



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 855
BOARD OF PHARMACY

FILED
06/16/2023 11:27 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proactive procedural rule review; Creates new Division 125 for Pharmacy Technicians

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/26/2023 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.

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Filed By:
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HEARING(S)

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

DATE: 07/26/2023

TIME: 9:30 AM

OFFICER: Rachel Melvin

HEARING LOCATION

ADDRESS: Oregon Board of Pharmacy - Virtual Meeting, 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: 627978258

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/

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 July 26, 2023. Email written comments to

pharmacy.rulemaking@bop.oregon.gov.

NEED FOR THE RULE(S)

Creates new Division 125 for Certified Oregon Pharmacy Technicians (COPT) and Pharmacy Technicians (PT).

Proposes relocating and reorganizing existing COPT and PT rules from Division 025. Adds new requirements related to general responsibilities, licensure, and prohibited practices. After the board permanently adopts and publishes Division 125, repeals Division 025 on the effective date of Division 125.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OBOP 2022-2026 Strategic Plan https://www.oregon.gov/pharmacy/Documents/OBOP_Strategic_Plan_2022-2026.pdf

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

Reorganizing proposed rules may provide clarity, transparency and promote patient safety, no effects on racial equity are anticipated. Ensuring licensees and registrants can easily locate licensure and compliance requirements will positively impact all Oregonians in all communities.

FISCAL AND ECONOMIC IMPACT:

None anticipated.

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).

There are no known economic impacts to the agency, other state or local government, small businesses or members of the public.

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

Small businesses were not involved in the development of proposed revisions to these rules.

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

Board staff suggests reorganizing proposed rules for transparency and clarity for licensees pursuant to the board's 2022-2026 Strategic Plan.

RULES PROPOSED:

855-125-0001, 855-125-0005, 855-125-0010, 855-125-0030, 855-125-0035, 855-125-0040, 855-125-0050, 855-125-0105, 855-125-0110, 855-125-0115, 855-125-0135, 855-125-0150

ADOPT: 855-125-0001

RULE SUMMARY: Proposed rule revises and relocates existing rule OAR 855-025-0001 to OAR 855-125-0001 related to applicability of this division of rules to Certified Oregon Pharmacy Technicians and Pharmacy Technicians.

CHANGES TO RULE:

855-125-0001

Applicability

- (1) This Division applies to any individual who assists a Pharmacist in the practice of pharmacy.¶**
- (2) Only persons licensed with the board as a Certified Oregon Pharmacy Technician or Pharmacy Technician may assist a Pharmacist in the practice of pharmacy and must act in compliance with statutes and rules under the supervision, direction, and control of a Pharmacist.¶**
- (3) Only persons licensed with the board as a Certified Oregon Pharmacy Technician or Pharmacy Technician may perform final verification when delegated to do so by a Pharmacist and done in compliance with all applicable statutes and rules and under the supervision, direction, and control of that Pharmacist.¶**
- (4) Only a person licensed as a Certified Oregon Pharmacy Technician may use the titles "Certified Oregon Pharmacy Technician" and "COPT."**

Statutory/Other Authority: ORS 689.205, ORS 689.225
Statutes/Other Implemented: ORS 689.225, ORS 689.486

ADOPT: 855-125-0005

RULE SUMMARY: Placeholder for future definitions.

CHANGES TO RULE:

855-125-0005

Definitions

Placeholder

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.151

ADOPT: 855-125-0010

RULE SUMMARY: Proposed rule revises and relocates existing rule OAR 855-025-0005 to OAR 855-125-0010 related to Certified Oregon Pharmacy Technician and Pharmacy Technician licensure qualifications.

CHANGES TO RULE:

855-125-0010

Licensure: Qualifications - Certified Oregon Pharmacy Technician or Pharmacy Technician

(1) To qualify for licensure as a Certified Oregon Pharmacy Technician or Pharmacy Technician, an applicant must demonstrate that the applicant is at least 18 years of age and has completed high school (or equivalent).¶

(2) To qualify for licensure as a Certified Oregon Pharmacy Technician, the applicant must also demonstrate that the applicant has taken and passed a national pharmacy technician certification examination offered by:¶

(a) Pharmacy Technician Certification Board (PTCB); or¶

(b) National Healthcareer Association (NHA).

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.225, ORS 689.486

ADOPT: 855-125-0030

RULE SUMMARY: Proposed rule revises and relocates existing rule OAR 855-025-0010 and OAR 855-025-0012 to OAR 855-125-0030 related to Certified Oregon Pharmacy Technician and Pharmacy Technician application for licensure.

CHANGES TO RULE:

855-125-0030

Licensure: Application - Certified Oregon Pharmacy Technician or Pharmacy Technician

(1) An application for licensure as a Certified Oregon Pharmacy Technician or Pharmacy Technician may be accessed on the board website.¶

(2) The board may issue a license to a qualified applicant after the receipt of a completed application including: ¶

(a) Payment of the fee prescribed in OAR 855-110;¶

(b) A current, passport regulation size photograph (full front, head to shoulders);¶

(c) Personal identification or proof of identity; ¶

(d) A completed national fingerprint-based background check; and¶

(e) A completed moral turpitude statement or a written description and documentation regarding all conduct that is required to be disclosed.¶

(3) An applicant for a Certified Oregon Pharmacy Technician license, must provide a passing result from PTCB or NHA on a national pharmacy technician certification examination.¶

(4) Penalties may be imposed for: ¶

(a) Failure to completely and accurately answer each question on the application for licensure or renewal of licensure;¶

(b) Failure to disclose any requested information on the application or requests resulting from the application; ¶

(c) Failure to respond to requests for information resulting from the application;¶

(d) Any other grounds found in ORS 689.405 or ORS 689.490.¶

(5) An application submitted to the board that is not complete within 90 days from applicant submission will be expired. Once expired, an applicant who wishes to continue with the application process must reapply by submitting a new application, along with all documentation, and all fees. While a new application and documentation is required, the board may still consider information that was provided in previous applications. ¶

(6) The license of a Certified Oregon Pharmacy Technician or Pharmacy Technician expires June 30 in even numbered years and may be renewed biennially.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.225, ORS 689.486

ADOPT: 855-125-0035

RULE SUMMARY: Proposed rule revises and relocates existing rule OAR 855-025-0011 and OAR 855-025-0015 to OAR 855-125-0035 related to licensure renewal and licensure reinstatement requirements for Certified Oregon Pharmacy Technicians and Pharmacy Technicians.

CHANGES TO RULE:

855-125-0035

Licensure: Renewal or Reinstatement Applications - Certified Oregon Pharmacy Technician or Pharmacy Technician

(1) An applicant for renewal of a Certified Oregon Pharmacy Technician or Pharmacy Technician license must:

(a) Pay the biennial license fee required in OAR 855-110;

(b) Complete the continuing pharmacy education requirements as directed in OAR 855-021;

(c) Be subject to an annual criminal background check; and

(d) Provide a written description and documentation regarding all conduct that is required to be disclosed.

(2) A Certified Oregon Pharmacy Technician or Pharmacy Technician who fails to renew their license by the expiration date and whose license has been lapsed for one year or less may apply to renew their license and must pay a late fee required in OAR 855-110.

(3) A Certified Oregon Pharmacy Technician or Pharmacy Technician who fails to renew their license by the expiration date and whose license has been lapsed for greater than one year may apply to reinstate their license as follows:

(a) Must apply per OAR 855-125-0020; and

(b) Provide certification of completion of 10 continuing education hours earned in the prior 12 months. These hours may not be counted toward a future renewal; and must include:

(A) One hour of continuing pharmacy education in pharmacy law;

(B) One hour of continuing pharmacy education in patient safety or error prevention;

(C) One hour of continuing pharmacy education in cultural competency either approved by the Oregon Health Authority under ORS 413.450 or any cultural competency CPE; and

(D) Seven other hours of pharmacy technician-specific continuing education.

(4) Penalties may be imposed for:

(a) Failure to completely and accurately answer each question on the application for licensure or renewal of licensure;

(b) Failure to disclose any requested information on the application;

(c) Failure to respond to requests for information resulting from the application;

(d) Any other grounds found in ORS 689.405 or ORS 689.490.

(5) Continued national certification is not required to renew a license as a Certified Oregon Pharmacy Technician.

(6) Any person whose Certified Oregon Pharmacy Technician or Pharmacy Technician license has been suspended, revoked or restricted has the right, at reasonable intervals, to petition the board for reinstatement of such license pursuant to ORS 689.445 and in conjunction with the application process identified in OAR 855-125-0020.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 413.450, ORS 689.225, ORS 689.445, ORS 689.486

ADOPT: 855-125-0040

RULE SUMMARY: Proposed new rule adds requirements for Certified Oregon Pharmacy Technicians and Pharmacy Technicians who wish to lapse their license.

CHANGES TO RULE:

855-125-0040

Licensure: Lapse

(1) A Certified Oregon Pharmacy Technician or Pharmacy Technician may let their license lapse by failing to renew or request that the board accept the lapse of their license prior to the expiration date.

