



The Oregon Administrative Rules contain OARs filed through July 15, 2008

OREGON MEDICAL BOARD

DIVISION 10

GENERAL

847-010-0005

Tenses, Gender, and Number

For the purpose of the rules and regulations contained in this chapter, the present tense includes the past and future tenses, and the future, the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, the singular.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.010 - ORS 677.800

Hist.: ME 17, f. 5-2-68

847-010-0010

Definitions

For the purpose of the rules and regulations contained in this chapter, the term "Board" means the Oregon Medical Board, the term "Act" means the Medical Practice Act, and the term "approved fellowship" means a fellowship training program approved by the American Osteopathic Association, the Accreditation Council for Graduate Medical Education, or is accepted for certification by a specialty board recognized by the American Board of Medical Specialties.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.010

Hist.: ME 17, f. 5-2-68; ME 21-1987, f. & ef. 10-29-87

847-010-0012

Certification of Examination Scores and Verification of Oregon Licensure

(1) Certification of examination scores will be furnished provided that:

(a) The licensee submits a written request, fee and proper form for certification;

(b) The license was issued on the basis of written examination taken in this state.

(2) Verification of Oregon license number, date issued and current status will be furnished regardless of the status of the license (revoked/suspended/lapsed) provided the licensee submits a written request and fee.

Stat. Auth.: ORS 183 & ORS 677

Stats. Implemented: ORS 677.110

Hist.: ME 11-1984(Temp), f. & ef. 7-30-84; ME 16-1984, f. & ef. 11-5-84; ME 8-1986(Temp), f. & ef. 5-5-86; ME 10-1986, f. & ef. 7-31-86

847-010-0025

Refunding of Filing Fees -- Reciprocity with a Sister State

When a person files an application for licensure based upon reciprocity with a sister state, and later withdraws such application, no refund shall be provided.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.265

Hist.: ME 17, f. 5-2-68; ME 2-1979, f. & ef. 5-1-79

847-010-0030

Refunding of Filing Fees -- Written Examination

When a person files an application for licensure based upon Oregon State Board written examination, and later withdraws such application, no refund shall be provided.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.265

Hist.: ME 17, f. 5-2-68; ME 2-1979, f. & ef. 5-1-79

847-010-0035

Refunding of Filing Fees -- Endorsement by National Board of Medical Examiners, National Board of Osteopathic Medical Examiners, or the Medical Council of Canada (LMCC)

When a person files an application for licensure based upon the National Board of Medical Examiners, the National Board of Osteopathic Medical Examiners, or the Medical Council of Canada (LMCC), and later withdraws such application, no refund shall be provided.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 17, f. 5-2-68; ME 2-1979, f. & ef. 5-1-79; ME 15-1993, f. & cert. ef. 11-1-93

847-010-0038**Fee for Re-application**

A person re-applying for licensure under OAR 847-010-0025, 847-010-0030, or 847-010-0035, after a period exceeding 12 months, shall file a new application and pay the full filing fee as if filing for the first time.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.265

Hist.: ME 2-1979, f. & ef. 5-1-79

847-010-0042**Posting Medicare Notice**

(1) Every physician licensed to practice medicine in Oregon who is treating Medicare patients shall post a notice in the office stating whether or not the physician is currently participating in a Medicare Assignment Program. Where there is more than one physician in the medical practice, one Medicare notice is sufficient, provided all physicians have the same participation or non-participation status. Otherwise, two notices are required, one listing the participating physicians and the other listing non-participating physicians.

(2) A physician currently a participating physician in the Medicare Assignment Program under **42 U.S.C. 1395(b)(3)(B)II** shall post a notice reading: **(Physician's name) is participating in the Medicare Assignment Program. The physician will not charge you fees above the Medicare determined annual deductible and the per visit co-payment. Ask your physician for more information concerning your fees.**

(3) A physician not currently a participating physician in the Medicare Assignment Program under **42 U.S.C. 1395(b)(3)(B)II** shall post a notice reading: **(Physician's name) is not participating in the Medicare Assignment Program and may legally charge you fees in addition to the Medicare determined annual deductible and per visit co-payment. Ask your physician for more information concerning your fees.**

(4) The dimension of the sign shall be no smaller than 8" x 10"; the type size shall be no smaller than 30 point type.

