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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OMB 15-2020
CHAPTER 847
OREGON MEDICAL BOARD

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ARCHIVES DIVISION
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& LEGISLATIVE COUNSEL

FILING CAPTION: Practice in Oregon in the Event of an Emergency

EFFECTIVE DATE: 12/10/2020 THROUGH 06/06/2021

AGENCY APPROVED DATE: 12/09/2020

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NEED FOR THE RULE(S):

The temporary rule is needed to clarify and assure that during a declared emergency all board licensees are expected, in connection with the practice of medicine, to fully comply with Executive Orders and statewide guidance implementing the Executive Orders when the Order or guidance documents in whole or in part address or affect the delivery of healthcare to Oregon patients.

JUSTIFICATION OF TEMPORARY FILING:

The Governor of Oregon declared a state of emergency due to the public health threat of the COVID-19 pandemic. The Governor's Executive Order No. 20-03 directs state agencies to develop and implement procedures, including adopting temporary rules within the agency's authority designed to prevent or alleviate the public health threat.

The Oregon Medical Board's temporary rule is needed in response to the COVID-19 pandemic to support efforts to keep Oregon patients safe when accessing healthcare from Oregon Medical Board licensees during a declared emergency. The Board finds that failure to act promptly will result in serious prejudice to the public interest and could setback efforts to keep Oregonians safe during a declared emergency and adversely affect public health and safety. The temporary action clarifies and assures that during a declared emergency all board licensees are expected, in connection with the practice of medicine, to fully comply with Executive Orders and statewide guidance implementing the Executive Orders when the Order or guidance documents in whole or in part address or affect the delivery of healthcare to Oregon patients.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Governor's Executive Orders, <https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>
Oregon Health Authority Guidance, <https://www.oregon.gov/oha/covid19/Pages/Healthcare-Partners.aspx>
Executive Order No. 20-03, https://www.oregon.gov/gov/Documents/executive_orders/eo_20-03.pdf
ORS 677.265, https://www.oregonlegislature.gov/bills_laws/ors/ors677.html
OAR 847-003-0100, <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=213819>

AMEND: 847-010-0068

RULE SUMMARY: The temporary rule clarifies and assures that during a declared emergency all board licensees are expected, in connection with the practice of medicine, to fully comply with Executive Orders and statewide guidance implementing the Executive Orders when the Order or guidance documents in whole or in part address or affect the delivery of healthcare to Oregon patients.

CHANGES TO RULE:

847-010-0068

Practice in Oregon ~~by Physicians and Physician Assistants~~ in the Event of an Emergency ¶

(1) In the event of an emergency declared by the Governor of Oregon, the Oregon Medical Board may allow physicians and/or physician assistants licensed in another state to provide medical care in Oregon under special provisions during the period of the declared emergency, subject to such limitations and conditions as the Governor may prescribe.¶

(a) The out-of-state physician and/or physician assistant must submit to the Board the following information:¶

(A) Verification of a permanent, current, and unrestricted license to practice in another state which is not the subject of a pending investigation by a hospital, a state medical board, or another state or federal agency; and¶

(B) Current federal or state photo identification, i.e., driver license or passport.¶

(b) The requirement for completing and submitting the information to the Board is waived if the out-of-state physician and/or physician assistant is a member of the National Disaster Medical System (NDMS) under the Office of Emergency Preparedness, U.S. Department of Health and Human Services, and submits to the Board a copy of his/her NDMS photo identification.¶

(c) The physician and/or physician assistant must provide the Board documentation demonstrating a request to provide medical care from a hospital, clinic or private medical practice, public health organization, EMS agency, or federal medical facility, or has otherwise made arrangements to provide medical care in Oregon as the result of the declaration of an emergency.¶

(d) The out-of-state physician and/or physician assistant must not practice in Oregon under the special emergency provisions beyond the termination date of the emergency. Practice in Oregon beyond the termination date of the declared emergency requires licensure through the Oregon Medical Board.¶

(2) In the event of an emergency declared by the Governor of Oregon, the Oregon Medical Board may allow Emeritus and Locum Tenens physicians and/or physician assistants to provide medical care in Oregon under special provisions, subject to such limitations and conditions as the Governor may prescribe. ¶

(a) Emeritus. Notwithstanding OAR 847-008-0030 and OAR 847-050-0046, Emeritus status licensees may receive compensation for services during the period of the declared state of emergency without completing the reactivation process.¶

(b) Locum Tenens. The period of a declared state of emergency will not count toward the practice period limits in OAR 847-008-0020. ¶

(3) In the event of an emergency declared by the Governor of Oregon, the Oregon Medical Board may allow Administrative Medicine, Inactive, Lapsed, and Retired physicians and/or physician assistants to reactivate to Active status in Oregon under special provisions, subject to such limitations and conditions as the Governor may prescribe.¶

(a) To qualify, the physician and/or physician assistant must: ¶

(A) Have had an active clinical practice within the past three years; ¶

(B) No longer hold an active license to practice medicine in another state; and ¶

(C) Have been in good standing at the time the Oregon license status became Administrative Medicine, Inactive, Lapsed, or Retired. ¶

(b) Notwithstanding OAR 847-008-0025, 847-008-0035, 847-008-0037, 847-008-0050, 847-008-0055, and 847-050-0043, to apply for reactivation, the physician and/or physician assistant with an Administrative Medicine, Inactive, Lapsed, or Retired status license must submit to the Board the following information:¶

(A) An affidavit describing medically related activities during the period of inactivity; ¶

- (B) A current federal or state photo identification, i.e., driver license or passport; and¶
- (C) Documentation demonstrating a request to provide medical care from a hospital, clinic or private medical practice, public health organization, EMS agency, or federal medical facility, or other arrangements to provide medical care in Oregon as the result of the declaration of an emergency.¶
- (c) Prior to reactivating, the Board will query national disciplinary databank(s) and will conduct a criminal background check.¶
- (d) The reactivation application fee is waived, but registration fees are required pursuant to OAR 847-005-0005.¶
- (e) Active status may be granted through the end of a year in which a state of emergency exists. The license may be returned to its previous status or to an inactive status prior to the license expiration date if the licensee is no longer providing medical care in response to the declared emergency. ¶
- (4) Any restrictions or requirements imposed against a licensee through an active Oregon Medical Board Order or Agreement remain in effect during the period of the declared emergency.¶
- (5) In the event of a Governor-declared emergency, and in connection with a licensee's practice of medicine, Oregon Medical Board licensees must fully comply with the Governor's Executive Orders and implementing guidance documents when the Orders or guidance documents in whole or in part address or affect the delivery of healthcare to Oregon patients.¶
- (a) During a declared emergency, unprofessional or dishonorable conduct includes failing to comply with any applicable provision of a Governor's Executive Order or any provision of this rule, to include implementing guidance and rules issued by the Oregon Health Authority, and is subject to sanction pursuant to ORS 677.190(1)(a), as defined by ORS 677.188(4)(a), unprofessional or dishonorable conduct and ORS 677.190(17). ¶
- (b) No disciplinary action or penalty action shall be taken under this rule if the Executive Order alleged to have been violated is not in effect at the time of the alleged violation.

Statutory/Other Authority: ORS 677.265

Statutes/Other Implemented: ORS 677.060(4), ORS 677.172(3), ORS 677.175(1), ORS 677.190