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CHAPTER 858
MENTAL HEALTH REGULATORY AGENCY
OREGON BOARD OF PSYCHOLOGY

FILING CAPTION: Oregon practice, foreign degree education, psychological records, investigations, communication and responsibility, alternative name, and cleanup.

EFFECTIVE DATE: 09/11/2023

AGENCY APPROVED DATE: 09/08/2023

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RULES:
858-010-0003, 858-010-0005, 858-010-0010, 858-010-0013, 858-010-0034, 858-010-0060, 858-010-0061, 858-010-0080, 858-020-0015, 858-020-0035, 858-020-0045, 858-020-0105

ADOPT: 858-010-0003

RULE TITLE: Psychology Practice in Oregon

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Defines when a person practices psychology or represents themselves as a psychologist in Oregon.

RULE TEXT:
A person practices psychology in Oregon if:
(1) The person renders or offers to render supervision, consultation, evaluation, or therapy services to an individual located in Oregon, or to a group or organization which includes an individual located in Oregon, regardless of whether the services are rendered, or offered to be rendered, in-person or by telephone, virtual means, or other remote communications technology; or
(2) The person represents to an individual located in Oregon that the person is a psychologist, regardless of whether that representation is targeted to the individual or made generally.

STATUTORY/OTHER AUTHORITY: ORS 675.110(19)

STATUTES/OTHER IMPLEMENTED: ORS 675.020(1)

AMEND: 858-010-0005

RULE TITLE: Board Duties and Procedure

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Removes board member communication provision that is contrary to public meetings law, and strict deadlines for agenda and meeting minute distribution. Other technical fixes.

RULE TEXT:

(1) Board Meetings. The Board shall meet as necessary at a time and place specified by the Board and at such other times and places as specified by the chair of the Board, a majority of members of the Board or by the Governor. The time and place of all meetings shall be posted on the Board's website.

(2) Board Members. Board members shall receive a per diem of $75 a day for board meetings, conference attendance, presentations and Board committee meetings when acting in their official capacity.

(3) Internal Organization. At the last meeting in each fiscal year, the first order of business shall be organizational matters, including election of Board chair and vice-chair and the assignment of standing responsibilities to Board members. The term of the chair, vice-chair or any standing assigned responsibility can be changed or terminated at any meeting where the proposal has been placed on the agenda and sent to the members one week in advance of the meeting, or by unanimous consent of the Board.

(4) Chair and Vice Chair Responsibilities:

(a) The chair is authorized to take emergency action between Board meetings. "Emergency action" means an action that is required on short notice to protect the public from harm, including temporary administrative rulemaking and orders of emergency suspension. All emergency actions of any kind shall be noted in the agenda for the next meeting for ratification by the Board.

(b) The vice-chair shall perform the duties of the chair when the chair is unable to do so.

(5) Board Communications. Only the Board chair shall write other than routine or form letters in the name of the Board unless members are specifically authorized in a Board meeting to do so. The Board should approve in advance any correspondence that may materially affect Board policies and procedures. When a delay might render the Board's functioning ineffective, the chair may be required to take immediate action that shall be reviewed at the next meeting of the Board.

(6) Board Files. All Board files shall be assembled in the Board's official office. The Board Executive Director shall maintain the Board's files under the direction of the chair. The Board Executive Director shall maintain a master record of any files that are checked out of the Board office by Board members. The Board Executive Director shall be notified whenever any Board file is transferred from the possession of one person to another, and shall so note in the Board's records. Individuals who have in their possession documents or files pertaining to Board affairs are responsible for their protection and privacy.

(7) Minutes and Agendas

(a) The minutes of a meeting shall ordinarily be distributed to all Board members at least one week in advance of the next meeting; and

(b) The agenda shall ordinarily be prepared by the Board chair or Board Executive Director and distributed to all Board members at least one week before each meeting. The agenda items shall include reports by the Board Executive Director, the chair and each Board member who has received a specific assignment at the previous meeting or has a report to make regarding standing assignments. If there is insufficient time to inform the Board chair, the Board Executive Director shall make additional scheduling at the direct request of Board members. The Board may at its discretion, revise the agenda or limit it to a particular topic under special circumstances. Reports may be added as an addendum to the minutes of any meeting.

(8) The Board adopts the Attorney General's Model Rules of Procedure, OAR Chapter 137, Divisions 1 through 5, as its rules of procedure under the Administrative Procedure Act.

