

OFFICE OF THE SECRETARY OF STATE

TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 833
MENTAL HEALTH REGULATORY AGENCY
OREGON BOARD OF LICENSED PROFESSIONAL COUNSELORS AND THERAPISTS

FILED

04/08/2025 4:53 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Implements Senate Bill 1552, petition for predetermination based on criminal conviction, fee, and definitions.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/21/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

CONTACT: LaRee Stashek
503-373-1196
laree.stashek@mhra.oregon.gov

3218 Pringle Road SE, Ste. 120
Salem, OR 97302

Filed By:
LaRee Stashek
Rules Coordinator

NEED FOR THE RULE(S)

The Board needs to implement Senate Bill 1552 (2024), which at Section 44 creates ORS 670.280(4) and becomes operative on July 1, 2025. It requires the Board, upon request by a petitioner, to make a determination as to whether a criminal conviction will prevent the petitioner from receiving a license. The Board also determined that updates were needed to the definitions for clarity, consistency, and transparency.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR Chapter 833 and ORS Chapter 675 are available on the OBLPCT website at <https://www.oregon.gov/OBLPCT/Pages/LawsRules.aspx>. Senate Bill 1552 is available on the Oregon State Legislature website at <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/SB1552>.

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

This rule amendment is expected to have a positive effect on racial equity in the state because it allows a petitioner to learn whether their criminal conviction will prevent them from obtaining a license before they expend time and resources on an educational program. Updating the definitions ensures that the Board's rules are clear and easier for everyone to understand. This reduces the likelihood of misinterpretation or exclusion due to vague or outdated terminology.

FISCAL AND ECONOMIC IMPACT:

Petitioners for predetermination will pay a \$125 fee.

COST OF COMPLIANCE:

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

None. Businesses are not subject to this rule. The Board will costs required to implement these changes within its current staffing levels and budgeted resources.

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

Small businesses were not explicitly involved.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed rule amendments/adoption were openly discussed during the April 4, 2025 public session board meeting where members of the public were invited to address the Board during a public forum. The changes are largely based on a legislative directive. The Board did not determine that an additional committee beyond the nine-member Board and its staff was necessary to develop the rules.

RULES PROPOSED:

833-010-0001, 833-020-0300, 833-070-0011

AMEND: 833-010-0001

RULE SUMMARY: Removes unused terms and adds new and clarifying definitions, including "petitioner" for licensure predetermination based on criminal history. Updates the definition of regionally accredited institution (accrediting agency) to conform with a July 2020 change to federal rule that removed the distinction of "regional" versus "recognized" accrediting agencies.

CHANGES TO RULE:

833-010-0001

Definitions ¶¶

The definitions of terms used in ORS 675.705 to 675.835 and these administrative rules of the Board are:¶¶

(1) "AAMFT" means the American Association for Marriage and Family Therapy.¶¶

(2) "Accredited program" means the graduate program is fully accredited by COAMFTE, CACREP, or CORE.¶¶

(3) "Applicant" means a person who submits to the Board a complete application for licensure with the appropriate fees.¶¶

(4) "Associate registration plan" means a written description of post-graduate supervised work experience activities an applicant must complete to qualify for a license as a professional counselor or marriage and family therapist.¶¶

(45) "Board" means the Oregon Board of Licensed Professional Counselors and Therapists.¶¶

(56) "Board approved program" means a graduate program that the Board had found to be comparable to an accredited program.¶¶

(67) "CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.¶¶

(78) "CRCC" means the Commission on Rehabilitation Counselor Certification.¶¶

(89) "Client record" means any information maintained in a written or electronic form about a client.¶¶

(910) "Clinical experience" means the professional practice of applying principles and methods to provide assessment, diagnosis, and treatment of individuals and families with mental health disorders.¶¶

(101) "Clock hour" means a full 60-minute duration of time. Clock hours should be rounded down to the nearest tenth for purposes of reporting to the Board.¶¶