(5) The posting of the sign shall assure that it can be seen and read by Medicare beneficiaries.

(6) If the physician has reasonable cause to believe that the patient cannot read the sign or cannot comprehend its content, the physician shall endeavor to explain the meaning of the notice.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.099

Hist.: ME 20-1987(Temp), f. & ef. 9-30-87; ME 2-1988, f. & cert. ef. 1-29-88

847-010-0045**Definition of Hospitals as Standard in the State of Oregon**

The Oregon Medical Board of the State of Oregon will accept the following hospitals as standard as required under ORS 677.060: Those legally incorporated hospitals which are approved for internship and/or residency training by the Council on Medical Education and Hospitals of the American Medical Association or any similar body of the American Medical Association in the future whose function is that of approving hospitals for internship and/or residency training; or by any similar body of the American Osteopathic Association.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.100

Hist.: ME 17, f. 5-2-68

847-010-0051**Limited License, Postgraduate**

(1) This limited license applies to interns (PG1) and residents as defined in ORS 677.010. This limited license permits the physician to practice medicine only as part of a supervised postgraduate training program of a school of medicine or hospital approved by the Board.

(2) The Limited License, Postgraduate shall be granted for a period of one year, and may be renewed for each additional year of training. For each year of additional training, the physician must submit a limited license form and fee 30 days before the end of the year to be granted a new limited license.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89; ME 9-1992, f. & cert. ef. 7-17-92; BME 4-2003, f. & cert. ef. 1-27-03

847-010-0052**Limited License, Visiting Professor**

(1) Any physician qualifying under OAR 847-020-0140(2) who has received a teaching position in an approved medical school or affiliated teaching institution in this state may be issued a Limited License, Visiting Professor. This license shall allow the physician to practice medicine only to the extent that such practice is incident to and a necessary part of the applicant's duties as approved by the Board in connection with such faculty position.

(2) The Limited License, Visiting Professor shall be granted for a period of one year, and upon written request may be renewed for one additional year. The two years must be consecutive, and any unused portion of time can not be requested at a later date.

(3) Every physician who is issued a Limited License, Visiting Professor to practice in this state shall pay the limited license application fee as of the beginning of his appointment, and 30 days before the end of the first year must submit a new limited license application and fee for the second year.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 21-1987, f. & ef. 10-29-87; ME 11-1988, f. & cert. ef. 8-5-88; ME 1-1991(Temp), f. 1-30-91, cert. ef. 1-31-91; ME 2-1991, f. & cert. ef. 4-19-91; ME 4-1993, f. & cert. ef. 4-22-93; BME 2-2002, f. & cert. ef. 1-28-02; BME 4-2003, f. & cert. ef. 1-27-03; BME 2-2006, f. & cert. ef. 2-8-06

847-010-0053

Limited License, Special

(1) An applicant for a license to practice medicine who possesses all of the qualifications required by the Board may be issued a Limited License, Special, provided the applicant has completed an application under ORS 677.120, 677.825 or 677.830 to the satisfaction of the Board and has requested a Limited License, Special.

(2) A Limited License, Special, permits the licensee to practice medicine only until the adjournment of the next regular Board meeting which date shall be specified in the license. However, the Board may, in its discretion, and upon written request of the licensee, extend said limited license to the adjournment of the Board meeting next following the Board meeting specified in the license.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.132

Hist.: ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89

847-010-0054

Limited License, Institutional Practice or Public Health

(1) A Limited License, Institutional Practice permits the licensee to engage only in the performance of the duties of a member of the medical staff of a state mental hospital, under the supervision of the chief medical officer. Transfer to another state institution must be approved by the Board.

