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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 339
OCCUPATIONAL THERAPY LICENSING BOARD

FILED

05/13/2021 11:59 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amends rule 339-010-0006 Standards of Practice for Telehealth.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/04/2021 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):

Requires occupational therapy practitioners to have procedures in place in the event of a medical or clinical emergency at the patient's location.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OAR 339-010-0006; ORS 675.320

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):

Proposed rule notice is sent to the state association.

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

The proposed rule notice is sent to all licensees, stakeholders and the state association. It is also published on the board

AMEND: 339-010-0006

RULE SUMMARY: Adds rule to require occupational therapy practitioners to have procedures in place in the event of a medical or clinical emergency at a patient's location.

CHANGES TO RULE:

339-010-0006

Standards of Practice for Telehealth ¶¶

(1) "Telehealth" is defined as the use of interactive audio and video, in real time telecommunication technology or store-and-forward technology, to deliver health care services when the occupational therapy practitioner and patient/client are not at the same physical location. Its uses include diagnosis, consultation, treatment, prevention, transfer of health or medical data, and continuing education.¶¶

(2) Telehealth is considered the same as Telepractice for occupational therapy practitioners working in education settings; and Teletherapy and Telerehab in other settings.¶¶

(3) In order to provide occupational therapy services via telehealth to a patient/client in Oregon, the occupational therapy practitioner providing services to a patient/client must have a valid and current license issued by the Oregon OT Licensing Board. Oregon licensed occupational therapy practitioners using telehealth technology with a patient/client in another state may also be required to be licensed in the state in which the patient/client receives those services and must adhere to those state licensure laws.¶¶

(4) Prior to initiation of occupational therapy services, an occupational therapy practitioner shall obtain informed consent of the delivery of service via telehealth from the patient/client. The consent may be verbal, written or recorded and must be documented in the patient or client's permanent health or education record.¶¶

(5) When providing telehealth services, an occupational therapy practitioner shall have procedures in place to address remote medical or clinical emergencies at the patient's location¶¶

(6) Occupational therapy practitioners shall secure and maintain the confidentiality of medical information of the patient/client as required by HIPAA and state and federal law.¶¶

(6Z) In making the determination whether an in-person evaluation or intervention are necessary, an occupational therapist shall consider at a minimum:¶¶

(a) The complexity of the patient's/client's condition;¶¶

(b) His or her own knowledge skills and abilities;¶¶

(c) The patient's/client's context and environment;¶¶

(d) The nature and complexity of the intervention;¶¶

(e) The pragmatic requirements of the practice setting; and¶¶

(f) The capacity and quality of the technological interface.¶¶

(7Z) Occupational therapy practitioners providing occupational therapy services via telehealth must:¶¶

(a) Exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services;¶¶

(b) Provide services consistent the AOTA Code of Ethics and Ethical Standards of Practice; and comply with provisions of the Occupational Therapy Practice Act and its regulations.¶¶

(8Z) Supervision of Occupational Therapy Assistants under 339-010-0035 for routine and general supervision, can be done through telehealth, but cannot be done when close supervision as defined in 339-010-0005 is required. The same considerations in (6Z)(A) through (F) must be considered in determining whether telehealth should be used.¶¶

(9Z) An occupational therapy practitioner who is supervising a fieldwork student must follow the ACOTE standards and other accreditation requirements.¶¶

(10Z) Failure to comply with these regulations shall be considered unprofessional conduct under OAR 339-010-0020.

Statutory/Other Authority: ORS 675.320(8)