Date: March 31, 2020

To: Executive Committee of the Board on Public Safety Standards and Training

From: Jennifer Howald
Administrative Rules Coordinator

Subject: Temporary Rules Relating to Certification and Licensure Requirements Impacting by the COVID-19 (Coronavirus) State of Emergency

ISSUE:

The Board is responsible for establishing the minimum standards for training and certification or licensure of criminal justice public safety professionals, fire service professionals, private security providers, private investigators and polygraph examiners. The minimum standards established by the Board include basic training that is necessary to obtain certification or licensure, training that is necessary to maintain certifications and licenses once issued, and criminal history and moral fitness standards that disqualify individuals from certification and licensure. All of these standards exist to build public trust and maintain the professionalism of each occupation.

The COVID-19 (Coronavirus) Emergency has impacted the ability for the Board’s constituents to obtain basic and continuing education training. In some cases the emergency response orders have impacted access to fingerprinting services. The training and fingerprinting requirements are integral to the certification and licensure standards for each of the disciplines under the Board’s regulation.

The following administrative rules have been identified as processes that need to be temporarily adjusted to assist our constituents with compliance of the both the Board’s minimum standards and the state and federal emergency orders in effect during this unprecedented time. These temporary provisions focus on recognizing the current obstacles to accessing training but in no way remove or eliminate the completion of any minimum standards. All certifications, licenses and temporary work permits remain subject to denial, suspension, revocation and termination for a failure to meet, or a violation of, the Board’s standards.

DRAFT TEMPORARY RULES:
OAR Chapter 259 Division 8 - Criminal Justice Public Safety Professionals

All certified public safety professionals are required to complete certification maintenance training pursuant to OAR 259-008-0064 (Maintenance of Certification for Telecommunicators and Emergency Medical Dispatchers) and OAR 259-008-0065 (Maintenance of Law Enforcement Officer Certification). Certifications are subject to suspension when the public safety professional fails to meet the maintenance requirements. Maintenance requirements generally include maintaining First Aid and CPR certifications, annual Ethics training, annual Firearms/Use of Force training, Leadership training and other general minimum hours to be completed either on an annual basis or on a three-year cycle. If a certification is suspended, the public safety professional is prohibited from performing the duties of their certified position.

The Department recommends adopting the following temporary rule language to defer the Department’s requirement to suspend certifications until additional time has elapsed to provide opportunity to satisfy the maintenance training requirements. Over the course of the temporary rule, the Board and the Department will be able to work with constituents and the Policy Committees to determine if any longer term adjustments for the maintenance requirements will be necessary.

OAR 259-008-0064 and OAR 259-008-0065

(14) Due to local, state and federal temporary emergency response requirements of the COVID-19 (Coronavirus) Emergency, the Department will not suspend public safety professional certifications that cannot be maintained in accordance with this rule for any maintenance requirements due during the calendar year of January 1, 2020 through December 31, 2020.

OAR Chapter 259 Division 9 – Fire Service Professionals

All certified fire service professionals are required to successfully perform the essential functions for each certification they hold in order to maintain the certification. Certification maintenance must be demonstrated annually and reported to the Department as completed by December 31 every even numbered year. Any certification that is not verified by the fire service agency will lapse after the certification expiration date.

The Department recommends adopting the following temporary rule language to allow for a time extension to complete the maintenance recertification process for the
certifications that were unable to be maintained in accordance with the rule. Over the course of the temporary rule, the Board and the Department will be able to work with constituents and the Fire Policy Committee to determine if any longer term adjustments for the maintenance requirements will be necessary.

OAR 259-009-0065 Maintenance

(8) Fire service professional certifications that cannot be maintained in accordance with this rule by December 31, 2020, due to the fire service agency’s and the fire service professional’s compliance with local, state or federal temporary emergency response requirements of the COVID-19 (Coronavirus) Emergency will not lapse if the fire service agency submits a written request for a time extension.

The Department provides accreditation for fire service agency training programs that meet the requirements established by rule. These accreditation programs are reviewed for renewal in person by Department staff, a designee or a District Liaison Officer (DLO) every three years.

The Department recommends adopting the following temporary rule language to allow for extensions to accreditation agreements that would need to be renewed during the 2020 calendar year.

259-009-0087 Accreditation of Fire Service Agency Training Programs

(7) If an accreditation agreement cannot be reviewed for renewal in accordance with this rule due to local, state or federal temporary emergency response requirements of the COVID-19 (Coronavirus) Emergency, the Department may approve an extension for an accreditation agreement if the fire service agency or the District Liaison Officer submits a written request for an extension.

➢ OAR Chapter 259 Division 61 – Private Investigators

Private investigators are licensed for a two-year period. Statute requires that a licensed private investigator complete 32 hours of continuing education and a licensed provisional investigator complete 40 hours of continuing education to be eligible to renew the license. By rule, the continuing education hours must include a minimum of two hours relating to ethics. Rule also identifies continuing education sources (conferences, webinars, presentations, mentoring, meetings, college coursework, etc.) and limits the
number of hours that can be used for self-study based sources such as books, pre-
recorded media and authorship of publications.

The Department recommends adopting temporary rule language that will allow
exceptions to the hour limits for continuing education sources to increase the flexibility in
satisfying the statutory and rule continuing education requirements.