(2) A Limited License, Public Health, permits the licensee to perform only the duties of a health officer at a local health department or to perform public health work as an employee of the Health Division or to perform public health work under the National Health Service Corps.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.132

Hist.: ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89

847-010-0055

Limited License, Institutional Practice, Public Health, Postgraduate

Prior to practicing in this state, every person requiring a Limited License, Institutional Practice, Public Health or Postgraduate must apply for and obtain the required limited license. Every person holding a limited license must obtain a license under ORS 677.100 to 677.120 or 677.820 to 677.840 as soon as all requirements have been met.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 677.132

Hist.: ME 17, f. 5-2-68; ME 10-1986, f. & ef. 7-31-86; ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89

847-010-0056

Limited License, Fellow

(1) Any physician who proposes to do a fellowship in Oregon and who does not wish to register under OAR 847-020-0120 or 847-020-0130 may apply for a Limited License, Fellow. A fellow is a physician who is pursuing some special line of study as part of a supervised program of an approved school of medicine or affiliated teaching institution. A Limited License, Fellow permits the physician to practice medicine only as part of a supervised fellowship program.

(2) A Limited License, Fellow shall be granted for a period of one year, and upon written request from the head of the training program submitted 30 days before the end of the first year, may be renewed for only one additional year. The two years must be consecutive.

(3) A request for a Limited License, Fellow must be accompanied by a copy of the appointment letter or contract, and a letter sent directly from the head of the training program advising that the applicant has been offered a fellowship position and the dates of the program.

(4) Every physician who is issued a Limited License, Fellow to practice in this state shall complete a limited license application form and pay the limited license fee as of the beginning of his appointment, and 30 days before the end of the first year must submit a new limited license application form and fee for the second year.

(5) Fellowships approved by the Accreditation Council for Graduate Medical Education (ACGME) may be used to qualify for a license under OAR 847-020-0120 or 847-020-0130. Non-approved fellowships may not be used toward licensure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 9-1992, f. & cert. ef. 7-17-92; ME 2-1993, f. & cert. ef. 1-29-93; BME 2-2002, f. & cert. ef. 1-28-02; BME 4-2003, f. & cert. ef. 1-27-03; BME 5-2004, f. & cert. ef. 4-22-04

847-010-0060

Limited License, Special, Limited License, SPEX/COMVEX, and Limited License, Postgraduate

A physician who is granted a Limited License, Special, Limited License, SPEX/COMVEX, or Limited License, Postgraduate in the State of Oregon is entitled to apply for and obtain a federal narcotic stamp.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 17, f. 5-2-68; ME 10-1986, f. & ef. 7-31-88; ME 3-1988(Temp), f. & cert. ef. 1-29-88; ME 6-1988, f. & cert. ef. 4-20-88; BME 11-1999, f. & cert. ef. 7-23-99; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0063

Limited License, Medical Faculty

(1) A physician qualifying under OAR 847-020-0140(1) may be granted a Limited License, Medical Faculty after applying to and being approved by the Board at a quarterly Board meeting. This will be deemed to be a valid license to the extent that such practice is incident to and a necessary part of the applicant's duties as approved by the Board in connection with such faculty position.

(2) A Limited License, Medical Faculty is valid for one year after issuance as frequently as needed for a total period not to exceed four years.

(3) Having completed four years of practice under a Limited License, Medical Faculty and successfully passed USMLE Steps 1, 2 and 3, or having previously passed the FLEX, the National Board of Medical Examiners examination or the National Board of Osteopathic Medical Examiners examination, or a combination of all three, per OAR 847-020-0170(1), the applicant is eligible for licensure regardless of any other requirements of this Chapter.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 21-1987, f. & ef. 10-29-87; ME 11-1988, f. & cert. ef. 8-5-88; ME 4-1993, f. & cert. ef. 4-22-93; BME 5-2001, f. & cert. ef. 4-23-01; BME 2-2002, f. & cert. ef. 1-28-02; BME 5-2004, f. & cert. ef. 4-22-04; BME 3-2007, f. & cert. ef. 1-24-07

847-010-0064

Limited License, SPEX/COMVEX

(1) An applicant for a license to practice medicine, who, being otherwise qualified for the unlimited license, but who must take a Competency Examination (Special Purpose Examination-SPEX or Comprehensive Osteopathic Medical Variable-Purpose Examination-COMVEX), may be issued a Limited License, SPEX/COMVEX provided the applicant has completed an application under ORS 677.100 to 677.132 which is satisfactory to the Board.

