



November 2, 2022

Dear Rules Advisory Committee (RAC) Members:

Thank you for participating in Oregon Psilocybin Services (OPS) September 2022 Rules Advisory Committees (RACs). The committees were organized into three subject-related categories and included over thirty volunteers representing a broad range of professional and lived experience. Each table met three times resulting in nearly twenty-four hours of discussion in total. Your input was instrumental in the development of revised draft rules for the next step in the rulemaking process, which is the Public Comment Period.

The revised draft rules were posted on the [OPS Administrative Rules](#) webpage on November 1, 2022. To participate in the Public Comment Period, you may submit written comments on the rules to [publichealth.rules@dhsosha.state.or.us](mailto:publichealth.rules@dhsosha.state.or.us) **from November 1, 2022, at 9:00 a.m. PDT until November 21, 2022, at 5:00 p.m. PST. Virtual public hearings provide another opportunity to submit comments on the proposed rules. These hearings are scheduled on November 15, 16 and 17, 2022.** Any member of the public, including RAC members, may provide written comments during the public comment period and verbal comments at the hearings. Please remember that the revised drafts remain drafts. They may be revised further before adoption and should not be relied upon to make business decisions. For more information, please visit the [OPS Administrative Rules](#) page.

Some RAC suggestions were incorporated in the revisions and others they were not. OPS weighed competing priorities and viewpoints expressed during the meetings when making revisions. In making revisions we also considered our policy goals of reducing risks to health and safety and promoting equity and access while also remaining flexible on operational issues as appropriate. In some cases, we were unable to revise the drafts to include RAC input because we lack the statutory authority to do so. The revised drafts also contain numerous technical changes and language adjustments.

We would like to call your attention to the following specific changes:

- The revised drafts make important changes to OAR 333-333-4700, Duty to Contact Emergency Services. The RAC provided extensive input on this section. References to law enforcement have been replaced with references to appropriate emergency services in this rule and throughout the chapter. Additionally, the rule drafts support public safety by requiring client transportation plans which prevent clients from driving at the conclusion of their session.
- The definition of “location” was revised to clarify that a licensed premises will be defined by the space it occupies rather than by postal address. This change allows other businesses, like restaurants, to be present on the same lot or parcel as a licensed psilocybin business as long as the businesses do not occupy the same space. The revised drafts also change OAR 333-



333-4300 to clarify that a psilocybin laboratory may be licensed at the same location as a cannabis laboratory.

- In addition to refining the definition of licensed premises, the revised drafts clarify provisions on subletting. While subletting a licensed premises remains prohibited, the revisions allow licensed premises to be used for activities that are unrelated to the licensed business as long as doing so does not violate applicable rule provisions. For example, a service center with a large common space could rent that space for an event, but no one under the age of 21 would be able to attend and all other license requirements would remain in place. This change was designed to promote access and equity by allowing licensees the opportunity to create additional revenue streams at their facility.
- The revised drafts make significant changes to OAR 333-333-5230, Group Facilitation Sessions. The prior requirement that clients have the option to move to an individual session has been removed in response to feedback that this would be a challenge for smaller service centers. Also, the required facilitator to client ratios for group administration sessions have been adjusted in the revised drafts. These adjustments allow for greater access and flexibility, while still maintaining minimum facilitator to client ratios to mitigate risks to public health and safety.
- The RAC expressed some concerns around client record keeping. The revised drafts create an additional requirement for disclosure to clients when de-identified client data is shared with other parties. This change is consistent with a client-centered approach and allows clients to make informed decisions when selecting service providers. Any disclosure of personal client data requires written consent under both the prior drafts and the revised drafts as required by ORS 475A.
- The RAC had some concerns about client privacy in the prior draft of the rule on Video Recordings of Administration Sessions, OAR 333-333-4640. The revised drafts make changes to address these concerns by clarifying that every person who is recorded must provide prior written consent and that the recording must remain with the service center. These revisions reduce risks of sharing data externally and create a client-focused model that allows clients access to recordings. Recording of administration sessions remains optional but provides an opportunity for clients and facilitators to choose additional safeguards to prevent inappropriate behavior.
- The revised drafts make several changes to the application and licensure process to increase access and simplicity of operations. The requirements for legal entity applicants and licensees have been revised in response to RAC feedback. Under the revised requirement, individuals who own more than twenty percent of a business are included as applicants. Additionally, the revised drafts requires that managers and corporate officers of legal entities are included as applicants, rather than all members of an LLC or corporate board. Also, additional applicants can be provisionally added to a license prior to final agency approval.
- The revised drafts requires that every client receiving psilocybin services work with their facilitator to create an individualized safety and support plan. This plan was optional under



the prior draft. The revisions support both safety and equity by ensuring that every client has an opportunity to address safety and support issues unique to their personal circumstances.

- In addition to the safety and support plan, the client information form has been revised to include information regarding client sensitivities such as allergies, sun-sensitivity or weakened immune system. These changes were made to address RAC comments and function to create a client-centered experience that can be tailored to each client's individual circumstances.
- The RAC offered a substantial amount of feedback on the Duration of Administration Sessions, OAR 333-333-5250. The feedback was mixed with some RAC members suggesting that the proposed minimum duration times be removed and others expressing support for the provisions. The revised draft does not amend the minimum duration times, but it does make other changes to improve client outcomes. The revised drafts require that every client sign a release before concluding their session. This requirement ensures that each client and facilitator make an independent determination to conclude a session after minimum duration has elapsed. The revised draft also requires that facilitators attempt to check in with a client within 72 hours after the session concludes. Taken together, these revisions function to mitigate risk to public safety while maintaining a client-driven approach to psilocybin services.
- The revised drafts remove provisions on location-based advertising from OAR 333-333-6110 in response to feedback that these provisions were difficult to understand and did not function as intended.
- The revised drafts migrate some required information from product labels to the product information document required by OAR 333-333-2410. This change was made in response to RAC feedback and should allow manufacturers more options and opportunities for cost savings in designing their labels and product packaging.

The revisions described above represent a small sample of the changes made to the prior draft. We encourage you to review the revised drafts carefully and participate in the public comment period if you feel it is appropriate to do so. Thank you again for helping OPS realize our goals of mitigating risks to health and safety, promoting equity and access and maintaining operational flexibility.

Sincerely,

Angie Allbee, Section Manager, Oregon Psilocybin Services  
André Ourso, Administrator, Center for Health Protection