

OFFICE OF THE SECRETARY OF STATE

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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 855  
BOARD OF PHARMACY

**FILED**

12/22/2023 8:58 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Amends Pharmacist Prohibited Practices

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/24/2024 4:30 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.*

CONTACT: Rachel Melvin  
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800 NE Oregon St., Suite 150  
Portland, OR 97232

Filed By:  
Rachel Melvin  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 01/24/2024

TIME: 9:30 AM

OFFICER: Rachel Melvin

HEARING LOCATION

ADDRESS: Oregon Board of Pharmacy - Virtual Mtg , 800 NE Oregon St., Suite 150, Portland , OR 97232

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 618712182

SPECIAL INSTRUCTIONS:

This hearing meeting will be held virtually via Microsoft Teams.

If you wish to present oral testimony virtually during this hearing, sign up on our website at [www.oregon.gov/pharmacy/pages/](http://www.oregon.gov/pharmacy/pages/)

rulemaking-information or email your first and last name, email address and phone number to

pharmacy.rulemaking@bop.oregon.gov to receive a calendar invitation to join the virtual hearing. Please indicate which rule(s) you would like to comment on.

You must submit written comments before 4:30PM on January 24, 2024. Email written comments to pharmacy.rulemaking@bop.oregon.gov.

NEED FOR THE RULE(S)

Proposes to remove "Diagnosis" from list of prohibited practices. On December 15, 2023 the board motioned to initiate rulemaking on this rule pursuant to a petition filed under OAR 137-001-0070 on September 25, 2023.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

December 2023 Bd Mtg Agenda, mailing #F

[https://www.oregon.gov/pharmacy/Documents/December\\_2023\\_Bd\\_Mtg\\_Agenda.pdf](https://www.oregon.gov/pharmacy/Documents/December_2023_Bd_Mtg_Agenda.pdf)

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

The proposed revisions to the rules are not anticipated to have a racial equity impact as the ability to 'diagnose' is not included within a pharmacist's statutory scope of practice as defined in Oregon Revised Statutes chapter 689. By removing the prohibition on 'diagnosis' in Oregon Administrative Rules chapter 855, the rules will no longer address this practice.

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FISCAL AND ECONOMIC IMPACT:

No anticipated fiscal and economic impact. Licensees, registrants and stakeholders may provide fiscal and economic impact statements during the open comment period.

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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).*

The proposed new rule has no additional economic impact on state agencies, units of local government, or the public.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Licensees and registrants who identify as a small business will receive an email notice of proposed rulemaking via GovDelivery and will have an opportunity to provide public comment on the proposed rules for the board's consideration.

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

No. The board did not direct staff to convene a RAC or Workgroup to advise on the proposed rules. Board members represent the interests of persons and communities likely to be affected by the proposed rules and were able to provide expertise when drafting the proposed rules.

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AMEND: 855-115-0150

RULE SUMMARY: Proposes to remove "Diagnosis" from list of prohibited practices. On December 15, 2023 the board motioned to initiate rulemaking on this rule pursuant to a petition filed under OAR 137-001-0070 on September 25, 2023.

CHANGES TO RULE:

855-115-0150

Prohibited Practices

Pharmacists must not:

(1) Engage in the dispensing, distribution or delivery of drugs unless working for a registered Drug Outlet pharmacy.

(2) Possess personally or store drugs other than in a registered Drug Outlet pharmacy except for those drugs legally prescribed for the personal use of the Pharmacist or when the Pharmacist possesses or stores the drugs in the usual course of business and within the Pharmacist's scope of practice.

(3) Diagnose. \*PROPOSED AMENDMENT IS TO STRIKE (3) "DIAGNOSE" ¶

(4) Engage in any form of discrimination, harassment, intimidation, or assault.¶

(5) Permit any Intern, Certified Oregon Pharmacy Technician or Pharmacy Technician to perform any task in which the supervising Pharmacist is not trained or qualified to perform.¶

(6) Permit any non-licensed pharmacy personnel to perform any function that constitutes the practice of pharmacy as defined in ORS 689 or the assistance of the practice of pharmacy. Non-licensed personnel may only perform functions permitted by the Pharmacist providing supervision.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.155