STATUTORY/OTHER AUTHORITY: ORS 675.010 - 675.150, ORS 36.224, ORS 183.341, ORS 183.502

STATUTES/OTHER IMPLEMENTED: ORS 675.110, ORS 675.130, ORS 675.100

AMEND: 858-010-0010

RULE TITLE: Education Requirements — Psychologist

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Clarifies foreign degree program and evaluation requirement for psychologist licensure educational requirements. Removes requirement that program requirements must specifically be part of the doctoral degree, and allows requirements of the graduate program to be included.

RULE TEXT:

To meet the education requirement of ORS 675.030(1), applicants for licensure must possess a doctoral degree in psychology from an approved doctoral program in psychology, as set forth below:

(1) A program accredited by the American Psychological Association (APA) or the Canadian Psychological Association (CPA) as of the date the degree was conferred; or

(2) A program at an institution of higher learning that was accredited by a regional accrediting agency as of the date the degree was conferred, if the program submitted an application to the APA or CPA for accreditation prior to the date the degree was conferred and has been granted a site visit by the APA or CPA. The program must not have withdrawn its APA or CPA accreditation application or have been denied accreditation as of the date the licensure applicant enrolled in the program; or

(3) A foreign program where APA or CPA accreditation is not available. The applicant must have their program evaluated by a credentialing body recognized by the Board. Submission of foreign degree evaluation and cost of the foreign degree qualification determination are the responsibility of the applicant. The applicant must show that their graduate program in psychology meets all of the following requirements:

(a) A minimum of three academic years of full-time graduate study.

(b) A minimum of one continuous year in-residence at the institution from which the degree is granted.

(A) One continuous year means two consecutive semesters or three consecutive quarters.

(B) In-residence means physical presence, in person, at an educational institution or training facility in a manner that facilitates acculturation into the profession, the full participation and integration of the individual in the educational and training experience, and includes faculty and student interaction.

(C) The doctoral program may include distance education, but a minimum of one continuous year of the program shall be in-residence. Programs that use physical presence, including face-to-face contact for durations of less than one continuous year, (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution do not meet the in-residence requirement.

(c) The program, wherever it may be administratively housed, must be clearly identified and labeled as a program in psychology. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(d) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(e) There must be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(f) The program must be an integrated, organized sequence of study.

(g) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities and a psychologist responsible for the program.

(h) The program must have an identifiable body of students who are matriculated in that program for a degree.

(i) The program must include a coordinated, sequential and supervised practicum appropriate to the practice of psychology as described in OAR 858-010-0012.

(j) The program must include a coordinated, sequential and supervised internship, field or laboratory training appropriate to the practice of psychology as described in OAR 858-010-0013.

(k) The curriculum of the program must:

(A) Encompass a minimum of three academic years of full time graduate study, including a minimum of one continuous year in residence at the educational institution granting the doctoral degree;
(B) Require an original dissertation or equivalent that was psychological in nature that meets the requirement for an approved doctoral program; and
(C) Include at least 30 semester hours or 45 quarter hours of credit in graded (not "pass-no pass") courses.
(l) The core program shall include a minimum of three graduate semester hours or 4.5 or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of 15 hours of classroom instruction per semester hour) in each of the following substantive content areas:
(A) Scientific and professional ethics and standards;
(B) Research design and methodology;
(C) Statistics;
(D) Psychometric theory;
(E) Biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, physical ergonomics, or psychopharmacology;
(F) Cognitive-affective bases of behavior such as learning, thinking, motivation, emotion, memory, cognitive information processing, or social cognition;
(G) Social bases of behavior such as social psychology, group processes, organizational and systems theory; and
(H) Individual differences in behavior such as personality theory, human development, personnel psychology or abnormal psychology.
(m) All professional education programs in psychology must include course requirements in developed practice areas/specialties.
(n) The program must demonstrate that it provides training relevant to the development of competence to practice in a diverse and multicultural society.
(o) Demonstration of competence in clinical psychology shall be met by a minimum of 18 graduate semester hours or 27 graduate quarter hours in the following areas: personality and intellectual assessment, diagnosis, therapeutic intervention, and evaluating the efficacy of intervention.
(p) If the program does not meet the core and/or clinical coursework requirements of (l) and (o), the applicant for licensure may remedy a deficiency of up to 6 semester hours or 9 quarter hours by completing graduate level coursework in the deficient content area(s) at a regionally accredited institution.
(4) Applicants must provide syllabi or other documentation regarding course content upon the Board's request.