259-061-0240 Continuing Education Requirements

(5) Due to local, state and federal temporary emergency response requirements of
the COVID-19 (Coronavirus) Emergency, the Department may approve exceptions
to the hour limits prescribed to each source of continuing education identified in
section (4) of this rule. The Department will not approve exceptions for the
requirement found in sections (1) and (2) of this rule to complete of a minimum of
two hours of continuing education specific to ethics.

▶ OAR Chapter 259 Division 60 – Private Security Providers

The private security certification and licensure program utilizes a temporary work permit
to allow private security providers to perform private security services while their
application for certification or licensure is being processed. In order for the temporary
work permit to be valid, the applicant must have completed all application requirements
including completion of training and submission of fingerprints. Access to training and
fingerprinting services has been significantly impacted during the coronavirus state of
emergency.

The Department recommends adopting temporary rule language that will allow a licensed
executive or supervisory manager who is employing the private security professional to
issue a special temporary work permit that will allow the private security professional to
perform private security services while training and fingerprint requirements are being
completed.

259-060-0030 Temporary Assignments


(a) Due to local, state and federal temporary emergency response requirements of
the COVID-19 (Coronavirus) Emergency, a licensed manager may issue a
temporary work permit (Form COVID PS-20) to an employee who has submitted an
application (Form PS-1 or Form PS-21) and the fees for issuance or renewal of certification as an alarm monitor, unarmed or event and entertainment private security professional or licensure as an executive or supervisory manager.

(A) The Form COVID PS-20 will allow the alarm monitor professional, unarmed professional, event and entertainment professional or manager to perform private security services in accordance with their certification or license classification while waiting to complete training or fingerprinting requirements that have been delayed by the COVID-19 (Coronavirus) Emergency.

(B) This includes the manager’s ability to self-issue a temporary work permit.

(b) Due to local, state and federal temporary emergency response requirements of the COVID-19 (Coronavirus) Emergency, a licensed manager may issue a temporary work permit (Form COVID PS-20) to a certified armed private security professional under the following conditions:

(A) The armed professional has submitted an application for renewal (Form PS-21) and the fees to renew their armed professional certification;

(B) The armed professional has completed the annual firearms qualifications and training requirements for renewal as required under OAR 259-060-0120 (5); and

(C) The armed professional has not been able to complete the biennial unarmed renewal course due to local, state or federal temporary emergency response requirements of the COVID-19 (Coronavirus) Emergency.

(D) The Form COVID PS-20 will allow the armed professional to perform private security services in accordance with their certification classification while waiting to complete the biennial unarmed renewal course that has been delayed by the COVID-19 (Coronavirus) Emergency.

(c) Section (3) of this rule also applies to temporary work permits issued using the Form COVID PS-20.

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Certified armed private security professionals and private security firearms instructors are required to complete annual firearms qualifications and refresher training. A failure to complete this requirement by the due date will result in the emergency suspension of the armed professional or firearms instructor certification. The Department recommends adopting temporary rule language that will allow the Department to approve a time extension (up to, but not exceeding, 90 days) for the annual firearms requirements.

259-060-0120 Private Security Professional Requirements for Certification

(5) Armed Private Security Professional.

(b) Certified armed private security professionals must complete the firearms marksmanship qualification and armed refresher course annually.

(A) The due date for this qualification and training requirement is determined by the Department by using the last day of the month one year from the date of the last successfully completed basic firearms course accepted by the Department or the last successfully completed firearms marksmanship qualification and armed refresher course accepted by the Department.

(B) This qualification and training requirement must be successfully completed, submitted to the Department on a Form PS-6 and accepted by the Department by the due date. Due to local, state and federal temporary emergency response requirements of the COVID-19 (Coronavirus) Emergency, the Department may grant a time extension for this annual requirement. Requests for a time extension must be submitted in writing on or before the due date. Approved time extensions for this annual requirement will not exceed 90 days.

(C) Failure to meet this qualification and training requirement subjects the private security professional’s armed private security certification to emergency suspension under OAR 259-060-0300.

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259-060-0135 Private Security Instructor Requirements for Certification

(4) Private Security Firearms Instructor.

(b) Certified private security firearms instructors must complete the firearms instructor marksmanship qualification annually. Instructors must qualify on a target authorized by the Department, within three attempts in one day.

(A) The due date for this qualification requirement is determined by the Department by using the last day of the month one year from the date of the last successfully completed
private security instructor firearms course accepted by the Department or the last successfully completed annual firearms instructor marksmanship qualification accepted by the Department.

(B) This qualification requirement must be successfully completed, submitted to the Department through a Department approved submission process and accepted by the Department by the due date. Due to local, state and federal temporary emergency response requirements of the COVID-19 (Coronavirus) Emergency, the Department may grant a time extension for this annual requirement. Requests for a time extension must be submitted in writing on or before the due date. Approved time extensions for this annual requirement will not exceed 90 days.

(C) Failure to meet this qualification requirement subjects the private security instructor’s private security firearms instructor certification to emergency suspension under OAR 259-060-0300.

DEPARTMENT RECOMMENDATION:

The Department recommends that the Executive Committee approve filing the temporary rule changes outlined above to provide immediate direction to constituents regarding training, certification and licensure requirements that are significantly impacted by the coronavirus state of emergency.

If filed effective April 1, 2020, these temporary rules would be effective for up to 180 days, expiring on September 28, 2020.

During the temporary rule period, the Department would continue to work with the Board, Policy Committees and constituents to identify any additional issues as well as longer term needs that could be addressed through additional temporary or permanent rulemaking actions.

ACTION ITEM:

Review and affirm the Department’s recommendation.