(2) A Limited License, SPEX/COMVEX may be granted for a period of 6 months and permits the licensee to practice medicine only until grade results are available, and the applicant completes the initial registration process. The Limited License, SPEX/COMVEX would become invalid should the applicant fail the SPEX or COMVEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.120 & 677.132

Hist.: ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89; ME 8-1996, f. & cert. ef. 10-29-96; ME 4-1997, f. & cert. ef. 11-3-97; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0066

Visiting Physician Requirements

(1) The Oregon Medical Board may grant approval for a visiting physician to practice in a hospital, or facility accredited per OAR 847, division 017, in order to obtain or provide training for a period up to

ten days no more than three times a year. The visiting physician who requests additional time beyond the ten days, or submits more than three requests in a year, must apply for and obtain a license to practice in the state of Oregon.

(2) Prior to being granted approval, the following information must be submitted to the Oregon Medical Board:

(a) Two letters: one letter from the requesting hospital administrator or administrator of the accredited facility, and one letter from the hospital chief of staff, hospital department chairman or member of the governing body of the accredited facility with the following information:

(A) Dates of Oregon practice of the visiting physician;

(B) Description of the procedure(s);

(C) Name of responsible staff physician who will be in attendance. The attending staff physician must be an Oregon licensed physician with Active status;

(D) Documentation that the requesting hospital or accredited facility has approved privileges for the visiting physician.

(b) A curriculum vitae for the visiting physician, and

(c) Documentation that the visiting physician's license in the state in which they are practicing is active and in good standing.

(3) The request for approval to practice in the state of Oregon as a visiting physician must be received at least two weeks prior to the beginning date of such practice.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265(1) & (2)

Hist.: BME 7-2000, f. & cert. ef. 7-27-00; BME 13-2002, f. & cert. ef. 10-25-02; BME 24-2006, f. & cert. ef. 10-23-06

847-010-0068

Practice in Oregon by out-of-state physicians and physician assistants in the event of an emergency

(1) In the event of a disaster emergency declared by the Governor of Oregon, the Oregon Medical Board shall allow physicians and/or physician assistants licensed in another state to provide medical care in Oregon under special provisions during the period of the declared disaster emergency, subject to such limitations and conditions as the Governor may prescribe.

(2) The out-of-state physician and/or physician assistant shall submit to the Board the following information:

(a) Verification of a permanent, current, and unrestricted license to practice in another state which is not the subject of a pending investigation by a hospital, a state medical board, or another state or federal agency; and

(b) Current federal or state photo identification, i.e., driver license or passport.

(3) The requirement for completing and submitting the information to the Board is waived if the physician is a member of the National Disaster Medical System (NDMS) under the Office of Emergency Preparedness, U.S. Department of Health and Human Services, and submits to the Board a copy of his/her NDMS photo identification.

(4) The physician and/or physician assistant shall provide the Board documentation demonstrating a request to provide medical care from a hospital, clinic or private medical practice, public health organization, EMS agency, or federal medical facility, or has otherwise made arrangements to provide medical care in Oregon as the result of the declaration of a disaster emergency.

(5) The physician and/or physician assistant shall not practice in Oregon under the special disaster emergency provisions beyond the termination date of the emergency. Practice in Oregon beyond the termination date of the declared disaster emergency requires licensure through the Oregon Medical Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.060(4)

Hist.: BME 12-2002, f. & cert. ef. 10-25-02

847-010-0070

Competency Examination

(1) Whenever the Board of Medical Examiners orders a medical competency examination pursuant to ORS 677.420, it may require or administer one, all, or any combination of the following examinations:

(a) The Special Purpose Examination (SPEX);

(b) The Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX);

(c) Oral examination;

(d) Any other examination that the Board determines appropriate.

(2) Failure to achieve a passing grade on any examination shall constitute grounds for suspension or revocation of examinee's license on the grounds of Manifest Incapacity to Practice Medicine as provided by ORS 677.190(15).

