



TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

PTLB 5-2020
CHAPTER 848
PHYSICAL THERAPIST LICENSING BOARD

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Relating to enforcement of Governor's Executive Orders relating to a declared public health emergency.

EFFECTIVE DATE: 12/14/2020 THROUGH 06/11/2021

AGENCY APPROVED DATE: 12/11/2020

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NEED FOR THE RULE(S):

To provide clear application of existing grounds for discipline under existing statute and rule for violations of Executive Orders during a declared health emergency.

JUSTIFICATION OF TEMPORARY FILING:

The Department of Justice recommended adopting these rules to clarify the Board's authority under 848-045-0010 to investigate complaints and take disciplinary action for violation of requirements of relevant Executive Orders during a state of emergency. Time is of the essence to provide clarification while the Board pursues permanent rulemaking related to public health emergencies and practice detrimental to public health and safety as currently described in rule.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

EOs (Governor's website) OHA Guidance documents (OHA COVID-19 website), board meeting materials (Board Office).

ADOPT: 848-045-0030

RULE TITLE: Compliance with Governor's Executive Orders

RULE SUMMARY: Clarifying rules relating to enforcement of Governor's Executive Orders related to the declaration of a public health emergency.

RULE TEXT:

- (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) Engaging in the practice of physical therapy when required by an Executive Order to be closed;
 - (b) Engaging in the practice of physical therapy at a business required by an Executive Order to be closed;
 - (c) 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 procedures;
- (B) Failing to implement a measured approach when resuming elective and non-emergent procedures in accordance with OHA guidance;
- (d) Failing to comply with any OBPT guidance implementing an Executive Order;
- (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) Sanctions for violating this rule will be imposed in accordance with OAR 848-045-0010.

STATUTORY/OTHER AUTHORITY: ORS 688; EO 20-66, EO 20-59

STATUTES/OTHER IMPLEMENTED: ORS 688; EO 20-66, EO 20-59