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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 855
BOARD OF PHARMACY

FILED

10/22/2020 3:40 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Executive Order Compliance During Declared Public Health Emergency

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/24/2020 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
971-673-0001
pharmacy.rulemaking@oregon.gov

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: 11/24/2020

TIME: 9:30 AM

OFFICER: Rachel Melvin

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

SPECIAL INSTRUCTIONS:

This hearing meeting will be held via telephonic conference call. To participate, call 1-877-873-8017, participant code 139360#. Email written comment to pharmacy.rulemaking@oregon.gov. Oral comment can be offered at the hearing at date and time described below. Written comments must be submitted by 11/24/2020 by 4:30PM and will not be accepted at the rulemaking hearing.

NEED FOR THE RULE(S):

Agency must have the ability to enforce licensee's compliance of Governor's Executive Orders during a declared public health emergency.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Copies of the Executive Orders are available at: <https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>.

FISCAL AND ECONOMIC IMPACT:

The fiscal impact will be dependent on the nature of the public health emergency and the resulting Governor's Executive Orders. The likely range of impact would be from \$0 to \$10,000 per drug outlet operating in Oregon.

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).

State agencies and local government are not impacted by these rules. It is estimated that 1,648 drug outlet registrants who identify as a small business in Oregon will be subject to the rules. An estimated cost of compliance would range from \$0 to \$10,000 per registered drug outlet. There are no reporting or recordkeeping requirements.

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

Small businesses were not involved in development of these rules as they are necessitated for the protection of public health and safety during a declared public health emergency.

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

A Rules Advisory Committee was not consulted as they were drafted by the Oregon Department of Justice to assure that licensees and registrants are aware of their obligation to comply with the Governor's Executive Orders to protect public health and safety during a declared public health emergency.

ADOPT: 855-007-0086

RULE SUMMARY: Oregon Board of Pharmacy licensees and registrants shall comply with Governor's Executive Orders during a declared emergency.

CHANGES TO RULE:

855-007-0086

Compliance with Governors Executive Orders

(1) During a declared emergency, unprofessional conduct includes failing to comply with any applicable provision of a Governor's Executive Orders or any provision of this rule.¶

(2) Failing to comply as described in subsection (1) includes, but is not limited to:¶

(a) Failing to comply with any requirements of a Board of Pharmacy guidance implementing an Executive Order; and.¶

(b) Failing to comply with Oregon Health Authority (OHA) guidance implementing an Executive Order, including but not limited to:¶

(A) Failing to satisfy required criteria in OHA guidance prior to resuming elective and non-emergent patient care services or procedures;¶

(B) Failing to implement a measured approach when resuming elective and non-emergent patient care services or procedures in accordance with OHA guidance;¶

(C) Failing to screen individuals or clients in accordance with OHA guidance prior to providing services;¶

(D) Failing to implement OHA guidance on mask and face covering and physical distancing for businesses; and¶

(E) Failing to clean and disinfect in accordance with OHA guidance.¶

(3) No disciplinary action or penalty action shall be taken under this rule if the Executive Order alleged to have

been violated is not in effect at the time of the alleged violation.¶

(4) Penalties for violating this rule may include, but are not limited to: civil penalties, restrictions on licensure, probation, suspension, and revocation. Any such penalties shall be imposed in accordance with ORS Ch.183.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.151