



Oregon

Tina Kotek, Governor

Board of Nursing
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Memorandum

To: Oregon State Board of Nursing
From: Barbara Holtry, Interim Executive Director
Date: May 15, 2023

Re: Announcement of Rule Advisory Meeting regarding revisions of Division 851-070

The Oregon State Board of Nursing will have a video Rule Advisory Committee (RAC) to comment and provide input into revisions to Oregon Administrative Rules (OAR) 851-0070, *Fitness for Practice Related to Behavioral Health (Substance Use and/or Mental Disorders) and Cognitive or Physical Impairment*.

Oregon Revised Statute 678 mandates the Boards requirements to assure that each applicant for licensure and certification, as well as those individuals already having a license certification, have the mental and physical ability to maintain safe practice as well as the ability the discipline a license for impaired practice.

This meeting is open to the public. Only RAC members will be allowed to discuss revision proposals. There will be a public comment time at the end of the meeting.

Meeting will be held Thursday, May 25 from 10 am – Noon, via Teams virtual technology.

Meeting access information is below.

Microsoft Teams meeting

Join on your computer, mobile app or room device.

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Division 70

Fitness for Practice Related to Behavioral Health (Substance Use and/or Mental Disorders) and Cognitive or Physical Impairment

851-070-0000

Statutory Requirements for the Board to Establish Physical and Mental Ability for Safe Practice.

ORS 678.040 states that the Board must establish satisfactory evidence that an applicant has the physical and mental health to safely practice. ORS 678.111 states that the Board may discipline a licensee or certificate holder for impairment or the physical inability to safely practice. ORS 678.113 authorizes the Board to evaluate the mental or physical condition of a licensee or certificate holder. These rules identify how the Board will implement statute.

Stat. Auth.: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0005

The OSBN ceased participation in the state Health Services Professional Program effective October 1, 2022. Those licensees who completed their enrollment into HPSP by that date are authorized to complete the program and must comply with OAR 851-0070 requirements published August 1, 2019. Should non-compliance with HPSP requirements be reported to the Board, the Board has the authority to remove the licensee from HPSP and place the individual on public disciplinary action as per established Board procedures and in compliance with ORS 678.111.ORS 676.185,

851-070-0025

Public Discipline

- (1) All notices of and final disciplinary actions associated with these rules will be a public document and subject to public notification as per usual Board processes. This information is also reportable, for nurses, to the National Nursing Database (NURSYS) and the National Practitioner Databank (NPDB) for all licensees and certificate holders.

Stat. Auth.: ORS 676, 175, ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ORS 676.175, ORS 678.040, ORS 678.111, ORS 678.113, 678.150

Hist.: BN 4-2016, f. 7-15-16, cert. ef. 8-1-

851-070-0060

Approval of Independent Third-Party Evaluators

- (1) Per ORS 678.113, during the course of a Board investigation, the Board has the authority to require, by Board order, an evaluation to determine physical, mental ability, including chemical dependency. The licensee or certificate holder may voluntarily undergo an evaluation as requested by a Board investigator. The evaluator selected for this evaluation shall not be an employee or contractor of the Board and is considered an independent third-party evaluator.
- (2) Evaluation of cognitive or physical impairment may be established by a Licensed Independent Practitioner who has met their Licensing Board's requirement for practice in physical and cognitive assessment.
- (3) To be approved by the Board as an independent third-party evaluator for chemical dependency an evaluator must:
 - (a) Be licensed as required by the jurisdiction in which the evaluator works;
 - (b) Have a minimum of a master's degree in a mental health discipline;
 - (c) Provide evidence of additional education and experience as shown by one of the following:
 - (A) Department of Transportation Substance Abuse Professional qualification;
 - (B) Certified Alcohol and Drug Counselor (CADC) II or III; an evaluation done by a CADC 1 may be accepted if:
 - (i) Signed off by a CADC II or III; or
 - (ii) Per the Board evaluation process be qualified to perform the appropriate level of evaluation;
 - (C) Board Certified in Addiction Medicine by either ASAM or American Board of Psychiatry and Neurology.
 - (d) Provide evidence of assessments that would indicate that the licensee or certificate holder is safe to practice at the level of the licensee or certificate holder being evaluated.
 - (e) The Board will not accept an evaluator as independent in a particular case if, in the Board's judgment, the evaluator's judgment is likely to be influenced by a personal or professional relationship with a licensee.
 - (f) If the evaluation does not contain return to work criteria, qualified Board staff or another third-party evaluator will review the evaluation to determine the return to work criteria.