STATUTORY/OTHER AUTHORITY: ORS 675.030, ORS 675.110

STATUTES/OTHER IMPLEMENTED: ORS 675.030(1)(b)(c)

AMEND: 858-010-0013

RULE TITLE: Internship

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Removes obsolete reference to a repealed rule.

RULE TEXT:

(1) Applicants must successfully complete an organized internship as part of the degree program required in OAR 858-010-0010.

(2) The internship must include at least 1,500 hours of supervised experience and be completed within twenty-four months.

(3) The internship program must meet the following requirements:

(a) The internship must have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of student work, and made available to prospective interns.

(b) A psychologist licensed by the appropriate state or provincial licensing authority must be clearly designated as responsible for the integrity and quality of the internship program.

(c) Interns must use titles indicating their training status.

(d) The internship must be designed to provide a planned sequence of training experiences focusing on breadth and quality of training. Supervision and training related to ethics must be ongoing.

(e) At least twenty-five percent of the internship experience must be in direct client contact providing assessment and intervention services.

(f) For every 40 hours of internship experience, the student must receive:

(A) At least 2 hours of regularly scheduled, formal, one-on-one individual supervision that addresses the direct psychological services provided by the intern; and

(B) At least 2 hours of other learning activities such as case conferences, seminars on applied issues, conducting co-therapy with a staff person including discussion of the case, and group supervision.

(4) Supervision of the internship experience.

(a) The internship setting must have two or more psychologists available as supervisors, at least one of whom is licensed as a psychologist.

(b) The internship experience must be supervised by the person(s) responsible for the assigned casework.

(c) At least seventy-five percent of the supervision must be by a licensed psychologist with two years post-license experience.

STATUTORY/OTHER AUTHORITY: ORS 675.010 - 675.150

STATUTES/OTHER IMPLEMENTED: ORS 675.030, 675.110

AMEND: 858-010-0034

RULE TITLE: Criminal Records Checks and Fitness Determinations

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Updates statutory citation following renumbering resulting from Senate Bill 40 (2017).

RULE TEXT:

(1) The purpose of this rule is to provide for the reasonable screening of licensees and applicants for licensure to determine if they have a history of criminal behavior and are not fit to hold a license that is issued by the Board.

(2) The following persons ("subject individuals") must take the steps necessary to complete a nationwide criminal records check under ORS 181A.195:

(a) All applicants for licensure; and

(b) Licensees under investigation by the Board, when the Board has a rational reason to determine if the licensee has a history of criminal behavior.

(3) To complete a criminal records check, each subject individual must:

(a) Respond completely and truthfully to all of the Board's character and fitness questions;

(b) Provide fingerprints pursuant to ORS 181A.170 (additional fingerprints may be required if the initial fingerprints are rejected);

(c) Provide personal information necessary to obtain the criminal records check pursuant to OAR 125-007-0220; and

(d) Pay to the Board the actual cost of acquiring and furnishing the criminal offender information.

(4) Any original fingerprint cards will subsequently be destroyed in accordance with ORS 181A.195.

(5) The Board will make a final fitness determination based on criminal offender information and any other pertinent information obtained by the Board, including any false statements or omissions made by the subject individual, and other factors pursuant to ORS 181A.195(10)(c) and OAR 125-007-0260 to 125-007-0270. The Board may make a fitness determination conditional upon the subject individual's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(6) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the Board will deny the licensure application or revoke the license.

(7) Criminal offender information is confidential and will not be disseminated by the Board except to persons with a demonstrated and legitimate need to know the information, including:

(a) The Board will permit the subject individual to inspect their own state and national criminal offender records and, if requested, provide the subject individual with a copy of their own state and national criminal offender records.

(b) Criminal records information may be used as exhibits during a contested case hearing process.

(8) A subject individual may appeal an adverse final fitness determination pursuant to OAR 125-007-0300. Challenges to the accuracy or completeness of criminal records information must be made to the reporting agency and not to the Board or through the contested case process.

(9) If the subject individual successfully contests the accuracy or completeness of criminal records information, the Board will conduct a new criminal records check and re-evaluate the fitness determination.

STATUTORY/OTHER AUTHORITY: ORS 181A.195, 676.303, 675.070

STATUTES/OTHER IMPLEMENTED: ORS 181A.170, 181A.195, 181A.215, 670.280, 676.303, 675.070

AMEND: 858-010-0060

RULE TITLE: Psychological Records

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Clarifies failure to comply provision of psychological records rule.

