



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 852
BOARD OF OPTOMETRY

FILED
05/11/2023 10:06 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Telehealth rule updates

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/22/2023 2:30 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.

CONTACT: Shelley Hanson
971-701-1194
shelley.g.hanson@obo.oregon.gov

1500 Liberty St Se, Ste 210
Salem, OR 97302

Filed By:
Shelley Hanson
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 06/22/2023

TIME: 2:00 PM - 2:30 PM

OFFICER: Shelley Hanson

HEARING LOCATION

ADDRESS: OBO -- Teams, 1500 Liberty St SE, Ste 210, Salem, OR 97302

SPECIAL INSTRUCTIONS:

Email the Board at optometry.board@obo.oregon.gov for a meeting invitation.

NEED FOR THE RULE(S)

Update rules for telehealth practices

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Former rule drafts--OBO office

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

Allows telehealth services to Oregon patients by anyone meeting licensing requirements

FISCAL AND ECONOMIC IMPACT:

None

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

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

The Board is comprised of 4 licensed ODs.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

852-010-0080, 852-050-0016

AMEND: 852-010-0080

RULE SUMMARY: Clarifies that telehealth only licensees pay the same fees as active status licensees

CHANGES TO RULE:

852-010-0080

Schedule of Fees ¶¶

The following fee schedule is established by the Oregon Board of Optometry to set forth in one place all of the fees and specified civil penalties charged by the Board:¶¶

(1) Active and telehealth license:¶¶

(a) Annual renewal -\$450, of which \$413 is for the active optometry license, \$35 is the Prescription Drug Monitoring Fund fee collected by the licensing body on behalf of the Oregon Health Authority and \$2 for the OHA Survey fee.¶¶

(b) Additional copy of Portable Multiple Practice Location license -\$50 each.¶¶

(c) Failure to meet renewal date: Late renewal fee -\$100 first failure, \$150 second failure, \$250 any subsequent failure in a seven-year period.¶¶

(d) Lapse in CPR certification during licensing period -\$100 first lapse, \$150 second lapse, \$250 any subsequent lapse in a seven-year period.¶¶

(e) Failure to notify the Board of practice locations or address or phone number of record -\$100 first failure, \$150 second failure, \$250 any subsequent failure(s) in a seven-year period. Failure to notify the Board of the commencement or termination of a multiple practice location organization will be assessed a fee of \$200 per occurrence.¶¶

(f) Failure to notify the Board of patient records transfer or change in business ownership per OAR 852-010-0051(3)--\$100 or the Board may take disciplinary action.¶¶

(2) The agency assesses civil penalties for violations of ORS 683.010 to 683.310 and 676.110 to 676.220 and OAR chapter 852, some of which may be settled per the terms of a settlement agreement, consent order or stipulated order. Penalties not listed here will be assessed by the Board on a per case basis.¶¶

(a) Failure to respond to a Continuing Education audit within 21 days - \$400.¶¶

(b) Failure to complete or document meeting Continuing Education requirements by the due date - \$650 plus license suspension if overdue 60 days or more.¶¶

(3) Inactive License:¶¶

(a) Annual renewal -\$140 which includes \$2 for the OHA Survey fee.¶¶

(b) Late renewal fee - \$20.¶¶

(c) Failure to notify the Board of address or phone number of record -\$100 first failure, \$150 second failure, \$250 subsequent failure(s) in any seven-year period.¶¶

(4) Application for Licensure:¶¶

(a) Application for Examination and Licensure -\$355.¶¶

(b) Application for Endorsement Examination and Licensure - \$355.¶¶

(c) Application for TPA Certification -\$150.¶¶

(5) Other fees:¶¶

(a) Written official license verification -\$40.¶¶

(b) List of licensees (electronic or printed) -\$40 each Active/Inactive.¶¶

(c) Reactivation of license -\$200 plus the cost of the background check if the license has been inactive for two years or more.¶¶

- (d) Reinstatement of license - \$200 plus the cost of the background check if the license has been lapsed for two years or more.¶
- (e) Decorative Wall Certificate of Registration (optional, personalized and signed by Board) -\$40.¶
- (f) Applicant or licensee must pay to the Board the cost of conducting the state and federal background check. The cost is \$75 and due with the application fee or when requested by the Board.¶
- (g) Return check fees or other costs associated with a returned payment to the agency will be reimbursed by the licensee, as well as a \$25 agency processing fee.¶
- (6) Public Records Fees: The Board will assess Public Records fees per DAS Policy 107-001-030 or any subsequent policy number.¶
- (7) The Board will not refund any fee unless there has been an error by the Board in the charging of the fee. Information not known by the Board because the licensee, applicant, or other person or entity has not supplied the correct information is not considered an error.¶
- (8) Unlicensed volunteer registration fee: \$100 for initial registration and \$50 annual renewal. Volunteer may also be assessed fees for failing to timely report practice locations or contact information per 852-010-0080(1)(e).
Statutory/Other Authority: ORS 182, ORS 683, ORS 431
Statutes/Other Implemented: ORS 683.270, ORS 182.466, ORS 431.972

AMEND: 852-050-0016

RULE SUMMARY: Clarifies that telehealth licensees must report all locations, including virtual ones, to the Board.

CHANGES TO RULE:

852-050-0016

Notice of Place of Practice ¶¶

(1) Each active and telehealth licensee must notify the Board in writing of each place of practice before engaging in practice at that location. If the licensee is practicing in a mobile facility or with a portable unit, the licensee must report the Base of Operations and specific locations of such practice to the Board in compliance with this rule. Telehealth licensees must notify the Board of any distant site locations including websites, applications and other virtual sites or online platforms.¶¶

(a) Within 14 days of termination, but no later than the effective date, of practice at any location, licensee must notify the Board in writing, including information on the custody of any patient records generated by the licensee at that location.¶¶

(b) Written notification from a licensee to the Board must be made through the online system. Licensees not using the online system may send by mail, fax or scanned e-mail attachment. Standard e-mail notification from the licensee's professional or personal e-mail will be accepted with an electronic signature that is composed of the licensee's full legal name and optometry license number, followed by the last four digits of the licensee's Social Security number.¶¶

(c) Reporting of a multiple practice location organization with multiple practice sites and a centralized patient records system is treated as one practice location for reporting.¶¶

(2) Failure to notify the Board in writing of practice location(s) and any address change(s) in accordance with (1) above subjects the licensee to fees listed in OAR 852-010-0080.¶¶

(3) Licensees must report ownership of any optometry practices in Oregon. Failure to report timely per 852-050-0016(1) may lead to a late reporting fee per 852-010-0080 or disciplinary action.

Statutory/Other Authority: ORS 683

Statutes/Other Implemented: ORS 683.070, 683.100, 683.120, 683.270