(3) If an oral examination is ordered by the Board, an Examination Panel shall be appointed. The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to that of the examinee's. The panel shall establish a system for weighing the score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(4) Appointment of an Examination Panel is required only when administering an oral examination.

(5) The examinee shall be given no less than two weeks' notice of the date, time and place of any examination to be administered.

(6) The medical competency examination shall be paid for by the licensee.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist.: ME 34, f. & ef. 5-10-77; ME 3-1979, f. & ef. 5-1-79; ME 8-1982, f. & ef. 10-27-82; ME 3-1985, f. & ef. 5-6-85; BME 12-2000, f. & cert. ef. 10-30-00; BME 9-2003, f. & cert. ef. 5-2-03; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0073

Reporting Incompetent or Impaired Physicians to the Board

(1) ORS 677.415 requires health care facilities and Board licensees to report to the Board of Medical Examiners any official action, incident or event taken against or involving a Board licensee, based on a finding of medical incompetence, unprofessional conduct, or licensee impairment, within ten working days of their occurrence. For the purposes of the statute, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

(a) Medical Incompetence: A licensee who is medically incompetent is one who is unable to practice medicine with reasonable skill or safety due to lack of knowledge, ability, or impairment. Evidence of medical incompetence shall include:

(A) Gross or repeated acts of negligence involving patient care.

(B) Failure to achieve a passing score or satisfactory rating on a competency examination or program of evaluation when the examination or evaluation is ordered or directed by a health care facility.

(C) Failure to complete a course or program of remedial education when ordered or directed to do so by a health care facility.

(b) Unprofessional conduct: Unprofessional conduct includes the behavior described in ORS 677.188 (4) and is conduct which is unbecoming to a person licensed by the Board of Medical Examiners or detrimental to the best interest of the public and includes:

(A) Any conduct or practice contrary to recognized standards of ethics of the medical, podiatric or acupuncture professions or any conduct which does or might constitute a danger to the public, to include a violation of patient boundaries.

(B) Willful performance of any surgical or medical treatment which is contrary to acceptable medical standards.

(C) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic studies, administration of unnecessary treatment, employment of outmoded, unproved, or unscientific treatments, except as allowed in ORS 677.190 (1)(b), failing to obtain consultations when failing to do so is not consistent with the standard of care, or otherwise utilizing medical service for diagnosis or treatment which is or may be considered unnecessary or inappropriate.

(D) Committing fraud in the performance of, or the billing for, medical procedures.

(E) Sexual misconduct: Licensee sexual misconduct is behavior that exploits the licensee-patient

relationship in a sexual way. The behavior is non-diagnostic and non-therapeutic, may be verbal or physical, and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes but is not limited to:

(I) Sexual violation: Licensee-patient sex, whether or not initiated by the patient, and engaging in any conduct with a patient that is sexual or may be reasonably interpreted as sexual, including but not limited to:

(i) Sexual intercourse;

(ii) Genital to genital contact;

(iii) Oral to genital contact;

(iv) Oral to anal contact;

(v) Genital to anal contact;

(vi) Kissing in a romantic or sexual manner;

(vii) Touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination or treatment, or where the patient has refused or has withdrawn consent;

(viii) Encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present;

(ix) Offering to provide practice-related services, such as medications, in exchange for sexual favors.

(II) Sexual impropriety: Behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient

(c) Licensee Impairment: A licensee who is impaired is a licensee who is unable to practice medicine with reasonable skill or safety due to factors which include, but are not limited to:

(A) The use or abuse of alcohol, drugs, or other substances which impair ability.

(B) Mental or emotional illness.

(C) Physical deterioration or long term illness or injury which adversely affects cognition, motor, or perceptive skills.

(2) For the purposes of the reporting requirements of this rule and ORS 677.415, licensees shall be considered to be impaired if they refuse to undergo an evaluation for mental or physical competence or chemical impairment, or if they resign their privileges to avoid such an evaluation, when the evaluation is ordered or directed by a health care facility or by this Board.