Stat. Auth.: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0070

Approval of Treatment Providers

- (1) Through established procedures, the Board will approve all treatment providers for chemical dependency.
- (2) To be approved by the Board as a treatment provider, a provider must be:
 - (a) Licensed as required by the jurisdiction in which the provider works;

- (b) Able to provide appropriate treatment considering licensee's diagnosis, degree of impairment, level of licensure or certification, and treatment options proposed by the treatment program or the independent third-party evaluator; and
- (c) Able to obtain a urinalysis of the licensee at intake.
- (3) As authorized by ORS 678.150 (6) (g) the Board has the authority to compel the disclosure of treatment records documented under a nurse-patient or psychotherapist- patient relationship. These subpoenas will not be quashed citing privileged communication.
- (4) Chemical dependency treatment records may be disclosed under the requirement of the Code of Federal Regulations (CFR) 42 Part 2. The Board must develop an internal process to request records based on the requirement of this regulation.
- (5) The Board will not accept a provider as a treatment provider in a particular case if, in the Board's judgment, the provider's judgment is likely to be influenced by a personal or professional relationship with a licensee.

Stat. Auth. ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0075

Approval of Worksite Monitors

To be approved by the Board as a worksite monitor, a worksite monitor must be:

- (1) Licensed as a registered nurse or other licensed health professional approved by the Board.
- (2) Conduct routine observation/monitoring of licensee's performance. The worksite monitor may be the supervisor if the supervisor can meet the observation requirements, or this may be delegated by the supervisor to another licensed individual who meets the requirements.
- (3) Provide evidence of specialized education relevant to the worksite monitor as approved by the Board.
- (4) The worksite monitor must agree in writing to perform the worksite monitor role.
- (5) The written report must be completed by the worksite supervisor with input from worksite monitors.

Stat. Auth.: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Hist.: BN 4-2016, f. 7-15-16, cert. ef. 8-1-16; BN 5-2016, f. & cert. ef. 8-2-2016

851-070-0080

Licensee Responsibilities while on Public Discipline All licensees and certificate holders must:

- (1) Agree to report any arrest for or conviction of a misdemeanor or felony crime to the Board within three business days after the licensee is arrested or convicted of the crime; and
- (2) Comply continuously with his or her monitoring agreement, including any restrictions on his or her practice for public discipline, as specified by the Board by rule or order.
- (3) Abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee.
- (4) Report unauthorized use of mind-altering or intoxicating substances or potentially addictive

drugs within 24 hours;

- (5) Comply with the treatment plan and all other requirements of the Board order.
- (6) Limit practice as required by the Third-Party Evaluator, Treatment Program, or Board order;
- (7) Participate in monitored practice;
- (8) Participate in a follow-up evaluation, when necessary, of licensee's fitness to practice;
- (9) Submit to random toxicology testing for the duration of the Public Discipline program;
- (10) Report at least monthly to the Public Discipline Program compliance staff;
- (11) Report to the Board compliance staff applications for licensure in other states, changes in employment and changes in practice setting;
- (12) Agree to be responsible for the cost of evaluations, toxicology testing and treatment;
- (13) Report to the Board compliance staff any investigations or disciplinary action by any state or state agency, including Oregon;
- (14) Participate in required meetings according to the treatment plan; and
- (15) Maintain active license or certification status.
- (16) For discipline violation of any of the conditions of the final order is considered non-compliance and will be investigated and the appropriate sanction will be determined up to and including revocation of license or certificate.

Stat. Auth.: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 1-2014, f. 3-3-14, cert. ef. 4-1-14; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0105

Alteration of Public License Verification Information Upon Successful Completion of Probation

1. Board discipline is subject to public disclosure and, as such, must be made available to the public.
2. On the three-year anniversary date of successful release from monitored practice, the licensee or certificate holder may petition the Board, using internal Board procedures, to alter the information found on the licensee or certificate holders found on the Board verification website.
3. While public discipline is not authorized to be completely removed or expunged from the verification website, the information will not be found on the verification landing page of the licensee or certificate holder. Access to the discipline document and information will require additional keystrokes.
4. The disciplinary information will continue to be available through the national nurses database (NURSUS) and the National Practitioner Databank (NPDB). The Board has no authority over how information is displayed on these platforms.

