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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 339
OCCUPATIONAL THERAPY LICENSING BOARD

FILED

04/08/2025 2:00 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Updates text, establishes the per day violation for employing unlicensed individuals to practice occupational therapy.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/28/2025 12:00 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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

To strengthen the boards ability to take public disciplinary action against employers who employ unlicensed individuals to practice occupational therapy.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR 339-010-0021
ORS 675.336

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

The amendment will not affect racial equity in Oregon.

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):

Small businesses were not directly involved. The board licensees are all individual practitioners, although many are small business owners.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed rule is sent to all licensees, interested parties, state association, and the Oregon legislation for comment. It is also published on the board's website.

AMEND: 339-010-0021

RULE SUMMARY: In 339-010-0021 Imposition of Civil Penalties, the rule text in (3) is changed from civil penalties "shall" be imposed to "may" be imposed per the rule schedule or as otherwise determined by the board. The rule text in (3)(f) establishes the violation of \$1000 "per day" the unlicensed individual is employed as an occupational therapy practitioner.

CHANGES TO RULE:

339-010-0021

Imposition of Civil Penalties ¶¶

- (1) Imposition of a civil penalty does not preclude disciplinary sanction against the occupational therapist's/occupational therapy assistant's license. Disciplinary sanction against the occupational therapist's/occupational assistant/s license does not preclude imposing a civil penalty. Criminal conviction does not preclude imposition of a civil penalty for the same offense.¶¶
- (2) The civil penalty shall be payable to the Board by credit card, cashier's check or money order.¶¶
- (3) Civil penalties ~~shall~~may be imposed according the following schedule ~~in the absence of a finding of aggravating or mitigating circumstances (per OAR 339-010-0022) or as otherwise determined by the Board.~~¶¶
- (a) Practicing or assisting in occupational therapy practice as defined in ORS 675.220(1) and 675.222 without a current Oregon license or limited permit due to nonpayment of fees, \$250 per month.;¶¶
- (b) Practicing or assisting in occupational therapy practice as defined in ORS 675.220(1) and 675.222 without a current Oregon license or limited permit, not related to nonpayment of fee, \$1,000;¶¶
- (c) Unprofessional conduct by a licensee or limited permittee, \$1,000;¶¶
- (d) Violation of ORS 675.210 to 675.340 or any rule of the Board unless otherwise provided in this schedule, \$1,000;¶¶
- (e) Gross negligence in the practice of occupational therapy, \$1,000;¶¶
- (f) ~~Knowingly~~Employing an individual to practice occupational therapy when the individual does not have a current, valid Oregon license or permit, \$1,000 per day;¶¶
- (g) Knowingly making a false statement to the Board, \$1,000;¶¶
- (h) Practicing occupational therapy outside the scope for which the license or permit is issued, \$1,000;¶¶
- (i) Obtaining or attempting to obtain a license or permit or a renewal of a license or permit by bribery or misrepresentation, \$1,000;¶¶
- (j) Purporting to be a licensee or permittee when the person does not hold a valid license or permit, \$1,000;¶¶
- (k) Practicing occupational therapy under a false or assumed name, \$500;¶¶
- (l) Conviction of a crime where such crime bears a demonstrable relationship to the practice of occupational therapy, \$1,000;¶¶
- (m) Undertaking to act as an occupational therapy assistant independently of the supervision of an occupational therapist licensed by the Oregon Occupational Therapy Licensing Board, \$500.¶¶
- (4) The Board shall report to the National Board for Certification in Occupational Therapy all cases of disciplined licensees.

Statutory/Other Authority: ORS 675.320(10)

Statutes/Other Implemented: ORS 675.336, 675.337