(a) Lapse of a license is not discipline.

(b) The board has jurisdiction to proceed with any investigation or any action or disciplinary proceeding against the licensee.

(c) A person may not assist in the practice of pharmacy if the license is lapsed.

(d) A person may apply for renewal or reinstatement according to OAR 855-125-0030.

(2) If a person requests lapse prior to the expiration date of the license, the following applies:

(a) The license remains in effect until the board accepts the lapse.

¶

(b) If the board accepts the lapse, the board will notify the licensee of the date the license terminates.

(c) The board may not accept the lapse if an investigation of, or disciplinary action against the licensee is pending.

(d) The licensee must return the license to the board within 10 days of the board accepting the lapse.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.153

ADOPT: 855-125-0050

RULE SUMMARY: Proposed new rule adds requirements for Certified Oregon Pharmacy Technicians and Pharmacy Technicians who wish to request voluntary surrender of their license.

CHANGES TO RULE:

855-125-0050

Licensure: Voluntary Surrender

A Certified Oregon Pharmacy Technician or Pharmacy Technician may request that the board accept the voluntary surrender of their license.¶

(1) A voluntary surrender of a license is discipline. ¶

(2) The license remains in effect until the board accepts the surrender.¶

(3) If the board accepts a request for voluntary surrender, the board will issue a final order terminating the license, signed by the licensee and a board representative. The termination date is the date is the order is signed by all parties and served on the licensee. ¶

(4) The licensee must cease assisting in the practice of pharmacy from the date the license terminates.¶

(5) A voluntarily surrendered license may not be renewed. A former licensee who wants to obtain a license must apply for reinstatement per OAR 855-125-0030 unless the final order prohibits the licensee from doing so.¶

(6) The board has jurisdiction to proceed with any investigation, action or disciplinary proceeding against the licensee.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.153

ADOPT: 855-125-0105

RULE SUMMARY: Proposed rule revises and relocates existing rules in OAR 855-025-0023 and OAR 855-025-0025 to OAR 855-125-0105 related to Certified Oregon Pharmacy Technician and Pharmacy Technician general responsibilities.

CHANGES TO RULE:

855-125-0105

Responsibilities: General - Certified Oregon Pharmacy Technician and Pharmacy Technician

(1) Each Certified Oregon Pharmacy Technician and Pharmacy Technician is responsible for their own actions; however, this does not absolve the Pharmacist and the pharmacy from responsibility for the Certified Oregon Pharmacy Technician or Pharmacy Technician's actions.¶

(2) A Certified Oregon Pharmacy Technician or Pharmacy Technician may not engage in the practice of pharmacy as defined in ORS 689.005.¶

(3) A Certified Oregon Pharmacy Technician and Pharmacy Technician must:¶

(a) Comply with all state and federal laws and rules governing the practice of pharmacy;¶

(b) Only assist in the practice of pharmacy under the supervision, direction, and control of a Pharmacist;¶

(c) Know the identity of the Pharmacist who is providing supervision, direction and control at all times;¶

(d) Only work within the scope of duties permitted by their license;¶

(e) Only work within the scope of duties permitted by the Pharmacist providing supervision, direction and control;¶

(f) Only perform duties they are trained to perform; ¶

(g) Appropriately perform the duties permitted; ¶

(h) Only access the pharmacy area when a Pharmacist is physically present at the Drug Outlet Pharmacy or when the Drug Outlet Pharmacy is operating under a Remote Dispensing Site Pharmacy (RDSP) registration and following the requirements in OAR 855-139;¶

(i) Be clearly identified as a Certified Oregon Pharmacy Technician or Pharmacy Technician in all interactions and communications (e.g., nametag, phone interaction, chart notations);¶

(j) Display in plain sight the Certified Oregon Pharmacy Technician or Pharmacy Technician license within the pharmacy or place of business to which it applies; ¶

(k) Ensure initial and ongoing training is completed that is commensurate with the tasks that the Certified Oregon Pharmacy Technician or Pharmacy Technician will perform, prior to the performance of those tasks and with each update to the written policies and procedures;¶

(l) Review and adhere to written policies and procedures. The review must:¶

(A) Occur prior to assisting in the practice of pharmacy; ¶

(B) Occur with each update; and¶

(C) Be documented and records retained according to OAR 855-104-0055; and¶

(m) Dispense and deliver prescriptions accurately and to the correct party.¶

(4) A Certified Oregon Pharmacy Technician or Pharmacy Technician may perform final verification of the drug and dosage, device or product when:¶

(a) The Pharmacist utilizes reasonable professional judgment to determine that a Certified Oregon Pharmacy Technician or Pharmacy Technician may perform final verification; ¶

(b) No discretion is needed;¶

(c) The Pharmacist delegating final verification is supervising the Certified Oregon Pharmacy Technician or Pharmacy Technician; and¶

(d) The Certified Oregon Pharmacy Technician or Pharmacy Technician is performing a physical final verification.

