

OFFICE OF THE SECRETARY OF STATE  
SHEMIA FAGAN  
SECRETARY OF STATE  
  
CHERYL MYERS  
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 858  
MENTAL HEALTH REGULATORY AGENCY  
OREGON BOARD OF PSYCHOLOGY

**FILED**  
03/23/2021 3:19 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Compliance with the Governor's Executive Orders during a Governor declared emergency.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/26/2021 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: LaRee Felton  
503-373-1196  
laree.felton@oregon.gov

3218 Pringle Road SE, Ste. 130  
Salem, OR 97302

Filed By:  
LaRee Felton  
Rules Coordinator

**NEED FOR THE RULE(S):**

This rule is being adopted at the direction of the Governor's Office. It is needed to ensure compliance of Executive Orders that help keep Oregonians healthy and safe during a declared emergency. A failure to enforce compliance may adversely affect public health and safety.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

OAR Chapter 858 and ORS Chapter 675 are available on the OBOP website at <https://www.oregon.gov/Psychology/Pages/LawsRules.aspx>. Copies of the Executive Orders are available at <https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>. Copies of Oregon Health Authority Guidance are available at <https://govstatus.egov.com/OR-OHA-COVID-19>.

**FISCAL AND ECONOMIC IMPACT:**

None.

**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. Small businesses are not subject to this rule.

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

Small businesses were not directly involved; however members of the Board who developed these amendments

represent small businesses.

---

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

The proposed amendments are uncomplicated and address specific concerns of the Board. The Board did not determine that an additional committee beyond the nine-member Board and its staff was necessary to develop the rules.

---

ADOPT: 858-020-0115

RULE SUMMARY: This new rule sets forth that failure to comply with any applicable provision of a Governor's Executive Order, including failure to comply with Oregon Health Authority guidance, constitutes unprofessional conduct. Violations are subject to Board sanction.

CHANGES TO RULE:

### 858-020-0115

#### Compliance with Governors Executive Orders

(1) During a Governor declared emergency, unprofessional conduct includes 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) Engaging in the practice of a profession required by an Executive Order to be closed;¶¶

(b) Operating a business required by an Executive Order to be closed;¶¶

(c) Failing to comply with the requirements of Oregon Health Authority (OHA) guidance implementing an Executive Order, including but not limited to:¶¶

(A) Failing to screen clients in accordance with OHA guidance prior to providing services;¶¶

(B) Failing to limit the number of individuals inside the premises or implement other protocols necessary to maintain physical distancing of six (6) feet;¶¶

(C) Failing to implement OHA guidance on mask and face coverings; and¶¶

(D) Failing to clean and disinfect in accordance with OHA guidance.¶¶

(d) Failing to comply with any requirements of a Board of Psychology 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) The Board may impose sanctions for violations of this rule in accordance with ORS 675.070.¶¶

Note: Copies of the Governor's Executive Orders are available at:

<https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>¶¶

Copies of Oregon Health Authority Guidance are available at: <https://govstatus.egov.com/OR-OHA-COVID-19>

Statutory/Other Authority: ORS 675.070, ORS 675.085, ORS 675.110

Statutes/Other Implemented: EO 20-03