



MEMORANDUM

June 12, 2025

To: Board Members

From: Autumn Blake, Board Review Coordinator

Subject: Statutory Minor Corrections to Division 438 Rules

[Senate Bill \(SB\) 166 \(2025\)](#) was recently signed by the governor. SB 166 amends various statutes, including ORS 656, to change the term “member” of the Oregon State Bar to the term “licensee.” Additionally, a numbering change to referenced rules has been discovered. Administrative rule amendments have been identified for your consideration to comply with these changes. These amendments, if promulgated, would be considered “statutory minor corrections” (SMC).

- Amendments to the term “member of the Oregon State Bar” in OAR 438

At several places in the Board’s administrative rules, the phrase “member of the Oregon State Bar” is used in reference to attorneys and Administrative Law Judges. It is proposed to change “member(s) of the Oregon State Bar” to “licensee(s) of the Oregon State Bar.” A full list of these amended references is set forth below.

- Reference to the Law Student Appearance Program in OAR 438

Under 438-006-0100(3), the Board authorizes law students to appear on behalf of a client in accordance with the Supreme Court Rules for Admission of Attorneys. The rules have been updated and renumbered since the rule was last amended in 2016.

ORS 183.335(7) specifies types of changes that may be made to a rule without prior notice or hearing. Such changes include: (1) changing the name of an agency where the change is prescribed by law; (2) changing the name of a program, office, or division within an agency, as long as there is no substantive effect; (3) correcting spelling; (4) correcting grammar, as long as the meaning/application/scope of the rule is not altered; (5) correcting statutory or rule references; (6) correcting addresses or telephone numbers; (7) changing a term or phrase to conform with a change in law.

ORS 183.335(7) exempts such SMC from the formal rulemaking process. Instead, the Secretary of State is notified of amendments and the paragraph of ORS 183.335(7) allowing the correction through its electronic filing system.

These proposed rule amendments do not require prior notice or hearing. These changes do not affect the Board's operations or how parties interact with the Board. Please let me know if there are questions or concerns, or if I can be of further assistance.

PROPOSED CHANGES DUE TO SB 166

1. OAR 438-006-0100 Representation by Counsel
 - (1) Except as permitted by ORS 656.291 and this rule, parties that are not natural persons and state agencies must be represented by [*members*] **licensees** of the Oregon State Bar. The Board encourages injured workers also to be represented in formal hearings.
2. OAR 438-015-0005 Definitions
 - (3) "Attorney" means a [*member*] **licensee** of the Oregon State Bar.
3. OAR 438-082-0055 Representation by Counsel; Charging of Fee Prohibited
 - (2) Any other interested party may be represented by an attorney who is [*member*] **a licensee** of the Oregon State Bar.
4. OAR 438-085-0026 Definitions
 - (3) "Administrative Law Judge": An Administrative Law Judge of the Hearings Division who is a [*member*] **licensee** of the Oregon State Bar.

PROPOSED CHANGES TO REFERENCE TO RULES FOR ADMISSION

1. OAR 438-006-0100 Representation by Counsel
 - (3)(a) A law student authorized to appear before courts and administrative tribunals of this state in accordance with Rule [*13.05*] **13.2** through [*13.30*] **13.10** of the Supreme Court Rules for Admission of Attorneys (Law Student Appearance Program) has the consent of the Board to appear on behalf of a client at a hearing if: