

OFFICE OF THE SECRETARY OF STATE

TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 847
OREGON MEDICAL BOARD

FILED

01/13/2025 9:49 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Creates criminal conviction determination process to implement SB 1552 (2024)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/24/2025 5:00 PM

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.

CONTACT: Elizabeth Ross
971-673-2700
elizabeth.ross@omb.oregon.gov

1500 SW 1st Avenue Suite 620
Portland, OR 97201

Filed By:
Elizabeth Ross
Rules Coordinator

NEED FOR THE RULE(S)

The proposed rule is needed to implement SB 1552 (2024) section 44 allowing a person to petition a licensing board for a determination as to whether a criminal conviction would prevent the person from receiving a license. Section 44 and the rule would become operative on July 1, 2025.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Laws 2024, chapter 95, section 44 (SB 1552),
<https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/SB1552>
ORS 677, https://www.oregonlegislature.gov/bills_laws/ors/ors677.html

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The proposed rule is implementing SB 1552 (2024) section 44 allowing a person to petition a licensing board for a determination as to whether a criminal conviction would prevent the person from receiving a license. The proposed rule may favorably impact racial equity by allowing a person to know if prior criminal conviction would prevent them from receiving a professional license prior to spending their time and money on training programs.

FISCAL AND ECONOMIC IMPACT:

The proposed rule amendment may have positive fiscal and economic impact for persons with a criminal conviction to be able to petition the Oregon Medical Board for a determination as to whether a criminal conviction would prevent the person from receiving a license, prior to spending time or money on training programs. The proposed rule amendment will have a minimal fiscal and economic impact to the Oregon Medical Board to implement and operate the program. The OMB will receive a \$75 application fee per request.

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).

(1) The rule amendment will have no economic impact on state agencies, units of local government, or the public, beyond possible impact described above for persons who may petition the Board and the impact on the Board to implement and maintain this process. (2) The rule amendment applies to individual person who may apply for an Oregon Medical Board license; small businesses are not eligible for a Board license. (b) The rulemaking imposes no additional mandatory reporting, recordkeeping or other administrative requirements on small businesses. (c) The rulemaking imposes no additional requirements regarding equipment, supplies, labor or administration.

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

Members of the Board who were consulted in the development of the rule represent small businesses. The rule was reviewed by the Administrative Affairs Committee of the Board on December 11, 2024, as well as the full Board at its quarterly meeting on January 9, 2025.

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

The rule was reviewed by the Administrative Affairs Committee of the Board on December 11, 2024, as well as the full Board at its quarterly meeting on January 9, 2025. Board members represent the interests of persons and communities likely to be affected by a proposed rule. Overall, board members are licensees of the Oregon Medical Board or public members who represent Oregon patients.

ADOPT: 847-007-0010

RULE SUMMARY: The proposed rule implements SB 1552 (2024) section 44 allowing a person to petition a licensing board for a determination as to whether a criminal conviction would prevent the person from receiving a license. Section 44 and the rule would become operative on July 1, 2025.

CHANGES TO RULE:

847-007-0010

Criminal Conviction Determination Process

(1) As used in this rule:¶

(a) "Applicant" means a person who has applied for a license from the Oregon Medical Board (Board).¶

(b) "Petitioner" means a person who has requested the Board review their criminal history to determine whether it will prevent them from being granted a license by the Board.¶

(2) A person who was convicted of a crime may petition the Board for a determination as to whether a criminal conviction will prevent the person from receiving a license issued by the Board. ¶

(3) The petitioner must submit the Board's determination request form, relevant criminal history documentation, and the required \$75 fee. ¶

(4) The Executive Director has the authority to review a petitioner's request under this rule and to determine whether the petitioner's criminal conviction(s) prevent the person from obtaining a license issued by the Board.¶

(5) The Board will reconsider a determination that a criminal conviction prevents the person from obtaining a license if the person submits a completed application for a license.¶

(6) Upon reconsideration, the Board may rescind a previous determination that a criminal conviction does not prevent the person from obtaining a license if the applicant:¶

(a) Has allegations or charges pending in criminal court; ¶

(b) Failed to disclose a previous criminal conviction; ¶

(c) Has been convicted of another crime during the period between the determination and the person's submission of a completed application for an occupational or professional license; or ¶

(d) Has been convicted of a crime that, during the period between the determination and the person's submission of a completed application for an occupational or professional license, became subject to a change in state or

federal law that prohibits licensure for an occupational or professional license because of a conviction of that crime.¶

(7) Failure to disclose a previous criminal conviction includes any misrepresentation of a prior criminal conviction, any concealment or failure to disclose a material fact about a prior criminal conviction, or any other misinformation regarding a prior criminal conviction.¶

(8) Nothing in this rule prohibits the Board from denying licensure for a reason other than conviction of a crime.¶

(9) A determination made under this rule: ¶

(a) Is subject to the same confidentiality requirements that are applicable to completed applications for a license; and¶

(b) Is not considered a final determination of the Board.

Statutory/Other Authority: ORS 677.265, Oregon Laws 2024, chapter 95, section 44 (SB 1552)

Statutes/Other Implemented: ORS 677.100, ORS 677.188(1), ORS 677.190, ORS 677.512, ORS 677.759, ORS 677.820, Oregon Laws 2024, chapter 95, section 44 (SB 1552)