(3) A report made by a board licensee or the Oregon Medical Association or other health professional association, to include the Osteopathic Physicians and Surgeons of Oregon, Inc, or the Oregon Podiatric Medical Association to the Board of Medical Examiners under ORS 677.415 shall include the following information:

- (a) The name, title, address and telephone number of the person making the report;
- (b) The information that appears to show that a licensee is or may be medically incompetent, is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with an impairment.
- (4) A report made by a health care facility to the Board under ORS 677.415 (5) and (6) shall include:
- (a) The name, title, address and telephone number of the health care facility making the report;
- (b) The date of an official action taken against the licensee or the licensee's voluntary action withdrawing from practice, voluntary resignation or voluntary limitation of licensee staff privileges; and
- (c) A description of the official action or the licensee's voluntary action, as appropriate to the report, including:
- (A) The specific restriction, limitation, suspension, loss or denial of the licensee's medical staff privileges and the effective date or term of the restriction, limitation, suspension, loss or denial; or
- (B) The fact that the licensee has voluntarily withdrawn from the practice of medicine or podiatry, voluntarily resigned from the staff of a health care facility or voluntarily limited the licensee's privileges at a health care facility and the effective date of the withdrawal, resignation or limitation.
- (5) A report made under ORS 677.415 Section 2 may not include any information that is privileged peer review data, see ORS 41.675.
- (6) All required reports shall be made in writing.
- (7) Any person who reports or provides information to the board under ORS 677.205 and 677.410 to 677.425 and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265, 677.415

Hist.: BME 5-2004, f. & cert. ef. 4-22-04; BME 9-2006, f. & cert. ef. 5-8-06; BME 3-2007, f. & cert. ef. 1-24-07; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0075

Reporting of Alleged Professional Negligence

- (1) As required in ORS 742.400 any insurer or approved self insurance association shall report claims of alleged professional negligence to the Oregon Medical Board within 30 days of filing of the claim. Incidents and inquiries not leading to claims need not be filed.
- (2) All settlements, awards or judgments against a physician paid as a result of alleged professional negligence shall be reported to the Board within 30 days after the date of settlement, award or judgment.

Stat. Authority: ORS 677.265

Stats. Implemented: ORS 742

Hist.: ME 3-1987, f. & ef. 1-23-87; ME 10-1988, f. & cert. ef. 8-5-88; BME 1-2000, f.& cert. ef. 2-7-00

847-010-0078**Agreement Prohibited between Physician and Patient that Limits a Patient's Rights**

Licensees and applicants shall not make an agreement with a patient or person, or any person or entity representing patients, nor provide any form of consideration, that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Oregon Medical Board, to truthfully and fully answer any questions posed by an agent or representative of the Board, or to participate as a witness in a Board proceeding.

Statutory Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: BME 3-2001, f. & cert. ef. 1-25-01

847-010-0081**Physician-Assisted Suicide**

A licensee's compliance with ORS 127.800 et seq shall not be considered a violation of ORS 677.190 (1), unprofessional or dishonorable conduct, as defined in ORS 677.188(4)(a), (b), or (c).

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 127.885

Hist.: BME 2-1998(Temp), f. & cert. ef. 2-4-98 thru 7-31-98; BME 4-1998, f. & cert. ef. 4-22-98

847-010-0090**Hospital Clinical Clerkships**

Because students of medicine doing hospital clinical clerkships (externships) in hospitals will be participating in the diagnosis and treatment of patients, it is necessary that the Oregon Medical Board establish minimum standards under which these students will be working. Therefore, the Board establishes the following rules pertaining to both hospitals and students participating in clinical clerkships. These rules do not apply to non-hospital proceptorships:

(1) Hospitals:

(a) Only hospitals conducting internship/residency programs approved by the Accreditation Council for Graduate Medical Education of the American Medical Association or the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada or the American Osteopathic Association may provide clerkships;

(b) Clerkships may be offered only in those subjects in which an approved internship/residency program exists in that hospital;

(c) Hospitals conducting clerkships shall have a written agreement with the school of medicine sponsoring the student;

(d) Hospital clinical physicians responsible for the supervision of clinical clerks shall have an academic appointment from a school of medicine;

(e) Regular evaluation of the work of the clinical clerks shall be recorded and a copy forwarded to the school of medicine;

(f) Hospitals offering clerkships shall notify the Board of the clerkships offered and the schools with which they are affiliated.