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State.

Division 70

Fitness for Practice Related to Behavioral Health {Substance Use and/or Mental Disorders} and Cognitive or Physical Impairment

851-070-0000

Purpose, Intent and Scope

Statutory Requirements for the Board to Establish Physical and Mental Ability for Safe Practice.

ORS 678.040 states that the Board must establish satisfactory evidence that an applicant has the physical and mental health to safely practice. ORS 678.111 states that the Board may discipline a licensee or certificate holder for impairment or the physical inability to safely practice. ORS 678.113 authorizes the Board to evaluate the mental or physical condition of a licensee or certificate holder. These rules identify how the Board will implement statute.

The Board believes that licensees who develop substance use disorders, mental disorders, or both disorders can, with appropriate treatment, be assisted with recovery and return to the practice of nursing with appropriate workplace monitoring. In assuring public protection, it is the intent of the Board that a licensee with a substance use disorder, a mental disorder or both types of disorders may have the opportunity to enter the Alternative to Discipline (ATD), known in Oregon as the Health Professionals' Services Program (HPSP) as a Board referral or a self-referral. Based upon review of each individual circumstance, the Board may, instead of allowing entry into HPSP, order public discipline. Substantial non-compliance with the requirements of the ATD or public discipline program may lead to further disciplinary action by the Board. For Licensees with Cognitive or Physical Impairment without associated Behavioral Health Diagnosis return to work monitoring will be done through public discipline and are not eligible for the ATD program.

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Stat. Auth.: ORS 676.200 ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ORS 676.200 ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0005

The OSBN ceased participation in the state Health Services Professional Program effective October 1, 2022. Those licensees who completed their enrollment into HPSP by that date are authorized to complete the program and must comply with OAR 851-0070 requirements published August 1, 2019.. Should non-compliance with HPSP requirements be reported to the Board, the Board has the authority to remove the licensee from HPSP and place the individual on public disciplinary action as per established Board procedures and in compliance with ORS 678.111.

~~851-070-0010~~

Participation in Health Professionals' Services Program

The Oregon State Board of Nursing's ATD is the HPSP program. (For the purposes of this rule, from here on, the ATD program will be referred to as the HPSP). Effective July 1, 2010, the Board shall participate in the Health Professionals' Services Program and may refer eligible nurses to the HPSP in lieu of or in addition to public discipline. Only licensed practical nurses, registered nurses, and advanced practice registered nurses who meet the eligibility criteria may be referred by the Board to

Oregon State Board of Nursing ▪ Oregon Administrative Rules

HPSP-

~~Stat. Auth.: ORS 676.200~~ORS 676.185,

~~State Implemented: ORS 676.200~~

~~Hist.: BN 6-2010(Temp), f. 6-23-10, cert. of. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. of. 12-2-10;
BN 4-2016, f. 7-15-16, cert. of. 8-1-16~~

851-070-0020

Eligibility for enrollment in Health Professionals' Services Program (HPSP)

- (1) ~~Licensee must be evaluated by an independent, third-party evaluator approved by the Board. The evaluation must include a diagnosis of a substance use disorder, mental disorder, or both types of disorders with the appropriate diagnostic code from the DSM, and treatment options. The evaluation must also include return to work conditions. If not included in the initial treatment evaluation, the licensee will need to obtain a second evaluation to identify specific return to work recommendations or this may be determined by qualified Board staff.~~
- (2) ~~Must have reasonable ability to meet the monitored practice requirement.~~
- (3) ~~Licensees who have successfully completed either the NMP or HPSP programs and who have had a recurrence of impairment may be permitted a maximum of one additional admittance into the HPSP upon Board approval.~~
- (4) ~~If eligibility for HPSP is met, the Board will make the final determination if the licensee may be referred to HPSP or be placed on public discipline.~~
- (5) ~~Sections 3 and 4 of this paragraph do not apply to the self-referred licensee.~~

Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0025

Public Discipline

~~Public discipline is determined by the Board after deliberation of investigatory information. Once ordered for public discipline, there is no option for entry into HPSP. The requirements for Board ordered monitored practice are stated in the specific Board documents.~~

~~All notices of and final disciplinary actions associated with these rules will be a public document and subject to public notification as per usual Board processes. This information is also reportable, for nurses, to the National Nursing Database (NURSYS) and the National Practitioner Databank (NPDB) for all licensees and certificate holders. For probation, the licensee will be considered for completion as per Board order; however, the public discipline stays on the OSBN website for the life of the license.~~

- (1)

Stat. Auth.: ~~ORS 676.200~~ ORS 676, 175, ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ~~ORS 676.200~~ ORS 676.175, ORS 678.040, ORS 678.111, ORS 678.113, 678.150

Hist.: BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0030

Procedure for Board Referrals and Public Discipline

- (1) ~~The Board will review the report of the Investigator to determine if the licensee will be referred to the HPSP program or receive public discipline.~~
- (2) ~~A Board-referred licensee is enrolled in the program effective on the date the Board approves entry into the program.~~
- (3) ~~Upon final enrollment into the program, the vendor will notify the Board and the Board ends the ICO. The Board will dismiss, without prejudice, the complaint at the next Board meeting.~~

Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10;

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[BN 2 2013, f. 2 28 13, cert. of. 4 1 13; BN 4 2016, f. 7 15 16, cert. of. 8 1 16](#)

851-070-0040

Procedure for Self-Referred Licensees

- (1) ~~Self-referred licensees may participate in the HPSP as permitted by ORS 676.190(5). Licensees with physical or cognitive impairment, without an associated Behavioral Diagnosis are not eligible to self-refer to HPSP.~~
- (2) ~~Once a self-referred licensee seeks enrollment in the HPSP, failure to complete final enrollment may constitute substantial non-compliance and may be reported to the Board.~~
- (3) ~~If self-referral has completed final enrollment to the HPSP and the Board opens an investigation on the licensee not related to substantial non-compliance, the licensee may continue in the HPSP program for the monitoring of safe practice until the Board has determined their ongoing eligibility or determined discipline.~~
- (4) ~~If a licensee voluntarily enters treatment without exhibiting an established danger to the public (such as workplace impairment, multiple DUII, etc.), without self-referral to HPSP, or has otherwise not had any Board reportable incidences, there is no requirement to report to the Board by the individual or the employer at the time of treatment or discovery that the licensee was in treatment, however, the licensee must disclose the treatment upon renewal of licensure.~~

Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. of. 7-1-10 thru 12-28-10; BN 10-2010, f. & cert. of. 12-2-10; BN 2-2013, f. 2-28-13, cert. of. 4-1-13; BN 1-2014, f. 3-3-14, cert. of. 4-1-14; BN 4-2016, f. 7-15-16, cert. of. 8-1-16

851-070-0045

Disqualification for Self-Referral to HPSP

- (1) ~~Reasonable expectation that a report will be made to the Board regarding work place impairment.~~
- (2) ~~Criminal activity involving injury or endangerment to others.~~
- (3) ~~A diagnosis requiring treatment because of sexual offenses or sexual misconduct.~~
- (4) ~~Pending or active investigations with the Board or Boards from other states.~~
- (5) ~~Previous failure to complete either the Nurse Monitoring Program or HPSP.~~
- (6) ~~Current participation in a monitoring program in another state.~~
- (7) ~~If during the safe practice investigation an issue is revealed that requires the HPSP program to report the issue to the Board.~~

Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Hist.: BN 4-2016, f. 7-15-16, cert. of. 8-1-16

851-070-0050

Disqualification Criteria for Board-Referral entry Into HPSP

~~In addition to the above, the Board may disqualify the licensee for entry into HPSP for factors including, but not limited to:~~

- (1) ~~Licensee's disciplinary history;~~
- (2) ~~Extent to which licensee's practice can be limited or managed to eliminate danger to the public;~~
- (3) ~~Likelihood that licensee's impairment cannot be managed with treatment;~~
- (4) ~~Evidence of patient harm related to the impairment;~~

- (5) Evidence of non-compliance with a monitoring program from other state; or
- (6) Previous Board investigations with findings of substantiated abuse or neglect.

Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 2-2013, f. 2-28-13, cert. ef. 4-1-13; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0060

Approval of Independent Third-Party Evaluators

- (1) Per ORS 678.113, during the course of a Board investigation, the Board has the authority to require, by Board order, an evaluation to determine physical, mental ability, including chemical dependency. The licensee or certificate holder may voluntarily undergo an evaluation as requested by a Board investigator. The evaluator selected for this evaluation shall not be an employee or contractor of the Board and is considered an independent third-party evaluator.
- (2) Evaluation of cognitive or physical impairment may be established by a Licensed Independent Practitioner who has met their Licensing Board's requirement for practice in physical and cognitive assessment.
- ~~(4)~~(3) To be approved by the Board as an independent third-party evaluator for chemical dependency, an evaluator must:
 - (a) Be licensed as required by the jurisdiction in which the evaluator works;
 - (b) Have a minimum of a Master's Degree in a mental health discipline;
 - (c) Provide evidence of additional education and experience as shown by one of the following:
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 - (B) Certified Alcohol and Drug Counselor (CADC) II or III; an evaluation done by a CADC 1 may be accepted if:
 - (i) Signed off by a CADC II or III; or
 - (ii) Per the Board evaluation process be qualified to perform the appropriate level of evaluation;
 - (C) Board Certified in Addiction Medicine by either ASAM or American Board of Psychiatry and Neurology.
 - (d) Provide evidence of assessments that would indicate that the licensee or certificate holder is safe to practice at the ~~licensure level-level~~ of the licensee or certificate holder being evaluated.
 - (e) The Board will not accept an evaluator as independent in a particular case if, in the Board's judgment, the evaluator's judgment is likely to be influenced by a personal or professional relationship with a licensee.
 - (f) If the evaluation does not contain return to work criteria, qualified Board staff or another third party evaluator will review the evaluation to determine the return to work criteria.
- ~~(2)~~ Evaluation of cognitive or physical impairment may be established by a Licensed Independent Practitioner who has met their Licensing Board's requirement for practice in the area of physical and cognitive assessment.

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Stat. Auth.: ~~ORS 676.200~~ ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

Stats. Implemented: ~~ORS 676.200~~ ORS 678.040, ORS 678.111, ORS 678.113, ORS 678.150

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851-070-0070

Approval of Treatment Providers

(1) Through established procedures, the Board will approve all treatment providers for chemical dependency.

(2) To be approved by the Board as a treatment provider, a provider must be:

- (a) Licensed as required by the jurisdiction in which the provider works;
- (b) Able to provide appropriate treatment considering licensee's diagnosis, degree of impairment, level of licensure or certification, and treatment options proposed by the treatment program or the independent third-party evaluator; and
- (c) Able to obtain a urinalysis of the licensee at intake.

(3) As authorized by ORS 678.150 (6) (g) the Board has the authority to compel the disclosure of treatment records documented under a nurse-patient or psychotherapist- patient relationship. These subpoenas will not be quashed citing privileged communication.

(4) Chemical dependency treatment records may be disclosed under the requirement of the Code of Federal Regulations (CFR) 42 Part 2. The Board must develop an internal process to request records based on the requirement of this regulation.

(e)

The Board will not accept a provider as a treatment provider in a particular case if, in the Board's judgment, the provider's judgment is likely to be influenced by a personal or professional relationship with a licensee.

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Oregon State Board of Nursing ▪ Oregon Administrative Rules

~~(2)(1) The Board will not accept a provider as a treatment provider in a particular case if, in the Board's judgment, the provider's judgment is likely to be influenced by a personal or professional relationship with a licensee.~~

Stat. Auth.: [ORS 676.200](#)

(2) Stats. Implemented: [ORS 676.200](#)

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

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851-070-0075

Approval of Worksite Monitors ~~for Both HPSP and Public Discipline~~

To be approved by the Board as a worksite monitor, a worksite monitor must be:

- (1) Licensed as a registered nurse or other licensed health professional approved by the Board.
- (2) Conduct routine observation/monitoring of licensee's performance. The worksite monitor may be the supervisor if the supervisor can meet the observation requirements or this may be delegated by the supervisor to another licensed individual who meets the requirements.
- (3) Provide evidence of specialized education relevant to the worksite monitor as approved by the Board.
- (4) The worksite monitor must agree in writing to perform the worksite monitor role.
- (5) The written report must be completed by the worksite supervisor with input from worksite monitors.

