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CHAPTER 833

MENTAL HEALTH REGULATORY AGENCY

OREGON BOARD OF LICENSED PROFESSIONAL COUNSELORS AND THERAPISTS

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FILING CAPTION: Licensure applications, examination, supervisor registry processes and requirements, cooperation with board investigations, and cleanup.

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RULES:

833-020-0011, 833-020-0061, 833-020-0081, 833-110-0011, 833-120-0021, 833-130-0040, 833-130-0050

AMEND: 833-020-0011

RULE TITLE: Applications

NOTICE FILED DATE: 06/05/2023

RULE SUMMARY: Updates language to reflect the Board's recent implementation of an online application system. Makes changes to the information applicants must provide. Adds examinations as an application requirement to be completed within one year for non-registered associate method applicants and removes good cause application extensions. Other minor language cleanups.

RULE TEXT:

- (1) Application for licensure as a professional counselor and marriage and family therapist must be submitted to the Board in a form and manner prescribed by the Board.
- (2) Application for licensure must include gender, date of birth, social security number, practice and residence addresses, email address, similar licenses held in other states, and history of professional discipline, litigation, and criminal involvement and be accompanied by:
 - (a) The non-refundable application fee;
 - (b) Official transcript sent directly to the Board from the college or university and supporting documentation as necessary showing education requirements have been met;
 - (c) Documentation to prove experience requirements have been met or request for registration as an associate with a proposed plan to obtain required experience;
 - (d) Verification that approved examination has been passed, or state examination is being requested (if applicable);
 - (e) Proposed professional disclosure statement as specified in OAR 833-075-0050;
 - (f) Criminal history information as specified in OAR 833-120-0021; and
 - (g) Other clarifying information requested by the Board.

- (3) Applicants will be allowed one year from application submission complete their application file, which documents that the applicant meets the educational requirements, examination requirements (except for associate registration method), and experience qualifications (if applicable) for licensure.
- (4) Failure to withdraw the application or complete the process within the allowed time will result in closure of the file. An incomplete application includes but is not limited to an application in which:
- (a) Required information or original signatures are not provided;
 - (b) Required forms are not submitted; or
 - (c) No fee or an insufficient fee is received.
- (5) Applicants who complete their application file but are not approved for registration, examination, or licensure will be notified in writing that the application is being denied and state the reason(s) for denial.
- (6) To be reconsidered for licensure, applicants who failed to become licensed, who were refused licensure, who withdrew from consideration, or associates who have allowed their registration to expire will be required to file a new application, fee, and resubmit all documentation necessary to meet the standards for licensure in effect at the time of reapplication. Applicants reapplying must fulfill any deficiencies that are the result of changes to requirements that may have been implemented between former and current application.
- (7) An applicant must notify the Board immediately, but not less than within 30 days, if any information submitted on the application changes, including but not limited to: name, address, email address, telephone number, complaints, disciplinary actions, litigation, criminal involvement, and employment investigations which results in disciplinary action. Failure to do so may be grounds for denial of the application or revocation of the license, once issued.

STATUTORY/OTHER AUTHORITY: ORS 675.785 - 675.835, 676.160 - 676.180

STATUTES/OTHER IMPLEMENTED: ORS 675.785 - 675.835

AMEND: 833-020-0061

RULE TITLE: Re-Licensure Method

NOTICE FILED DATE: 06/05/2023

RULE SUMMARY: Makes changes to the information applicants must provide. Changes requirement that application must be submitted, rather than completed, within two years of prior licensure. Removes superfluous provision for re-licensure after two years, as the person would reapply via the direct method and not be subject to payment of one current annual renewal fee. Other minor language cleanups and updates for consistency.