(2) Students:

(a) Only students in the last two years of their training may participate in clerkships;

(b) Students from schools not approved by the Board shall pass Day 1 of FMGEMS before participating in the clerkship in this state.

Stat. Auth.: ORS 183 & ORS 677

Stats. Implemented: ORS 677.100

Hist.: ME 4-1985, f. & ef. 5-6-85

847-010-0095

Peer Review

The Oregon Medical Board will participate in a peer review process to implement the provisions of ORS 441.055 by using the following rules:

(1) The Board will receive requests to appoint physicians to conduct peer review provided the requests are made jointly by all of the following:

(a) The physician whose practice is being reviewed;

(b) The executive committee of the health care facility's medical staff;

(c) The governing body of the health care facility.

(2) The Board will review requests and *may* decide to appoint physicians to conduct peer review.

(3) If the Board decides to appoint physicians to conduct peer review, the parties will be required to sign a contract agreeing to pay all costs. The Board will not be a party to such contract.

(4) The Board will appoint one or more physicians to conduct peer review in accordance with the medical staff by-laws of the facility.

(5) Reports will be processed according to Board protocol.

(6) The report of findings and conclusions of the panel will be forwarded to the requesting facility for processing according to the medical staff by-laws of the facility.

(7) If further action necessitates appropriate hearing proceedings, a panel of physicians will be appointed to conduct the hearings in accordance with the medical staff by-laws of the facility.

(8) The report of findings and conclusions of the hearings panel will be forwarded to the requesting

facility in accordance with the medical staff by-laws.

Stat. Auth.: ORS 677

Stats. Implemented: ORS 441.055

Hist.: ME 2-1988, f. & cert. ef. 1-29-88

847-010-0100

Mandatory Pain Management Education

(1) All licensees of the Oregon Medical Board, except the licensees listed in section (2) of this rule, will complete mandatory continuing medical education (CME) in the subjects of pain management and/or the treatment of terminally ill and dying patients as follows:

(a) A one-hour pain management course specific to Oregon provided by the Pain Management Commission of the Department of Human Services; and

(b) A minimum of 6 (six) continuing medical education credit hours in the subjects of pain management and/or the treatment of terminally ill and dying patients. Any combination of CME coursework focusing on pain management and/or treatment of terminally ill and dying patients may be used to fulfill this requirement.

(2) Licensees holding the following types of licenses shall not be required to meet this requirement:

(a) Lapsed license;

(b) Telemedicine license; or

(c) Teleradiology license.

(3) The required CME must be completed after January 1, 2000 and before January 2, 2009.

(4) Licensees must be prepared to provide documentation of CME if requested by the Board.

(5) All applicants granted a license after January 2, 2009, excepting those with a type of license listed in Section (2), must obtain the required CME coursework within twelve months of the date the Board granted licensure.

Stat. Auth.: ORS 677.265, Ch. 987 OL 2001

Stats. Implemented: ORS 677.228, 677.510

Hist.: BME 7-2005, f. & cert. ef. 7-20-05

847-010-0110

Physicians and Physician Assistants to Honor Life-Sustaining Treatment Orders

(1) A physician or physician assistant licensed pursuant to ORS Chapter 677 shall respect the patient's wishes including life-sustaining treatments. Consistent with the requirements of ORS Chapter 127, a physician or physician assistant shall respect and honor life-sustaining treatment orders executed by a physician, physician assistant or nurse practitioner. The fact that a physician, physician assistant or nurse

practitioner who executed a life-sustaining treatment order does not have admitting privileges at a hospital or health care facility where the patient is being treated does not remove the obligation under this section to honor the order. In keeping with ORS Chapter 127, a physician or physician assistant shall not be subject to criminal prosecution, civil liability or professional discipline.

(2) Should new information on the health of the patient become available the goals of treatment may change. Following discussion with the patient, or if incapable their surrogate, new orders regarding life-sustaining treatment should be written, dated and signed.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 127.505-127.660, 677.265

Hist.: BME 13-2007, f. & cert. ef. 4-26-07

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