture licensing and for renewal thereof.

(2) Recommend to the Board standards of professional responsibility and practice for licensed acupuncturists.

(3) Recommend to the Board standards of didactic and clinical education and training for acupuncture licensing.

(4) Recommend to the Board standards for clinical supervisors and trainees.

(5) Recommend to the Board licensing examinations, and temporary licenses as considered appropriate.

Stat. Auth.: ORS 677.265 & 677.757 - 677.770

Stats. Implemented: ORS 677.265

Hist.: ME 4-1995, f. & cert. ef. 5-3-95; BME 14-2001, f. & cert. ef. 10-30-01

DIVISION 80

PODIATRIC MEDICINE

847-080-0001

Definitions

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

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.805

Hist.: ME 6-1986, f. & ef. 4-23-86; BME 11-2000, f. & cert. ef. 7-27-00; BME 8-2007, f. & cert. ef. 1-24-07; BME 22-2007, f. & cert. ef. 10-24-07

847-080-0002

Application for Licensure

(1) When applying for licensure the applicant must submit to the Board the completed application, fees, documents and letters.

(2) A person applying for licensure under these rules who has not completed the licensure process within a 12 month consecutive period must file a new application, documents, letters and pay a full filing fee as if filing for the first time.

(3) The applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. Unless excused in advance, failure to appear before the Board for a personal interview violates ORS 677.190(17) and may subject the applicant to disciplinary action.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.190, 677.265, 677.810 & 677.840

Hist.: ME 6-1986, f. & ef. 4-23-86; ME 3-1990, f. & cert. ef. 1-29-90; BME 8-2007, f. & cert. ef. 1-24-07; OMB 20-2013, f. & cert. ef. 7-12-13; OMB 9-2014, f. & cert. ef. 1-14-14

847-080-0010

Requirements for Licensure

The applicant for licensure must have:

(1) Graduated from a school or college of podiatric medicine accredited by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association.

(2) Successfully passed a licensing examination as provided in OAR 847-080-0018.

(3) Fulfilled one of the following:

(a) Satisfactory completion of one year of post-graduate training served in a hospital that is approved by the CPME, or

(b) Satisfactory completion of one year of post-graduate training in a hospital residency program that was not approved by the CPME and current certification by the American Board of Podiatric Medicine or the American Board of Podiatric Surgery.

(4) Satisfactorily met the requirements of ORS 677.820 and 677.825.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.820, 677.825 & 677.830

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 7-1982, f. & ef. 10-27-82; Suspended by ME 3-1983(Temp), f. & ef. 10-3-83 to 10-7-83; Suspended by ME 2-1984(Temp), f. & ef. 1-20-84; ME 11-1985, f. & ef. 8-6-85; ME 6-1986, f. & ef. 4-23-86; ME 8-1994, f. & cert. ef. 4-29-94; BME 16-2004, f. & cert. ef. 7-13-04; BME 13-2005, f. & cert. ef. 10-12-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 12-2008, f. & cert. ef. 4-24-08; BME 27-2008, f. & cert. ef. 10-31-08; OMB 20-2013, f. & cert. ef. 7-12-13

847-080-0013

Documents to Be Submitted for Licensure

The documents submitted must be legible and no larger than 8 1/2" x 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. Official translations are required for documents issued in a foreign language. The following documents are required:

(1) Application: Completed formal application provided by the Board. Required dates must include month, day and year.

(2) Birth Certificate: A copy of birth certificate.

(3) Doctor of Podiatric Medicine Diploma: A copy of a diploma showing graduation from a school of podiatry.

(4) Photograph: A close-up, passport quality photograph, front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application.

(5) The results of a Practitioner Self-Query from the National Practitioner Data Bank sent directly to the Board by the applicant.

(6) Legible fingerprints as described in 847-008-0068 for the purpose of a criminal records background check.

(7) An applicant must pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and an open-book examination on the Drug Enforcement Administration's regulations governing the use of controlled substances. If an applicant fails one or both examinations three times, the applicant must attend an informal meeting with a Board member, a Board investigator or the Medical Director of the Board to discuss the applicant's failure of the examination(s), before being given a fourth and final attempt to pass the examination(s). If the applicant does not pass the examination(s) on the fourth attempt, the applicant may be denied licensure.

(8) Any other documentation or explanatory statements as required by the Board.

Stat. Auth.: ORS 677.265 & 677.820

Stats. Implemented: ORS 181.534, 677.820, 677.825 & 677.830

Hist.: ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; BME 17-2007, f. & cert. ef. 7-23-07; OMB 20-2013, f. & cert. ef. 7-12-13

847-080-0016

Application for Licensure by Military Spouse or Domestic Partner

(1) "Military spouse or domestic partner" means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify for licensure under this rule, the military spouse or domestic partner must:

(a) Meet the requirements for licensure as stated in OAR 847-080-0010;

(b) Be married to, or in a domestic partnership with, a member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Be licensed to practice podiatric medicine in another state or territory of the United States;

(d) Be in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has been licensed; and

(e) Have at least one year of active practice or teaching of podiatric medicine during the three years immediately preceding the application.

(3) If a military spouse or domestic partner applies for a license to practice podiatric medicine, the Board may accept:

(a) A copy of the podiatric medical school diploma to fulfill the requirement for a Dean's Letter of Recommendation and the Verification of Medical Education form; and

(b) Verification of licensure in good standing from the jurisdiction of current or most recent practice of podiatric medicine to fulfill the requirement of verifications of licensure from all jurisdictions of prior and current health related licensure.

(4) If a military spouse or domestic partner applies for a license to practice podiatric medicine, the Board will obtain the results of a query of the National Practitioner Data Bank on behalf of the applicant.

(5) In addition to the documents required in section (3) of this rule and in OAR 847-080-0013 and 847-080-0017, the military spouse or domestic partner must submit a copy of the:

(a) Marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States; and

(b) Assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration.

Stat. Auth.: ORS 677.265, 677.820 & HB 2037 (2013)

Stats. Implemented: ORS 677.820, 677.825, 677.830 & HB 2037 (2013)

Hist.: OMB 21-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 35-2013, f. & cert. ef. 10-15-13

847-080-0017

Letters and Official Verifications to be Submitted for Licensure

The applicant must ensure that official documents are sent to the Board directly from:

(1) The School of Podiatry:

(a) The Verification of Medical Education form, which includes: degree issued, date of degree, dates of attendance, dates and reason of any leaves of absence or repeated years, and dates, name and location of school of podiatric medicine school if a transfer student.

(b) A Dean's Letter of Recommendation, which includes a statement concerning the applicant's moral and ethical character and overall performance as a podiatric medical student. If the school attests that a Dean's Letter is unavailable or the Board determines that it is unacceptable, a copy of the transcripts may be acceptable.

(2) The Director of Podiatric Education, Chairman or other official of the residency hospital in U.S.: A currently dated original letter (a copy is not acceptable), sent directly from the hospitals in which any post-graduate training was served, which includes an evaluation of overall performance and specific beginning and ending dates of training.

(3) The Director or other official for practice and employment in hospitals, clinics, etc., in the U.S. and foreign countries: A currently dated original letter (a copy is not acceptable), sent directly from the hospital/clinic, which includes an evaluation of overall performance and specific beginning and ending dates of practice and employment.

(4) All health licensing boards in any jurisdiction where the applicant has ever been licensed; regardless of status, i.e., current, lapsed, never practiced there: Verification, sent directly from the boards, must show license number, date issued and status.

(5) Official Examination Certification: An official certification of examination scores for the American Podiatric Medical Licensing Examination (APMLE) Parts I, II and III or the National Board of Podiatric Medical Examiners (NBPME) examination Parts I, II and III is required directly from the NBPME or the Federation of Podiatric Medical Boards.

(6) Federation of Podiatric Medical Boards Disciplinary Report: A Disciplinary Report sent directly from the Federation of Podiatric Medical Boards to the Board.

(7) Any other documentation as required by the Board, including but not limited to medical records and criminal or civil records.

Stat. Auth.: ORS 677.265 & 677.820

Stats. Implemented: ORS 677.820, 677.825 & 677.830

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; BME 20-2004, f. & cert. ef. 10-20-04; BME 19-2006, f. & cert. ef. 7-25-06; BME 17-2007, f. & cert. ef. 7-23-07; OMB 20-2013, f. & cert. ef. 7-12-13

847-080-0018

Examination for Licensure

The applicant must base an application upon the licensing examination administered by the National Board of Podiatric Medical Examiners (NBPME). The licensing examination is limited to the American Podiatric Medical Licensing Examination (APMLE) or the NBPME examination. No application will be accepted on the basis of reciprocity or written examination, other than an examination administered by the NBPME.

