



PERMANENT ADMINISTRATIVE ORDER

BP 94-2020
CHAPTER 855
BOARD OF PHARMACY

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RULES:

855-001-0000, 855-001-0005, 855-001-0010, 855-001-0012, 855-001-0015, 855-001-0016, 855-001-0035

AMEND: 855-001-0000

NOTICE FILED DATE: 10/22/2020

RULE SUMMARY: Procedural rules revisions to ensure clarity, transparency and promote patient safety.

CHANGES TO RULE:

855-001-0000

Notice of Proposed Rule ¶

Prior to the permanent adoption, amendment, or repeal of any rule, the State Board of Pharmacy ~~shall~~must give notice of its intended action as required in ORS 183.335~~(4)~~:¶

(1) In a manner established by rule adopted by the ~~B~~board under ORS 183.341(4), which provides a reasonable opportunity for interested persons to be notified of the agency's proposed action;¶

(2) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;¶

(3) To persons who have requested notice pursuant to ORS 183.335(8) at least 28 days before the effective date; and¶

(4) To persons specified in ORS 183.335(15) at least 49 days before the effective date; and¶

(5) To persons or organizations the Board's Executive Director determines, pursuant to ORS 183.335, are interested persons in the subject matter of the proposed rule, or would be likely to notify interested persons of the proposal; and¶

(a) Oregon State Pharmacy Association;¶

(b) Oregon Society of Health System Pharmacists;¶

(6) To the Associated Press and the Capitol Press Room.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 183.335

AMEND: 855-001-0005

ADOPTED ATTORNEY GENERAL'S MODEL RULES BY REFERENCE.

RULE SUMMARY: The revision to the proposed rule is to ensure clarity, transparency and promote patient safety.

CHANGES TO RULE:

855-001-0005

Model Rules of Procedure ¶

Pursuant to the provisions of ORS 183.341, the Board of Pharmacy adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act effective ~~July 1, 07/2019~~. These rules ~~shall~~ must be controlling except as otherwise required by statute or rule.¶

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Pharmacy.]

Statutory/Other Authority: ORS 183.341, ORS 689.205

Statutes/Other Implemented: ORS 183.341

REPEAL: 855-001-0010

NOTICE FILED DATE: 10/22/2020

RULE SUMMARY: This rule is no longer relevant in order to be in compliance with current Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act.

CHANGES TO RULE:

~~855-001-0010~~

~~Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases~~

~~In addition to the requirements stated in rule 137-003-0505 of the Attorney General's Model Rules of Procedure adopted under OAR 855-001-0005, the notice to parties in contested cases may include a statement that an answer to the assertions or charges will be required, and if so, the consequences of failure to answer may be by enclosing a copy of rule 855-001-0015 with the notice.~~

~~Statutory/Other Authority: ORS 183~~

~~Statutes/Other Implemented: ORS 689~~

AMEND: 855-001-0012

NOTICE FILED DATE: 10/22/2020

RULE SUMMARY: The proposed revisions are necessary in order to be in compliance with current Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act 07/2019 as is stated in OAR 855-001-0016.

CHANGES TO RULE:

855-001-0012

Time ~~F~~for Requesting a Contested Case Hearing ~~I~~

A request for a contested case hearing must be in writing and must be received by the ~~B~~board within ~~twenty-one~~ 21 days from the date the contested case notice was served. When the board has issued a denial of a license, a request for a contested case hearing must be in writing and must be received by the board within 60 days from the date the licensure denial was served.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.151, ORS 183.435

REPEAL: 855-001-0015

NOTICE FILED DATE: 10/22/2020

RULE SUMMARY: This rule is no longer relevant in order to be in compliance with current Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act.

CHANGES TO RULE:

~~855-001-0015~~

~~Hearing Request and Answers: Consequences of Failure to Answer~~

~~(1) A hearing request, and answer when required, shall be made in writing to the Board by the party or his attorney and an answer shall include the following:¶¶~~

~~(a) An admission or denial of each factual matter alleged in the notice;¶¶~~

~~(b) A short and plain statement of each relevant affirmative defense the party may have.¶¶~~

~~(2) Except for good cause:¶¶~~

~~(a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;¶¶~~

~~(b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;¶¶~~

~~(c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and¶¶~~

~~(d) Evidence shall not be taken on any issue not raised in the notice and the answer.~~

~~Statutory/Other Authority: ORS 183~~

~~Statutes/Other Implemented:~~

AMEND: 855-001-0016

NOTICE FILED DATE: 10/22/2020

RULE SUMMARY: The proposed revisions are necessary in order to be in compliance with current Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act.

CHANGES TO RULE:

855-001-0016

Filing Exceptions and Argument to the Board ¶

After a proposed order has been served on a party, the ~~Board~~ board shall ~~must~~ notify the party when written exceptions must be filed to be considered by the ~~Board~~ and the ~~Board shall~~ notify the party when the party may appear ~~before the Board to present argument regarding the proposed order~~ board.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.151

AMEND: 855-001-0035

NOTICE FILED DATE: 10/22/2020

RULE SUMMARY: The revision to the proposed rules are a result of the board's 2020-2024 Strategic Plan to proactively review and update rules to ensure clarity, transparency and promote patient safety.

CHANGES TO RULE:

855-001-0035

Duty to Cooperate ¶

~~Every~~ (1) Applicants, licensees, and registrant of the Board shall cooperate with the Board and shalls must comply with all board requests, including responding fully and truthfully to inquiries from and providing requested materials within the time allowed by the board and complying with any requests from the Board, subject only to the exercise of any applicable right or privilege subpoena. ¶

(2) Applicants, licensees, and registrants must comply with the terms of board orders and agreements.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS ~~689~~76.612