RULE TEXT:

- (1) The re-licensure method is required for applicants who were previously licensed by the Board within the last two years of their new application submission. The re-licensure method requires the applicant, as a previous Board licensee, to request a new license with a new license number, but without documenting further supervised clinical experience.
- (2) To be considered for re-licensure, all of the following items must be received:
 - (a) An application for re-licensure, in a form and manner prescribed by the Board, which must include complete and truthful responses to all of the questions regarding character and fitness, the applicant's current information and status, and any other information requested by the Board.
 - (b) The current application fee plus one current renewal fee;
 - (c) Updated proposed professional disclosure statement or request for exemption per OAR 833-075-0050;
 - (d) Report of at least the minimum continuing education activities required in OAR Chapter 833, Division 80 completed within two years prior to the date the Board will issue the new license; and
 - (e) Disclosure as to whether the applicant has engaged in the unlicensed practice of professional counseling or marriage and family and therapy during the period since their previous license expired.
- (3) To be considered for licensure more than two years after the expiration date of the prior license, an applicant must request a new license with a new license number by reapplying for licensure using the method of application that applies to their current situation under OAR 833-020-0021.
- (4) All applicants for re-licensure must successfully pass the current Oregon law and rules examination.

STATUTORY/OTHER AUTHORITY: ORS 675.785 - 675.835, 676.160 - 676.180

STATUTES/OTHER IMPLEMENTED: ORS 675.785 - 675.835

AMEND: 833-020-0081

RULE TITLE: Examination

NOTICE FILED DATE: 06/05/2023

RULE SUMMARY: Removes the two competency examination deadlines that result in application denials for direct and reciprocity applicants and for registered associates who have met the experience requirements for licensure.

RULE TEXT:

- (1) All applicants must pass a competency exam and an Oregon law and rules exam approved by the Board.
- (2) Applicants who have passed the competency exam within 10 years prior to applying for licensure are not required to retake the exam.
- (3) Applicants applying by the reciprocity method who have passed the competency exam 10 years or more prior to applying for licensure in Oregon must:
 - (a) Retake the exam; or
 - (b) Document completion of continuing education activities which at minimum meet the requirements described in OAR chapter 833, division 80 within the 24-month period prior to application or initial licensure.
- (4) In lieu of exam verification, applicants applying by the reciprocity method who have maintained a comparable license in another jurisdiction for at least two years may complete continuing education in accordance with section (3)(b) of this rule to satisfy the competency exam requirement.
- (5) Failure to achieve a passing score on the competency examination after taking the exam three times will result in denial of the application for licensure, and if applicable, termination of associate registration.
- (6) The Board will not review a reapplication until at least one year has elapsed from the date of the previous denial. For former registered associates, the Board will only approve a subsequent reapplication under the direct or reciprocity method.
- (7) Special Accommodations. Requests for special accommodations for a disability or for English as a second language must be made at the time the written request to sit for the examination is made, or when the disability becomes known to the applicant. The request must include:
 - (a) Disability. Written verification of the disability from a qualified care provider (i.e. a person certified or licensed by the state to provide such services) detailing:
 - (A) Nature, extent, and duration of disability; and
 - (B) Recommendation(s) for accommodation.
 - (b) English as a Second Language. Written request for reasonable accommodation detailing:
 - (A) Level of proficiency in English including, but not limited to, number of years speaking and/or writing English;
 - (B) History of special accommodations granted in similar testing circumstances;
 - (C) Other information to support request for special accommodation; and
 - (D) Recommendation(s) for accommodation.

STATUTORY/OTHER AUTHORITY: ORS 675.785 - 675.835, 676.160 - 676.180

STATUTES/OTHER IMPLEMENTED: ORS 675.785 - 675.835

AMEND: 833-110-0011

RULE TITLE: Response to Complaints

NOTICE FILED DATE: 06/05/2023

RULE SUMMARY: Expands provisions for failure to cooperate with a Board investigation and sets forth prohibitions including witness harassment and intimidation, retaliation, and deception. Removes obsolete temporary supervision provision now that the Governor's Executive Order No. 20-03 is no longer in effect.