(12) "COAMFTE" means the Commission on Accreditation of Marriage and Family Therapy Education.¶¶

(143) "CORE" means the Council on Rehabilitation Education.¶¶

(124) "Direct client contact hours" means only those clinical experience hours that are therapeutic or a combination of assessment and subsequent therapeutic interactions.¶¶

(135) "Distance learning" means coursework, or training that does not involve attending a presentation or program in the presence of the instructor or facilitator and other courses through electronic communication.¶

(146) "Distance Services" means any use of technology that replaces face to face delivery of counseling or therapy service. Such technologies include, but are not limited to, use of computer hardware and software, telephones, the internet, online assessment instruments and other communication devices.¶

(157) "Electronic communication" means communication through use of videoconference, telephone, teleconference, internet, electronic mail, chat-based, or video-based.¶

(168) "Equivalent" means comparable in content and quality, but not identical.¶

(179) "Hour Equivalents" means that when requirements for licensure are given in quarter hours, the following formula will be used to determine equivalent hours:¶

(a) Two semester hours is equal to three quarter hours;¶

(b) One semester is equal to 1.5 quarters;¶

(c) One quarter credit hour equals 10 clock hours;¶

(d) One semester credit hour equals 15 clock hours.¶

(1820) "LMFT" means licensed marriage and family therapist.¶

(219) "LPC" means licensed professional counselor.¶

(202) "NBCC" means the National Board for Certified Counselors.¶

(213) "Official transcript" means a document certified by an accredited college or university indicating degree earned, hours and types of coursework, examinations and scores, completed by the student; and submitted by the school to the Board.¶

(224) "Petitioner" means a person who submits to the Board a complete petition for licensure predetermination with the appropriate fee.¶

(25) "Practicing" means engaging in any of the activities listed in the definitions of marriage and family therapy and professional counseling set forth in ORS 675.705, including but not limited to providing clinical supervision to another mental health professional who is providing counseling or therapeutic services to clients.¶

(236) "Receipt" means the date received by the Board office as shown by US Postal Service postmark, or date received stamp if document was not mailed or without postmark.¶

(24) "Regional accrediting agency" means one of the regionally accredited institutions means an educational institution that is accredited by one of the following six institutional accreditation bodies (regional) accrediting agencies recognized by the United States Secretary of Education and established to accredit senior institutions of higher education:¶

(a) Middle States Commission on Higher Education (MSCHE);¶

(b) New England Commission of Higher Education (NECHE);¶

(c) Higher Learning Commission (HLC);¶

(d) Northwest Commission on Colleges and Universities (NWCCU);¶

(e) Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); and¶

(f) WASC Senior College and University Commission (WSCUC).¶

(257) "Registered associate" (formerly "registered intern") means an applicant for licensure who has met the educational requirement for licensure, and is in the process of obtaining the required supervised work experience under a registration plan approved by the Board.¶

(268) "Supervision" means a professional relationship between a qualified supervisor and an intern, registered associate, counselor, or therapist during which the supervisor provides guidance and professional skill development and oversight to the intern, registered associate counselor or therapist.

Statutory/Other Authority: ORS 675.715, ORS 675.785, ORS 670.280(4)

Statutes/Other Implemented: ORS 675.785, ORS 670.280(4)

RULE SUMMARY: Establishes procedures for filing of petition for licensure predetermination based on criminal conviction. Sets forth filing requirements, expiration, disclosure requirements, review process, reconsideration, and other provisions.

