

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 339
OCCUPATIONAL THERAPY LICENSING BOARD

FILED

05/13/2021 11:40 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amends 339-010-0021 Imposition of Civil Penalties

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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Filed By:
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NEED FOR THE RULE(S):

To increase the civil penalty for practicing occupational therapy without a current Oregon license, or limited permit.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OAR 339-010-0021; ORS 675.336

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 state association for comment. It is also posted on the board website.

AMEND: 339-010-0021

RULE SUMMARY: Increasing the civil penalty for practicing unlicensed to \$250 per month.

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 ~~cash~~ credit card, cashier's check or money order.¶¶

(3) Civil penalties shall be imposed according to the following schedule in the absence of a finding of aggravating or mitigating circumstances (per OAR 339-010-0022):¶¶

(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:¶¶

~~(A) Date license lapses to six months, \$100;¶¶~~

~~(B) Six months to twelve months, \$200;¶¶~~

~~(C) One year to two years, \$500;¶¶~~

~~(D) Two years and up, \$1,000, \$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;¶¶

(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