



Oregon

Kate Brown, Governor

Higher Education Coordinating Commission

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Licensing Psilocybin Facilitator Training Programs

Ballot Measure 109 authorizes the regulation and use of psilocybin in controlled settings for therapeutic purposes. Since adoption, the Oregon Health Authority (OHA) Psilocybin Services Section has been working with stakeholders to develop a regulatory structure. On May 20, 2022, OHA published rules 333-333-3005 to 333-333-3090, detailing the requirements for psilocybin facilitator training and programs that offer such training. Owing to these robust curricular requirements, Higher Education Coordinating Commission (HECC) licensure as a private career school is required, and absent an exemption issued by the HECC, no entity may offer or advertise the offering of services as a provider of the training required by OHA rules.

Current Potential Impediments to Licensure

HECC staff have identified two potential impediments to state licensure faced by aspiring training providers: the ability of training providers to obtain general liability insurance, and a restrictive definition of 'qualified instructor.' Training providers are required to employ instructors meeting this definition.

HECC is committed to resolving these questions as quickly as possible, and in a manner that supports the licensure and operation of psilocybin facilitator training programs.

General Liability Insurance Requirements

Student financial protection is a central concern of state licensure. One such mechanism designed to financially protect students and the state is a requirement in OAR 715-045-0032 that any private career school applying for state licensing carry appropriate general liability insurance. It is not clear at this time whether general liability insurance is obtainable by any entity seeking to offer provider training, and if available, it is not clear that such insurance would be obtainable at reasonable cost.

If it is the case insurance cannot be obtained or obtained at reasonable cost, an agency rule change would be required to implement any modification to the insurance requirement.

Determining the Qualifications of Instructors

As psilocybin therapy is novel in the United States, HECC will need to determine what constitutes a 'properly qualified' instructor pursuant to ORS 345.325(3). Currently, HECC rules require instructors "have at least two years of work experience or two years of education, or any combination of both, in the subject that they instruct" (OAR 715-045-0012(3)(d)(A)), and limited waivers are allowable.

HECC understands that the use of psilocybin has historical, spiritual, and cultural connotations, but has not benefited from participating in OHA conversations on this issue to date. HECC will need to investigate whether determinations made by OHA provide sufficient guidance, or

whether HECC must separately determine criteria for considering instructors ‘qualified’ under the relevant law. These determinations may require an amendment to the above cited rule.

Applicability of Exemptions Available to Training Providers

In consultation with OHA, HECC has determined that OHA’s current regulatory structure and approval of curriculum under OHA rules does not qualify providers from exemption under ORS 345.015(8).

Prospective providers may qualify for other statutory exemptions under ORS 345.015, and these will be considered on an application-by-application basis.

Resolving Questions and Moving Toward Program Licensure

Revising one or both rules to resolve the questions above requires the agency to adhere to requirements of the Oregon Administrative Procedures Act, and other statutory stakeholder engagement processes. HECC proposes the following timeline to resolve these questions.

HECC reserves the right to deploy conditional licensure authority established in ORS 345.030 in the event that applicant schools present complete and acceptable applications to the Commission, but the Commission is unable to issue a full license due to impending rule changes.

June 13-July 1	<ul style="list-style-type: none"> • Thoroughly review statute and rule, identify gaps • Develop process and timeline for resolution of regulatory questions
July 5-8	<ul style="list-style-type: none"> • Add limited-duration staff to ensure rules to support timely development of rules and processing of applications • Ongoing conversations with OHA-OPS
July 11-22	<ul style="list-style-type: none"> • Convene meeting of HECC staff and representatives of psilocybin facilitator training programs to discuss regulatory questions and potential solutions around general liability insurance requirements • Convene meeting of HECC staff and representatives of psilocybin facilitator training programs to discuss regulatory questions and potential solutions around qualified instructor rules • Ongoing conversations with OHA-OPS, discuss conditional licensure
Late July (currently being scheduled)	<ul style="list-style-type: none"> • Private Career School Advisory Committee meeting (public meeting), where draft rules will be shared and feedback will be solicited
August 11th	<ul style="list-style-type: none"> • Present rules to the Commission for approval