

# **BOARD OF PHARMACY**

## **DIVISION 11**

### **HEALTH PROFESSIONAL'S SERVICE PROGRAM**

#### **855-011-0005**

##### **Definitions**

When used in this division of rules:

- (1) "Health Professional's Service Program (the Program)" means the impaired health professional program established by the Oregon Health Authority pursuant to authority granted by ORS 676.190.
- (2) "Impaired" means that the licensee is unable to practice with professional skill and safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances or by reason of a mental health disorder.
- (3) "Mental-health disorder" means a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress or disability or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom that is identified in the DSM-IV-TR, (published by the American Psychiatric Association). "Mental-health disorder" includes gambling disorders.
- (4) "Non-treatment compliance monitoring," means the non-medical, non-therapeutic services employed by the vendor to track and report the licensee's compliance with the monitoring agreement.
- (5) "Substance Abuse Disorder" means a disorder related to the taking of a drug of abuse including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include: substance abuse disorders such as substance dependence and substance abuse, and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorder, mood disorder, etc, as defined in DSM-IV-TR, (published by the American Psychiatric Association) criteria.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 676.200

#### **855-011-0020**

##### **Participation in Health Professional's Service Program**

- (1) Effective July 1, 2010, the Oregon Board of Pharmacy (Board) will participate in the Program.
- (2) The Board may only refer licensees of the Board to the Program if they meet the referral criteria established by the Board.
- (3) The Board may refer a licensee to the Program in lieu of or in addition to public discipline.
- (4) A licensee who has not been referred to the Program by the Board may participate in the Program as permitted by ORS 676.190(5). Licensees may not refer themselves to the Program unless they certify that, to the best of their knowledge, they are not currently under investigation by the Board.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 676.200

### **855-011-0030**

#### **Procedure to refer Board licensees to the Program**

- (1) When the Board has information that a licensee may be impaired by alcohol or a substance abuse disorder or dependency, or a mental-health disorder, the Board may consider referring the licensee to the Program.
- (2) Before the Board refers a licensee to the Program, the Board shall:
  - (a) Obtain a copy of a written report that diagnoses the licensee with alcohol or a substance abuse disorder or dependency, or a mental-health disorder and provides treatment options;
  - (b) Investigate to determine whether the licensee's professional practice while impaired has presented or presents a danger to the public;
  - (c) Obtain the licensee's written agreement to report any arrest for or conviction of a misdemeanor or felony to the Board within three business days after the licensee is arrested or convicted;
  - (d) Obtain the licensee's written agreement to pay the costs of participation in the Program, including the cost of laboratory or toxicology tests, treatment, consultation group meetings and evaluations; and
  - (e) Obtain the licensee's written consent allowing disclosure and exchange of information between the Program, the Board, the monitoring entity, the licensee's employers, and evaluators and treatment entities.

(3) The report referred to in subsection (2)(a) of this rule must be prepared by an independent evaluator approved by the Board under OAR 855-011-0040 to evaluate alcohol or a substance abuse disorder or dependency, and mental-health disorders.

(4) The Board may only refer to the Program a licensee who has been diagnosed with alcohol or a substance abuse disorder or dependency, or a mental health disorder.

(5) The Board will consider all relevant factors before determining whether to refer a licensee to the Program. Relevant factors shall include but are not limited to:

(a) Licensee's disciplinary history;

(b) The severity and duration of the licensee's impairment;

(c) The extent to which licensee's practice can be limited or managed to eliminate danger to the public;

(d) The likelihood that licensee's impairment can be managed with treatment; and

(e) The likelihood that the licensee will follow the conditions of the program.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 676.200

### **855-011-0040**

#### **Approval by the Board of an Independent Evaluator**

(1) The Board may approve a person to act as an evaluator provided that the person:

(a) Is licensed as required by the jurisdiction in which they work;

(b) Possesses a masters degree or a doctorate in a mental health discipline;

(c) Can document training and experience in one of the following:

(A) US Department of Transportation, Substance Abuse Professional Qualification training;

(B) Certification by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission as a Certified Alcohol and Drug Abuse Counselor (CADC) level II or III; or

(C) Board certification in Addiction Medicine by either the American Society of Addiction Medicine or American Board of Psychiatry and Neurology.

(d) Is able to provide a multi-disciplinary assessment and written report describing a licensee's diagnosis, degree of impairment and treatment options; and

(e) Certifies that, if required, they are willing to defend their evaluation in a court of law.

(2) The Board may not approve an evaluator in a case if, in the Board's judgment, the evaluator's judgment is likely to be influenced by a personal or professional relationship with a licensee.

(3) The Board shall maintain a list of approved independent evaluators on the Board's website or the Board may approve a list of evaluators that meet the above criteria that is approved and published by the Program contractor.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 676.200

### **855-011-0050**

#### **Additional requirements for licensees referred to the Program**

(1) In addition to the requirements established by ORS 676.185 to 676.200, a licensee who participates in the Program must:

(a) Participate in the Program for as long as specified in the disciplinary order but not less than two years, except that a licensee who has been enrolled in a prior Board approved program for at least two years may count up to one year of that program towards this requirement;

(b) Meet all conditions of probation specified in the disciplinary order; and

(c) Pay all costs of attendance at non-treatment compliance monitoring group meetings.

(2) A licensee may petition the Board for early removal from the Program if:

(a) They are in good standing with the Program;

(b) They have been in the Program for at least two years; and

(c) They have complied with all conditions of their Board disciplinary order.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 676.200