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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 331
OREGON HEALTH AUTHORITY
HEALTH LICENSING OFFICE

FILED

07/23/2020 8:44 AM

ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Health Licensing Office authorization holders must follow guidance during declared states of emergency.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/28/2020 9:00 AM

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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

With so much uncertainty around COVID-19, the Health Licensing Office is making this temporary rule permanent.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

2019 Oregon Revised Statutes and the Governor's emergency declarations. Both are available through the Health Licensing Office, the Oregon Legislature and the Governor's Office.

FISCAL AND ECONOMIC IMPACT:

None expected if licensees follow the guidance from the Governor's Office regarding COVID-19.

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).

None expected.

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

They were not.

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

This rule clarifies existing requirements for licensees.

ADOPT: 331-020-0079

RULE SUMMARY: Clarifying for Health Licensing authorization holders that following guidelines from the Governor during declared states of emergency is required.

CHANGES TO RULE:

331-020-0079

Compliance with Executive Orders and Guidance Required

(1) During a Governor declared emergency, unprofessional conduct under ORS 676.612, includes, but is not limited to, failing to comply with any applicable provision of a Governor's Executive Order or any provision of this rule.¶

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

(a) Performing services or practicing an occupation or profession in a way that is contrary to an applicable Executive Order;¶

(b) Providing services at a business required by an Executive Order to be closed;¶

(c) Failing to comply with the requirements of Oregon Health Authority (Authority) 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) Penalties for violating this rule include, but are not limited to, suspension, revocation, probation, monetary penalties, and an assessment of costs of disciplinary proceedings not exceeding \$5,000. Any such penalties shall be imposed in accordance with ORS Ch. 183.

Statutory/Other Authority: ORS 676.565, ORS 676.568(1)(o), (2), ORS 676.615(1), (2)

Statutes/Other Implemented: ORS 676.568(1)(e), (i), (k), (o), (2), ORS 676.612, ORS 676.992