Stat. Auth.: [ORS 676.200](#) [ORS 678.040](#), [ORS 678.111](#), [ORS 678.113](#), [ORS 678.150](#)

Stats. Implemented: [ORS 676.200](#) [ORS 678.040](#), [ORS 678.111](#), [ORS 678.113](#), [ORS 678.150](#)

Hist.: BN 4-2016, f. 7-15-16, cert. ef. 8-1-16; BN 5-2016, f. & cert. ef. 8-2-2016

851-070-0080

Licensee Responsibilities ~~for Self/Board-referred HPSP and~~ while on Public Discipline

(1) All licensees ~~and certificate holders~~ must:

- (1) Agree to report any arrest for or conviction of a misdemeanor or felony crime to the ~~HPSP and/or the Board~~ within three business days after the licensee is arrested or convicted of the crime; and
- (2) Comply continuously with his or her monitoring agreement, including any restrictions on his or her practice ~~for a minimum of two years for the HPSP program; or, for public discipline, as specified by the Board by rule or order. During the last two years of the HPSP program only, for a single isolated incident of substantial noncompliance the Board has discretion to determine if the substantial noncompliance warrants extension in the program.~~
- (3) Abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee. ~~The Board does not authorize the HPSP program to approve or disapprove medications prescribed to the licensee for a documented medical condition;~~
- (4) Report unauthorized use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours;
- (5) Comply with the treatment plan ~~and all other requirements of the Board order.~~ ~~HPSP medical director may consult with the third party evaluator(s) regarding treatment recommendations. The Board does not authorize HPSP to independently modify treatment plans developed by an independent third party evaluator;~~

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- ~~(6)~~(5) _____ Limit practice as required by the Third-Party Evaluator, Treatment Program, or Board order;
 - ~~(7)~~(6) _____ Participate in monitored practice;
 - ~~(8)~~(7) _____ Participate in a follow-up evaluation, when necessary, of licensee's fitness to practice;
 - ~~(9)~~(8) _____ Submit to random toxicology testing for the duration ~~of the HPSP or of the~~ Public Discipline program;
 - ~~(10)~~(9) _____ ~~Report at least weekly to the HPSP regarding the licensee's compliance with the monitoring agreement;~~ Report at least monthly to the Public Discipline Program compliance staff;
 - ~~(11)~~(10) _____ Report to the ~~HPSP monitor~~ Board compliance staff applications for licensure in other states, changes in employment and changes in practice setting;
 - ~~(12)~~(11) _____ Agree to be responsible for the cost of evaluations, toxicology testing and treatment;
 - ~~(13)~~(12) _____ Report to the ~~HPSP~~ Board compliance staff any investigations or disciplinary action by any state or state agency, including Oregon;
 - ~~(14)~~(13) _____ Participate in required meetings according to the treatment plan; and
 - ~~(15)~~(14) _____ Maintain active license status.
- ~~(2) _____ In addition to the requirements listed in section one of this rule, self-referred licensees must also provide to the HPSP a copy of a report of the licensee's criminal history, at least once per calendar year or more often if required by the HPSP.~~
- ~~(15) _____ For Board Ordered. For discipline violation of any of the conditions of the final order is considered non-compliance and will be investigated and the appropriate sanction will be determined up to and including revocation of license or certificate.~~

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Stat. Auth.: ~~ORS 676.200~~ [ORS 678.040](#), [ORS 678.111](#), [ORS 678.113](#), [ORS 678.150](#)
Stats. Implemented: ~~ORS 676.200~~ [ORS 678.040](#), [ORS 678.111](#), [ORS 678.113](#), [ORS 678.150](#)
Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 1-2014, f. 3-3-14, cert. ef. 4-1-14; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