RULE TEXT:

(1) The Board will review and accept for consideration a complaint filed by any person, group of persons, or the Board on its own action that is specific as to the conduct upon which the complaint is based. A complaint will be rejected if it does not allege a violation for which the Board has the grounds to impose sanctions pursuant to ORS 675.745 or 675.825.

(2) A complaint that a licensee, registered associate, temporary practitioner, or applicant is incompetent or has committed an act or acts in violation of the law or rules adopted by the Board including the Code of Ethics will be considered a complaint of professional misconduct. A complaint that an unlicensed person has practiced or used a title in violation of ORS 675.825 will be considered a complaint of unlicensed practice.

(3) The Board will make forms available to the public and encourage complainants to use the Board's investigation request form. If a complaint is first made in verbal form, or does not contain information substantially equivalent to the Board's form, then the Board's representative may require the complainant to use the Board's form to initiate an investigation. If the complainant is a client or former client of the respondent, then the complainant should sign a release form allowing the Board and its legal counsel access to records and other materials that are the ethical and legal responsibility of the respondent. Refusal by a complainant to comply with this requirement may result in dismissal of the complaint.

(4) Upon receipt of a valid complaint, a complaint file will be opened. A preliminary investigation or review will be conducted to determine if additional investigation and the assignment of additional investigators is necessary, or whether to file a report with the Board recommending the complaint be dismissed without further action. If additional investigation is deemed necessary, then the subject of the complaint will be notified that he/she is under investigation and provided with general information regarding the allegations being investigated. Notification may request a written response.

(5) Failure to cooperate with Board representatives during an investigation constitutes unprofessional conduct which may subject a licensee, registered associate, temporary practitioner, or applicant to disciplinary action.

(a) Cooperation includes:

(A) Submitting client records to the Board's representative, with or without a signed release by the client, for a full investigation of the allegations;

(B) Sending a complete case file to the Board's representative;

(C) Being available for a personal interview with the Board's representative; and

(D) Responding truthfully and accurately to all questions presented by the Board's representative.

(b) Licensees, registered associates, temporary practitioners, and applicants must not:

(A) Use threats or harassment to delay or obstruct any person in providing evidence in any investigation, contested case, or other legal action instituted by the Board.

(B) Use threats or harassment to obstruct or delay the Board in carrying out its regulatory functions.

(C) Deceive or attempt to deceive the Board with respect to any matter under investigation including altering or destroying any records.

(D) Attempt to influence the testimony or participation in an investigation of any person believed to be a complainant or witness in a Board investigation, or to permit or encourage another person to do so.

(E) Engage in retaliation against another person for their participation in a Board investigation or provision of information to the Board.

- (6) The Board may delay approving a licensure application or issuing an associate registration, temporary practice authorization, or license until a complaint has been resolved.
- (7) The investigator shall collect evidence and interview witnesses. At the conclusion of the investigation, a report will be filed with the Board in accordance with the timelines and procedures outlined in ORS 676.160–676.180. The report will clearly set forth the issues on which the Board should consider possible action.
- (8) The Board will maintain written procedures for handling complaints, which will be available through the Board office.
- (9) Complaint and information gathered by investigation into licensee or applicant competency or conduct will be kept confidential in accordance with ORS 676.160–676.180.
- (10) Licensees, registered associates, temporary practitioners, and applicants must comply with the terms of all Board Orders and Agreements. Failure to comply constitutes a violation of ORS 675.745(1)(f) and is grounds for disciplinary action.

STATUTORY/OTHER AUTHORITY: ORS 675.785 - 675.835, ORS 676.160 - 676.180

STATUTES/OTHER IMPLEMENTED: ORS 675.785 - 675.835

AMEND: 833-120-0021

RULE TITLE: Procedural Requirements

NOTICE FILED DATE: 06/05/2023

RULE SUMMARY: Updates statutory citation following renumbering resulting from Senate Bill 40 (2017).

