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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 855
BOARD OF PHARMACY

FILED

10/19/2023 5:02 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Pharmacy Technician Prohibited Practices

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/21/2023 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:
Rachel Melvin
Rules Coordinator

HEARING(S)

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

DATE: 11/21/2023

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: 343868791

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 November 21, 2023. Email written comments to pharmacy.rulemaking@bop.oregon.gov.

NEED FOR THE RULE(S)

Adds prohibited practices for Certified Oregon Pharmacy Technicians and Pharmacy Technicians. The rules are needed for transparency and clarity for licensees pursuant to the board's 2022- 2026 Strategic Plan.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

21 CFR 1300.01 Definitions relating to controlled substances. (Pharmacist) <https://www.ecfr.gov/current/title-21/chapter-II/part-1300/section-1300.01>

21 CFR 1306.03 Persons entitled to issue prescriptions. <https://www.ecfr.gov/current/title-21/chapter-II/part-1306/subject-group-ECFR1eb5bb3a23fddd0/section-1306.03>

21 CFR 1306.21 Requirement of prescription. <https://www.ecfr.gov/current/title-21/chapter-II/part-1306/subject-group-ECFR4ae2bfb4eae102/section-1306.21>

21 CFR 1306.25 Transfer between pharmacies of prescription information for Schedules III, IV, and V controlled substances for refill purposes. <https://www.ecfr.gov/current/title-21/chapter-II/part-1306/subject-group-ECFR4ae2bfb4eae102/section-1306.25>

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

The proposed rule is not expected to affect racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

No fiscal anticipated. Licensees, registrants and stakeholders will have an opportunity to provide fiscal and economic impact statements during the open comment period.

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).

(1) The proposed rule will have no additional economic impact on state agencies, units of local government, or the public.

(2)(a) The proposed rule applies to registrants of the Oregon Board of Pharmacy. Approximately 30 % of Drug Outlet Pharmacy (RP & IP) registrants identify as a small business.

(b) The rulemaking imposes no additional mandatory reporting, recordkeeping or other administrative requirements on small businesses.

(c) The rulemaking imposes no additional requirements regarding equipment, supplies, labor or administration.

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.

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

The resources involved in convening a RAC were not necessary to amend this rule. Board members represent the interests of persons and communities likely to be affected by a proposed rule and were able to provide information necessary to amend the rule.

ADOPT: 855-125-0150

RULE SUMMARY: Proposed new rule adds prohibited practices for Certified Oregon Pharmacy Technicians and Pharmacy Technicians. Language is adapted from current rule OAR 855-019-0200(3) concerning activities only a pharmacist can do.

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 that requires judgment: ¶

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

(e) Advise on therapeutic values, content, hazards and use of drugs and devices:¶

(f) Interpret the clinical data in a patient record system or patient chart:¶

(g) Conduct Medication Therapy Management:¶

(h) Practice pursuant to a Clinical Pharmacy Agreement or Collaborative Drug Therapy Management: ¶

(i) Practice pursuant to Statewide Drug Therapy Management Protocols:¶

(j) Prescribe a vaccine, drug or device:¶

(k) Administer a drug or device:¶

(l) Order, interpret or monitor a laboratory test; ¶

(m) Receive or transfer a prescription for a controlled substance orally:¶

(n) Supervise, direct, or control a licensee in activities that constitute the practice of pharmacy as defined in ORS 689.005 or assisting in the practice of pharmacy:¶

(o) Delegate tasks to healthcare providers; and¶

(p) 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, ORS 689.225

Statutes/Other Implemented: ORS 689.155