RULE TEXT:

(1) Maintenance and retention of records. The psychologist or psychologist associate, or person granted a limited permit or temporary practice authorization, who is rendering professional services to an individual client or services billed to a third party payer, shall maintain professional records for a client for a minimum of seven years from the date of last service. The records shall include:

(a) The name of the client and other identifying information;

(b) The presenting problem(s) or purpose or diagnosis;

(c) The fee arrangement;

(d) The date and substance of each billed or service-count contact or service;

(e) Any test results or other evaluative results obtained and any basic test data from which they were derived;

(f) Notation and results of formal consults with other providers;

(g) A copy of all test or other evaluative reports prepared as part of the professional relationship;

(h) Any releases executed by the client;

(i) Any signed informed consents.

(2) Disposition in case of death or incapacity of the licensee. Psychologists and psychologist associates shall make necessary arrangements for maintenance of and access to client records to ensure confidentiality in case of death or incapacity of the licensee.

(3) Oregon licensees shall name a qualified person to intercede for client welfare and to make necessary referrals, when appropriate, and shall keep the Board notified of the name of the qualified person. The Board shall not release the name of the qualified person except in the case of the death or incapacity of the licensee or if the licensee is inactive or has resigned and the former client is unable to locate the licensee.

(4) A "qualified person" under this rule means an active or semi-active Oregon licensed psychologist.

(5) Failure to comply with any provision of this rule, or misrepresentation of compliance, constitutes unprofessional conduct per ORS 675.070(2)(d) and (h) and is grounds for disciplinary action.

STATUTORY/OTHER AUTHORITY: ORS 675.030, 675.040, 675.045, 675.050, 675.065, 675.110

STATUTES/OTHER IMPLEMENTED: ORS 675.030, 675.040, 675.045, 675.050, 675.065, 675.110

AMEND: 858-010-0061

RULE TITLE: Notification Requirements

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Adds requirement to provide nickname or alternative personal name to the Board. Makes amendments to provide information consistent with new online licensing system.

RULE TEXT:

Licensees and persons granted a limited permit or temporary practice authorization shall:

(1) Provide current contact information to the Board, including:

(a) Public and mailing address;

(b) Telephone number;

(c) Electronic mail address; and

(d) Any nickname or alternative personal name used by the individual.

(2) Inform the Board of any changes to contact information within 30 days of the change in a form and manner prescribed by the Board.

(3) Submit a change of name in a form and manner prescribed by the Board, accompanied by a copy of the legal document showing the name change, within 30 days of any name change.

STATUTORY/OTHER AUTHORITY: ORS 675.110

STATUTES/OTHER IMPLEMENTED: ORS 675.110

REPEAL: 858-010-0080

RULE TITLE: Repeal of Prior Rules

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Removes obsolete rule provision repealing other rules from 1974.

RULE TEXT:

Upon the effective date of adoption of these rules, the prior existing rules of the Board as contained in OAR 858-010-0005 to 858-010-0075 shall be repealed.

STATUTORY/OTHER AUTHORITY: ORS 675.010 - 675.150

STATUTES/OTHER IMPLEMENTED: ORS 675.010 - 675.150

AMEND: 858-020-0015

RULE TITLE: Management of Complaints

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Makes technical correction to Executive Director title, in conformance with other rule sections.

RULE TEXT:

(1) Consumer Protection Committee. The Board chair may appoint a Consumer Protection Committee comprised of one public member and two professional members. The Consumer Protection Committee shall:

(a) Provide direction and consultation to the Board's investigator and the Board's Executive Director or designee; and

(b) Make recommendations to the Board when necessary.

(2) Any Board member or Board staff member who has a conflict of interest with respect to any complaint shall declare the conflict and shall not participate in the investigation, disposition, or any other activity concerning the complaint.

STATUTORY/OTHER AUTHORITY: ORS 675.020, 675.110

STATUTES/OTHER IMPLEMENTED: ORS 675.110(8)

AMEND: 858-020-0035

RULE TITLE: Form of Complaints

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Removes unnecessary requirements that complaints received must always include written statements, documentation, and submission of a signed complaint form, and that the Board provide complainants a copy of ORS 676.160. Clarifies that Board may initiate investigations.

RULE TEXT:

(1) If the complaint is first made in verbal form, is tentative, or undocumented, the Board may require a statement in writing, accompanied by documentation and/or submission of a complaint form. The Board will advise a complainant about the nature and form of documentation required.

(2) The Board may initiate an investigation on its own action.

(3) If the complainant is a client or former client of the respondent, the complainant must sign a waiver of confidentiality allowing the Board and its legal counsel access to records and other materials that are the ethical and legal responsibility of the respondent. Refusal by a complainant to comply with this requirement may result in dismissal of the complaint.