RULE TEXT:

(1) To complete a criminal history check, the Board will require each subject individual to:

(a) Provide fingerprints pursuant to ORS 181A.170 (additional fingerprints may be required if the initial fingerprints are rejected);

(b) Provide personal information necessary to obtain the criminal history check pursuant to OAR 125-007-0220; and

(c) Pay to the Board the actual costs charged by the Oregon State Police (OSP) and the Federal Bureau of Investigation (FBI).

(2) The Board may also request, and the applicant, licensee, or registered associate must provide, the following information:

(a) Responses to a criminal history questionnaire; and

(b) Written response to questions by the Board regarding the person's criminal history.

(3) The Board will make a final fitness determination based on criminal offender information and other factors, pursuant to ORS 181A.195(10)(c) and OAR 125-007-0260 to 125-007-0270.

(4) A subject individual may contest an adverse final fitness determination pursuant to OAR 125-007-0300.

(5) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the Board will deny the licensure application or revoke the license.

STATUTORY/OTHER AUTHORITY: ORS 675.785 - 675.835, 676.160 - 676.180, ORS 181A.195

STATUTES/OTHER IMPLEMENTED: ORS 675.785 - 675.835

AMEND: 833-130-0040

RULE TITLE: Supervisor Candidates

NOTICE FILED DATE: 06/05/2023

RULE SUMMARY: Removes the requirement that Supervisor Candidates on the Supervisor Registry must meet the requirements to be an Approved Supervisor within five years.

RULE TEXT:

(1) Supervisor Candidates must work toward meeting the requirements of an Approved Supervisor.

(2) To qualify as a Supervisor Candidate, a licensee must meet the following requirements:

(a) Hold an active Oregon license as a professional counselor or as a marriage and family therapist;

(b) Complete 30 clock hours of post-master's degree supervision training;

(c) Successfully pass the Board's law and rules exam; and

(d) For supervisors of marriage and family therapist associates only: supervision training that includes systems components.

STATUTORY/OTHER AUTHORITY: ORS 675.705 - 675.835

STATUTES/OTHER IMPLEMENTED: ORS 675.705 - 675.835

AMEND: 833-130-0050

RULE TITLE: Approved Supervisors

NOTICE FILED DATE: 06/05/2023

RULE SUMMARY: Amends the requirements for an LPC or LMFT to be an Approved Supervisor on the Supervisor Registry by reducing the required active licensure duration from three to two years, and by removing the requirement that supervision of supervision be completed between 2 to 5 years and that requisite supervision include at least two supervisees. Clarifies that requisite supervision requirements and experience to be an Approved Supervisor must be completed post-licensure.

RULE TEXT:

(1) To qualify to supervise registered associates, a licensee who is not on the Supervisor Registry must meet the following requirements:

(a) Meet or have previously met all of the requirements to qualify as a Supervisor Candidate per OAR 833-130-0040; and

(b) Hold an active Oregon license as a professional counselor or marriage and family therapist, and:

(A) Have been actively licensed by the Board for at least 2 years; or

(B) Be an Approved Supervisor through the AAMFT or the NBCC Center for Credentialing and Education.

(2) To qualify as an Approved Supervisor for purposes of placement on the Supervisor Registry, in addition to the requirements of section (1) above, the licensee must:

(a) Document at least 6 hours of post-licensure supervision of licensee's clinical supervision by a Board Approved Supervisor. The licensee may have up to two Approved Supervisors, and both Approved Supervisors must complete an evaluation. Approved supervision may include one on one or group supervision of not more than 6 supervisees; and

(b) Document a minimum of 100 hours of post-licensure experience supervising registered associates or student interns from Board-Approved Oregon graduate programs.

STATUTORY/OTHER AUTHORITY: ORS 675.705 - 675.835

STATUTES/OTHER IMPLEMENTED: ORS 675.705 - 675.835