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851-070-0090

Completion Requirements

- ~~(1) _____ To complete the HPSP successfully, licensees with a substance use disorder and with a mental disorder, must have participated in the HPSP program for a minimum of four years and have worked for at least two years in a monitored practice. Licensees must complete the required two years of monitored practice within four years of entering the HPSP.~~
- ~~(2) _____ To complete the HPSP successfully, licensees with a mental health disorder, but no substance use disorder, must have participated in the HPSP program for a minimum of two years and have worked for at least one year in a monitored practice. Licensees with a mental health disorder may be required to submit to random alcohol or drug testing only in cases when such testing is recommended by a third-party evaluator or Board order based on a diagnosis of substance use disorder. Licensees must complete the required year of monitored practice within two years of entering the Health Professionals' Services Program.~~
- ~~(3) _____ The Board may extend the time within which a licensee must complete monitored practice if the licensee has remained compliant with the program.~~
- ~~(4) _____ A licensee who does not complete the required term of monitored practice will be discharged from the Health Professionals' Services Program and may be subject to discipline.~~
- ~~(5) _____ The time spent working in monitored practice before transferring from the Nurse Monitoring Program to the Health Professionals' Services Program effective July 1, 2010, will be counted toward the required term of monitored practice.~~
- ~~(6) _____ For probation, the licensee will be considered for completion as per Board order; however, the public discipline stays on the OSBN website for the life of the license.~~

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Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 4-2012(Temp), f. & cert. ef. 4-26-12 thru 10-1-12; BN 13-2012, f. 7-6-12, cert. ef. 8-1-12; BN 1-2014, f. 3-3-14, cert. ef. 4-1-14; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

851-070-0100

Substantial Non-Compliance Criteria

- ~~(1) The HPSP will report substantial non-compliance to the Board within one business day after the HPSP learns of non-compliance, including but not limited to information that a licensee:~~
- ~~(a) Engaged in criminal behavior;~~
 - ~~(b) Engaged in conduct that caused injury, death or harm to the public, including engaging in sexual impropriety with a patient;~~
 - ~~(c) Was impaired in a health care setting in the course of the licensee's employment;~~
 - ~~(d) Received a positive toxicology test result as determined by federal regulations pertaining to drug testing or self report of unauthorized substance use;~~
 - ~~(e) Violated a restriction on the licensee's practice imposed by the HPSP or the licensee's Board;~~
 - ~~(f) Was civilly committed for mental illness or involuntary hospitalization;~~
 - ~~(g) Entered into a monitoring agreement with HPSP, but failed to participate or discontinued participation in HPSP;~~
 - ~~(h) Was referred to the HPSP, but failed to enroll in the HPSP;~~
 - ~~(i) Forged, tampered with, or modified a prescription;~~
 - ~~(j) Violated any rules of prescriptive/dispensing authority;~~
 - ~~(k) Violated any provisions of OAR 851-070-0080;~~
 - ~~(l) Violated any terms of the monitoring agreement; or~~
 - ~~(m) Failed to complete the monitored practice requirements as stated in OAR 851-070-0090.~~
- ~~(2)(1) The Board, upon being notified of a licensee's substantial non-compliance will investigate and determine the appropriate sanction, which may include a limitation of licensee's practice and any other sanction, up to and including termination from the HPSP and formal discipline.~~
- ~~(3)(1) For Board Ordered discipline violation of any of the conditions of the final order is considered non-compliance and will be investigated and the appropriate sanction will be determined up to and including revocation of licence or certificate.~~

Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 2-2013, f. 2-28-13, cert. ef. 4-1-13; BN 1-2014, f. 3-3-14, cert. ef. 4-1-14; BN 4-2016, f. 7-15-16, cert. ef. 8-1-16

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Alteration of Public License Verification Information Upon Successful Completion of Probation

1. Board discipline is subject to public disclosure and, as such, must be made available to the public.
2. On the three-year anniversary date of successful release from monitored practice, the licensee or certificate holder may petition the Board, using internal Board procedures, to alter the information found on the licensee or certificate holders found on the Board.

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[verification website.](#)

3. [While public discipline is not authorized to be completely removed or expunged from the verification website, the information will not be found on the verification landing page of the licensee or certificate holder. Access to the discipline document and information will require additional keystrokes.](#)
4. [The disciplinary information will continue to be available through the national nurses database \(NURSYS\) and the National Practitioner Databank \(NPDB\). The Board has no authority over how information is displayed on these platforms.](#)

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