(4) If a Board member becomes a complainant or a respondent, the same procedures will apply as in any other case. The Board member will abstain from any participation in discussion and deliberations of the Board regarding the complaint.

STATUTORY/OTHER AUTHORITY: ORS 675.020, 675.110

STATUTES/OTHER IMPLEMENTED: ORS 675.110

AMEND: 858-020-0045

RULE TITLE: Notice and Investigation Process

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Expands provisions for failure to cooperate with a Board investigation and sets forth prohibitions including witness harassment and intimidation, retaliation, and deception. Other language clarifications.

RULE TEXT:

(1) Notice to Respondent. The Board's Executive Director or designee shall notify the respondent by letter when a complaint is filed, or an investigation has been initiated, into respondent's conduct or practice. The notice letter shall provide respondent with a citation to the laws and regulations that apply to the investigation. The notice letter shall also set out the general allegations to be investigated. The investigator may modify the scope of the investigation as needed.

(2) Notice to Supervisors. When a complaint is filed against an individual acting under the supervision of a licensed psychologist, the supervising psychologist(s) shall be notified that any investigation into the conduct of the supervisee may affect the licensure of the supervisor(s). The Board may open a companion investigation naming the supervisor(s).

(3) Purpose of Investigation. The purpose of the investigation shall be to determine whether sufficient credible evidence exists of violation of rules or laws administered by the Board to justify issuance of a Notice of Intent to Impose sanctions against a respondent or such other action as the circumstances may warrant.

(4) Scope of Investigation. The investigator shall seek guidance as appropriate and necessary from individual Board members, the full Board, agency legal counsel, and the Board's Executive Director. If the Board decides to operate with a Consumer Protection Committee structure, that committee shall serve as the primary source of guidance for the investigator.

(5) Cooperation. Failure by respondent to cooperate with a board investigation constitutes unprofessional conduct per ORS 675.070(2), and is grounds for disciplinary action.

(a) Cooperation by respondent includes:

(A) Submitting client records to the Board's investigator, with or without a signed release by the client, for a full investigation of the allegations presented in the notice letter;

(B) Sending a complete case file to the Board's investigator;

(C) Being available for a personal interview with the Board's investigator; and

(D) Responding truthfully and accurately to all questions presented by the Board's investigator.

(b) To cooperate with an investigation, respondents may not:

(A) Use threats or harassment to delay or obstruct any person in providing evidence in any investigation, contested case, or other legal action instituted by the Board;

(B) Use threats or harassment to obstruct or delay the Board in carrying out its regulatory functions;

(C) Deceive or attempt to deceive the Board with respect to any matter under investigation including altering or destroying any records;

(D) Attempt to influence the testimony or participation in an investigation of any person believed to be a complainant or witness in a Board investigation, or to permit or encourage another person to do so; or

(E) Engage in retaliation against another person for their participation in a Board investigation or provision of information to the Board.

(6) Duty of the Investigator. The investigator shall collect evidence, interview witnesses and make a written report to the Board.

(7) The Board may delay approving a licensure application, renewing a license, or issuing an initial license, limited permit, or temporary practice authorization if the person has a complaint under investigation until the complaint has been resolved.

(8) Licensees, applicants, and persons granted a limited permit or temporary practice authorization must comply with the terms of all Board orders and agreements.

(a) Failure to comply with one or more terms of a Board order or agreement constitutes a violation of ORS 675.070(2)(h)

and is grounds for disciplinary action.

(b) The Board will not approve any license renewal or request to reactivate a license from inactive status to active or semi-active status if the licensee is not in compliance with one or more terms of any Board order or agreement.

STATUTORY/OTHER AUTHORITY: ORS 675.020, ORS 675.110, ORS 675.070

STATUTES/OTHER IMPLEMENTED: ORS 675.110

AMEND: 858-020-0105

RULE TITLE: Board's Responsibility to the Public

NOTICE FILED DATE: 07/24/2023

RULE SUMMARY: Clarifies the Board's responsibility to the public, which does not include the provision of advisory opinions or legal advice.

RULE TEXT:

The Board may inform the public and the profession as to the ethics and nature of psychological activities, including the licensure law, what may constitute violations of the law, and how inquiry about possible violations or complaints may appropriately be made. The Board will refrain from any statement or action which might be construed as an official opinion or legal advice.

STATUTORY/OTHER AUTHORITY: ORS 675.110

STATUTES/OTHER IMPLEMENTED: ORS 675.110