(1) The applicant must pass Parts I, II and III of the licensing examination.

(2) Part III of the licensing examination may be waived if the applicant graduated from a school or college of podiatric medicine before January 1, 2001; and

(a) Is licensed as a podiatric physician in another state; or

(b) Is certified by the American Board of Podiatric Medicine (ABPM) or the American Board of Podiatric Surgery (ABPS).

(3) The score achieved on each Part of the examination must equal or exceed the figure established by the NBPME as a passing score.

(4) All three Parts of the licensing examination must be passed within a seven-year period which begins when the first Part, either Part I or Part II, is passed. An applicant who graduated from a school or college of podiatric medicine on or after January 1, 2001, and who has not passed all three Parts within the seven-year period may request a waiver of the seven-year requirement if he or she:

(a) Has current certification by the ABPM or the ABPS; or

(b) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's podiatric study; or

(c) Experienced other extenuating circumstances that do not indicate an inability to safely practice podiatric medicine as determined by the Board.

(5) The applicant who graduated from a school or college of podiatric medicine on or after January 1, 2001, must have passed Part III of the licensing examination within four attempts, whether for Oregon or for any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed Part III on their fourth and final attempt. An applicant who has passed Part III of the licensing examination, but not within the four attempts as required, may request a waiver of this requirement if he or she has current certification by the ABPM or the ABPS.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.825 & 677.830

Hist.: ME 6-1986, f. & cert. ef. 4-23-86; ME 17-1987, f. & cert. ef. 8-3-87; ME 23-1989(Temp), f. & cert. ef. 10-20-89; ME 3-1990, f. & cert. ef. 1-29-90; ME 13-1992, f. & cert. ef. 10-22-92; ME 8-1994, f. & cert. ef. 4-29-94; ME 11-1996, f. & cert. ef. 10-29-96; BME 2-1999, f. & cert. ef. 1-26-99; BME 4-1999, f. & cert. ef. 2-17-99; BME 10-2005, f. & cert. ef. 7-20-05; BME 19-2006, f. & cert. ef. 7-25-06; BME 17-2007, f. & cert. ef. 7-23-07; BME 18-2007(Temp), f. & cert. ef. 7-23-07 thru 1-8-08; BME 22-2007, f. & cert. ef. 10-24-07; BME 12-2008, f. & cert. ef. 4-24-08; BME 27-2008, f. & cert. ef. 10-31-08; OMB 26-2011, f. & cert. ef. 10-18-11; OMB 20-2013, f. & cert. ef. 7-12-13

847-080-0021

Competency Examination and Re-Entry to Practice

(1) The applicant who has not completed postgraduate training within the past 10 years or been certified or recertified with the ABPM or the ABPS within the past 10 years may be required to pass a competency examination in podiatry. The competency examination may be waived if the applicant can demonstrate ongoing participation in maintenance of certification with the ABPM or ABPS, or has completed at least 50 hours of Board-approved continuing education each year for the past three years.

(2) The applicant who has ceased practice for a period of 12 or more consecutive months immediately preceding an application for licensure or reactivation may be required to pass a competency examination in podiatry. The competency examination may be waived if the applicant can demonstrate ongoing participation in maintenance of certification with the ABPM or ABPS, or subsequent to ceasing practice, the applicant has:

(a) Passed the licensing examination administered by the NBPME, or

(b) Been certified or recertified by the ABPM or ABPS, or

(c) Completed a Board-approved one-year residency or clinical fellowship, or

(d) Obtained continuing medical education to the Board's satisfaction.

(3) The applicant who has ceased the practice of medicine for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the

amount of time out of practice, the applicant may be required to do one or more of the following:

(a) Pass the licensing examination;

(b) Practice for a specified period of time under a mentor/supervising podiatric physician who will provide periodic reports to the Board;

(c) Obtain certification or re-certification, or participate in maintenance of certification, with the ABPM or the ABPS;

(d) Complete a re-entry program as determined appropriate by the Board;

(e) Complete one year of an accredited postgraduate or clinical fellowship training, which must be pre-approved by the Board's Medical Director;

(f) Complete at least 50 hours of Board-approved continuing medical education each year for the past three years.