CHANGES TO RULE:

833-020-0300

Criminal Conviction Predeterminations

(1) Prior to beginning an educational program for a license issued by the Board, a person who was convicted of a crime may petition the Board for a predetermination as to whether a criminal conviction will prevent the person from receiving a license issued by the Board.¶

(2) Filing of Petitions. Petitioners must submit a complete petition for predetermination in a form and manner prescribed by the Board that includes:¶

(a) A complete and signed petition form; ¶

(b) Petition fee listed in OAR 833-070-0011;¶

(c) Copies of the following documents for each criminal conviction:¶

(A) Arrest report(s);¶

(B) Any charging document(s);¶

(C) The final judgment of conviction;¶

(D) Probation and parole records (if any);¶

(E) Completion of court-ordered terms and conditions; and¶

(F) A statement from the petitioner regarding the facts underlying the conviction, and any intervening circumstances.¶

(3) If the records in (2)(c)(A)-(E) no longer exist, have been sealed, or are otherwise unavailable to a petitioner, then the petitioner may provide evidence from the agency that held the record as to why the record cannot be provided in lieu of the documents.¶

(4) A petition is incomplete when it is missing one or more of the items required in subsection (2)-(3). An incomplete petition will expire 60 days from the date the petition form was submitted to the Board. Petitioners who allow their petition to expire must file a new complete petition to receive a predetermination.¶

(5) Petitioners must disclose to the Board all previous criminal convictions. Failure to disclose includes any omission or misrepresentation of any material fact regarding a prior criminal conviction.¶

(6) The Board will review a complete petition and make a predetermination that is not considered a final determination of the Board.¶

(7) The Executive Director may make a predetermination on a petition under the same authority that the Board has delegated to the Executive Director to deny or approve applications.¶

(8) The Board will reconsider its predetermination that a criminal conviction prevents a person from receiving a license if the petitioner subsequently submits a complete application for licensure to the Board. The Board may rescind a previous predetermination if the applicant:¶

(a) Has allegations or charges pending in criminal court;¶

(b) Failed to disclose a previous criminal conviction;¶

(c) Has been convicted of another crime during the period between the predetermination and the applicant's submission of a completed application to the Board; or¶

(d) Has been convicted of a crime that, during the period between the predetermination and the applicant's submission of a completed application to the Board, became subject to a change in state or federal law that prohibits licensure by the Board because of a conviction of that crime.¶

(9) Nothing in this rule prohibits the Board from denying licensure for a reason other than conviction of a crime.¶

(10) The petition and the Board's determination are subject to Oregon's public records laws, and unless an exemption applies, the information in the petition and determination are subject to public disclosure.

Statutory/Other Authority: ORS 670.280(4), ORS 675.705 - 675.835

Statutes/Other Implemented: ORS 670.280(4), ORS 675.785

AMEND: 833-070-0011

RULE SUMMARY: Establishes petition for licensure predetermination fee of \$125.

CHANGES TO RULE:

833-070-0011

Fees ¶

Fees established by the Board of Licensed Professional Counselors and Therapists are as follows:¶

- (1) Application for licensure - \$175; applicants are also required to pay the actual cost to the Board to conduct a criminal background check.¶
- (2) Initial license - \$115.¶
- (3) Biennial renewal of license (the Board will prorate this fee during the transition to biennial renewals):¶
 - (a) Active status license - \$290; or¶
 - (b) Inactive status license - \$180.¶
- (4) Restoration fees:¶
 - (a) Delinquent fee for late renewals - \$50;¶
 - (b) Reactivation of inactive status license - \$125.¶
- (5) Examination - Candidates will pay exam and exam administration fees to the prescribed examination providers.¶
- (6) Duplicate certificate of licensure - \$5.¶
- (7) Verification of licensure or examination scores for applicant or licensee to other licensing or certifying agencies - \$10.¶
- (8) Annual renewal of associate registration in accordance with OAR 833-050-0131 - \$105.¶
- (9) Temporary Practice Authorization - \$405.¶
- (10) Limited Permit - \$100.¶
- (11) Petition for Licensure Predetermination - \$125.

Statutory/Other Authority: ORS 675.7805 - 675.835, ~~676.160 - 676.180~~ ORS 670.280(4)(a)

Statutes/Other Implemented: ORS 675.7805 - 675.835, ORS 670.280(4)(a)