Statutory/Other Authority: ORS 689.205, 2022 HB 4034

Statutes/Other Implemented: ORS 689.155, 2022 HB 4034

ADOPT: 855-125-0110

RULE SUMMARY: Proposed rule requires Certified Oregon Pharmacy Technicians and Pharmacy Technicians to follow universal confidentiality rule in OAR 855-104-0015.

CHANGES TO RULE:

855-125-0110

Responsibilities: Confidentiality

Each Certified Oregon Pharmacy Technician and Pharmacy Technician must comply with OAR 855-104-0015 regarding confidentiality.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.155

ADOPT: 855-125-0115

RULE SUMMARY: Proposed rule requires Certified Oregon Pharmacy Technicians and Pharmacy Technicians to follow universal duty to report rule in OAR 855-104-0010.

CHANGES TO RULE:

855-125-0115

Responsibilities: Duty to Report

Each Certified Oregon Pharmacy Technician and Pharmacy Technician must comply with OAR 855-104-0010 regarding duty to report.

Statutory/Other Authority: ORS 689.455

Statutes/Other Implemented: ORS 689.455

ADOPT: 855-125-0135

RULE SUMMARY: Proposed rule revises and relocates portions of existing rules in OAR 855-025-0025 and OAR 855-025-0040 to OAR 855-125-0135 related to permitted practice requirements for Certified Oregon Pharmacy Technicians and Pharmacy Technicians.

CHANGES TO RULE:

855-125-0135

Responsibilities: Permitted Practices

Certified Oregon Pharmacy Technicians or Pharmacy Technicians:¶

(1) Must only assist in the practice of pharmacy as authorized by the rules of the board and as permitted by the Pharmacist providing supervision, direction, and control.¶

(2) Must ensure that work is verified by a Pharmacist if judgment is utilized when assisting in the practice of pharmacy.¶

(3) May perform final verification as permitted under OAR 855-125-0105(4).

Statutory/Other Authority: ORS 689.005, ORS 689.225

Statutes/Other Implemented: ORS 689.151, 2022 HB 4034

ADOPT: 855-125-0150

RULE SUMMARY: Proposed rule revises and relocates portions of existing rule in OAR 855-019-0200 to OAR 855-125-0150 related to prohibited practices for Certified Oregon Pharmacy Technicians and Pharmacy Technicians.

CHANGES TO RULE:

855-125-0150

Prohibited Practices

Each Certified Oregon Pharmacy Technician and Pharmacy Technician must not:

(1) Engage in the practice of pharmacy as defined in ORS 689, except as permitted in OAR 855-125-0105(4), including but not limited to the following tasks:

(a) Evaluate and interpret a prescription;

(b) Conduct a Drug Utilization Review or Drug Regimen Review;

(c) Consult with any prescriber, other healthcare professional or authorized agent regarding a patient and any medical information pertaining to the patient's prescription;

(d) Counsel a patient or the patient's agent regarding a prescription;

(e) Accept a patient or patient's agent's request to decline counseling;

(f) Advise on therapeutic values, content, hazards and use of drugs and devices;

(g) Interpret the clinical data in a patient record system or patient chart;

(h) Conduct Medication Therapy Management;

(i) Practice pursuant to a Clinical Pharmacy Agreement or Collaborative Drug Therapy Management;

(j) Practice pursuant to Statewide Drug Therapy Management Protocols;

(k) Prescribe a vaccine, drug or device;

(l) Administer a vaccine, drug or device;

(m) Order, interpret or monitor a laboratory test;

(n) Receive or provide a new or transferred prescription orally;

(o) Supervise, direct, or control another licensee in the licensee practicing or assisting in the practice of pharmacy;

(p) Delegate tasks to healthcare providers; and

(q) Deny the patient or the patient's agent request to speak to the Pharmacist.

(2) Assist in the practice of pharmacy unless permitted by the Pharmacist who is supervising, directing, and controlling the Certified Oregon Pharmacy Technician or Pharmacy Technician.

(3) Perform any task while assisting in the practice of pharmacy that requires judgment unless it is verified by a Pharmacist.

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

(5) Refuse a request from a patient, patient's agent, or practitioner to interact with a Pharmacist.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.155, ORS 689.225