(4) Licensure shall not be granted until all requirements of OAR chapter 847, division 80, are completed satisfactorily.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.825 & 677.830

Hist.: OMB 20-2013, f. & cert. ef. 7-12-13; OMB 11-2014, f. & cert. ef. 4-9-14; OMB 13-2014, f. & cert. ef. 10-8-14

847-080-0022

Qualifications to Perform Ankle Surgery

Ankle surgery must be conducted in a certified hospital or in an ambulatory surgical center certified by the Health Division. To be eligible to perform ankle surgery in the state of Oregon, the licensed podiatrist shall meet the qualifications from one of the following sections prior to being approved by the Board to perform ankle surgery:

(1) Completion of a Council on Podiatric Medical Education (CPME) approved surgical residency; board certification by the American Board of Podiatric Surgery (ABPS) in Foot and Ankle Surgery; documented clinical experience as approved by the Board; and current clinical privileges to perform reconstructive/rearfoot ankle surgery in a Joint Commission approved hospital; or

(2) Completion of a CPME approved surgical residency; and board qualified by the ABPS in Reconstructive Rearfoot/Ankle Surgery progressing to board certification in Reconstructive Rearfoot/Ankle Surgery within seven years.

Stat. Auth.: ORS 677.245

Stats. Implemented: ORS 677.812

Hist.: BM 11-2000, f. & cert. ef. 7-27-00; BME 7-2003, f. & cert. ef. 1-27-03; OMB 20-2013, f. & cert. ef. 7-12-13

847-080-0028

License Application Withdrawals

(1) The Board will consider a request by an applicant to withdraw his/her application for licensure in the State of Oregon under the following circumstances:

(a) The applicant is eligible for licensure; and

(b) The file contains no evidence of violation of any provision of ORS 677.010–677.855.

(2) An applicant may request to withdraw his/her application for licensure in the State of Oregon, and the withdrawal will be reported to the Federation of Podiatric Medical Boards under the following circumstances:

(a) The applicant is eligible for licensure; and

(b) The file contains evidence that the applicant may have violated any provision of ORS 677.010–677.855, but the Board has decided that there is an insufficient basis to proceed to formal discipline, or a licensing body in another state has imposed formal discipline or entered into a consent agreement for the same conduct, and that action has been reported to the National Practitioner Data Bank.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190, 677.265 & 677.820

Hist.: OMB 20-2013, f. & cert. ef. 7-12-13

847-080-0030

Denial of License

No applicant is entitled to a podiatry license who:

(1) Has failed an examination for licensure in the State of Oregon;

(2) Has had a license revoked or suspended in this or any other state or country unless the said license has been restored or reinstated

and the applicant's license is in good standing in the state or country which had revoked the same;

(3) Has been refused a license or certificate in any other state or country on any grounds other than failure in a podiatric licensure examination;

(4) Has been guilty of conduct similar to that which would be prohibited by or to which ORS 677.190 would apply; or

(5) Has been guilty of cheating or subverting the podiatric licensing examination process. Podiatric licensing examination means any examination given by the Board, other states, or national testing organization, to an applicant for registration, certification or licensure under this act. Evidence of cheating or subverting includes, but is not limited to:

(a) Copying answers from another examinee or permitting one's answers to be copied by another examinee during the examination;

(b) Having in one's possession during the examination any books, notes, written or printed materials or data of any kind, other than examination materials distributed by Board staff, which could facilitate the applicant in completing the examination;

(c) Communicating with any other examinee during the administration of the examination;

(d) Removing from the examining room any examination materials;

(e) Photographing or otherwise reproducing examination materials.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190 & 677.265

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 11-1985, f. & ef. 8-6-85; ME 6-1986, f. & ef. 4-23-86; OMB 20-2013, f. & cert. ef. 7-12-13

847-080-0035

Approved Podiatry Colleges

Podiatry colleges approved by the Board are only those approved by the American Podiatric Medical Association Council on Podiatry Education.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.820

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 11-1985, f. & ef. 8-6-85