

**CURRENT STATUTES AND RULES AUTHORIZING OBMI  
TO CONDUCT FINGERPRINT BACKGROUND CHECKS**

**OREGON REVISED STATUTES**

**688.557 Authority of board to require fingerprints.** For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Board of Medical Imaging may require the fingerprints of a person who:

- (1) Is applying for a license, or renewal of a license, under ORS 688.445 and 688.455;
- (2)(a) Is employed or applying for employment by the board or provides services or seeks to provide services to the board as a contractor, vendor or volunteer; and
- (b) Is, or will be, working or providing services in a position in which the person has or will have access to information that is confidential under state or federal laws, rules or regulations; or (3) Is under investigation by the board pursuant to ORS 688.525.

**688.560 Fees; rules.** The Board of Medical Imaging by rule shall establish and collect reasonable fees for:

- (1) Oversight of limited X-ray machine operator permit examinations.
- (2) Special interpretation of examination results.
- (3) Duplication of permits, licenses and wall certificates.
- (4) Reproduction of records.
- (5) Application processing, licensing and permitting.
- (6) Inspections of limited X-ray machine operator schools.

**OREGON ADMINISTRATIVE RULES**

**337-010-0023**

**Determination of Fitness; State and Nationwide Criminal Background Checks**

(1) The purpose of this rule is to provide for the reasonable screening of: applicants for licensure; board members, employees, contract vendors and individuals subject to investigation by the Board, in order to determine if they have a history of criminal behavior such that they are not fit to be granted or retain a license issued by the Board.

(2) "Subject individual" means a person from whom the Board may require fingerprints for the purpose of enabling the Board to request a state or nationwide criminal records check. In this rule, subject individual means: applicants for licensure or renewal of a license; board members, employees, contract vendors and individuals subject to an investigation by the Board.

(3) This rule is to be applied when evaluating the criminal history of a subject individual and conducting fitness determinations based upon such history. The fact that a subject individual does not have an adverse criminal history does not guarantee the granting or renewal of a license.

(4) The Board may request that the Department of State Police conduct a state criminal history check **and a national criminal history check, using fingerprint identification** of subject individuals. The Board may conduct state criminal records checks on subject individuals and any licensee through the Law Enforcement Data System

maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police. Criminal history information obtained from the Law Enforcement Data System must be handled in accordance with ORS Chapter 181, OAR 257-010 to 257-015 and applicable Oregon State Police procedures.

(5) Additional Information Required. In order to conduct a state and national criminal history check and fitness determination, the Board may require additional information from the subject individual as necessary. Additional information may include but is not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial, or other background information.

(6) In making the fitness determination, the Board may consider:

(a) The nature of any record that may include but is not limited to any record of arrest or conviction for:

(A) Any drug or alcohol offence;

(B) Any felony;

(C) Any offence involving fraud, theft, identity theft or other instance of dishonesty;

(D) Any offence involving violation of federal importation or customs laws or rules;

(E) Any offence requiring registration as a sex offender.

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

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's 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 subject individual at the time of the crime;

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

(D) The subsequent commission of another relevant crime;

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

(F) A recommendation of an employer.

(e) Any false statement made by the individual regarding the criminal history of the individual;

(f) Any refusal to submit or consent to a criminal record check including a refusal to provide fingerprint identification;

(g) Any other pertinent information obtained as part of an investigation.

(7) If a subject individual is determined to be unfit, then the individual may not be granted a license or a renewal of a license or registration. The Board may make a fitness determination conditional upon applicant's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

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

(9) Criminal offender information is confidential. Dissemination of information received under this rule may only be made to people with a demonstrated and legitimate need to know the information. When the information is part of the investigation of an applicant or licensee, it is confidential pursuant to ORS 676.175. Any fingerprint cards used to conduct a check shall be destroyed by either the Federal Bureau of Investigation or the Department of State Police as specified in ORS 181.534.

(10) The Board will permit the subject 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.

(11) If an applicant, licensee or permittee is determined not to be fit for a license, they are entitled to a contested case hearing pursuant to ORS 183.413 to 470 and in accordance with OAR 855-001-0005 to 0017.

(12) A challenge to the accuracy or completeness of information provided by the Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process.

(13) Request for re-evaluation following correction. If the subject individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation or other agency reporting information to the Board, the Board will conduct a new criminal history check and re-evaluate the criminal history upon submission of a new criminal history request form.

(14) If the subject individual discontinues the application or fails to cooperate with the criminal history check process then the application is considered incomplete.

(15) Subject individuals will be required to pay the actual costs charged by the Department of State Police for the state and national criminal background check.