

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on April 7, 2008 by the
Date prior to or same as filing date.

Oregon Board of Naturopathic Examiners

Agency and Division

850

Administrative Rules Chapter Number

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to become effective June 10, 2008 Rulemaking Notice was published in the March 2008 *Oregon Bulletin*.**
Date upon filing or later Month and Year

RULE CAPTION

Amends language on reinstatement, lapsed license and changes renewal fee to annual

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: **OAR 850-030-0020 State and Nationwide Criminal Records Checks, Fitness Determination**
OAR 850-030-0035 Fees for Licensure, Examination and Certification
OAR 850-030-0090 Expiration and Renewal of Licenses
OAR 850-030-0195 License Renewal Requirements

REPEAL:

Renumber:

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 685.125

Stat. Auth.: ORS

Other Authority

ORS 685.100; 685.010; 685.020

Stats. Implemented: ORS

RULE SUMMARY

Amendments will bring OAR 850 in line with ORS 685 regarding the status of a license that has not been renewed and will change active status licensee fees will be due annually rather than biennially (no fee increase)

Authorized Signer

Date

Anne Walsh

Printed name

*Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.

**The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

OAR 850-030-0020

State and Nationwide Criminal Records Checks, Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or hold a license that is issued by the Board.

(2) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.

(3) The Board may require fingerprints of all applicants for an initial license as a naturopathic physician, licensees applying to reinstate a lapsed license, and licensees under investigation to determine the fitness of an applicant or licensee. These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a Criminal History Check and a National Criminal History Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police.

(4) The Board determines whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If a licensee is determined to be unfit the licensee's license may not be reinstated. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(5) Except as otherwise provided in section (2), in making the fitness determination the Board considers:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the applicant or licensee at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(6) All requested background checks include available state and national data, unless obtaining one or the other is an acceptable alternative.

(7) In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(8) Criminal offender information is confidential. Dissemination of information received under ORS 181.534 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(9) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests, court records, or other information that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.413-470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183. If an individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the FBI or other reporting agency, the Board will conduct a new criminal history check upon submission of a new request.

(12) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, the application is considered incomplete.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.195

Hist:

850-030-0035

Fees for Licensure, Examination and Certification

- (1) The fee to apply to take the jurisprudence and formulary examinations to be eligible for licensure shall be \$150.
 - (2) The fee for an initial license to practice naturopathic medicine (including reciprocity) shall be \$150.
 - (3) The fee for an initial certificate of special competency in natural childbirth shall be \$60.
 - (4) The annual license renewal fee for an active Naturopathic license shall be \$275.
 - (5) The annual license renewal fee for an inactive license shall be \$125.
 - (6) The annual renewal fee for a retired license shall be \$15.
 - (7) The annual renewal fee for a certificate of special competency in natural childbirth shall be \$60.
 - (8) A late fee of \$75 will be charged for any renewal that does not meet the December 15 deadline per OAR 850-030-0195.
 - (9) The fee to reinstate a lapsed license to active status within 12 months of being lapsed shall be \$275 plus a restoration fee of \$150.
- Stat. Auth.: ORS 685.100(6)(b) & 685.100(6)(c)
Stats. Implemented: ORS 685.100 & 685.102
Hist.: NE 1-1987(Temp), f. 9-17-87, ef. 10-1-87; NE 1-1988, f. & cert. ef. 3-15-88; NE 1-1996, f. & cert. ef. 10-18-96; NE 2-1997(Temp), f. 12-1-97, cert. ef. 12-2-97 thru 5-31-98; BNE 1-1998(Temp), f. 7-15-98, cert. ef. 8-3-98 thru 1-30-99; BNE 2-1998, f. 7-31-98, cert. ef. 8-3-98; BNE 2-1999, f. & cert. ef. 9-24-99; BNE 5-2000, f. & cert. ef. 12-6-00; BNE 4-2003, f. & cert. ef. 10-9-03; Renumbered from 850-010-0035, BNE 8-2005, f. & cert. ef. 10-27-05

850-030-0090

Expiration and Renewal of Licenses and Certificates in Natural Childbirth

- (1) Unless renewed to the Executive Director or designated staff of the Board on a form provided by the Board, all licenses to practice naturopathic medicine in Oregon automatically lapse on December 31 of every year.
- (2) The renewal form must be returned to the Board office by December 15 and include:
 - (a) the completed and signed renewal application form furnished by the Board,
 - (b) the completed and signed CE affidavit form, and
 - (c) the annual fee for an active, inactive or retired license, and
 - (d) the annual fee for a natural childbirth certificate if one is held by the licensee.

Stat. Auth.: ORS 685

Stats. Implemented: ORS 685.100

Hist.: NE 2, f. 6-7-59; NE 2-1980, f. & ef. 9-11-80; NE 1-1984, f. & ef. 1-3-84; NE 1-1987(Temp), f. 9-17-87, ef. 10-1-87; NE 1-1988, f. & cert. ef. 3-15-88; NE 1-1996, f. & cert. ef. 10-18-96; BNE 3-1999, f. & cert. ef. 11-1-99; Renumbered from 850-010-0090, BNE 8-2005, f. & cert. ef. 10-27-05

850-030-0195

License Renewal Requirements

All Naturopathic physicians licensed under ORS Chapter 685, whether active or inactive or retired must complete an annual renewal form furnished by the Board. Specific requirements for each license status, renewal procedures and requirements are as follows:

- (1) A Naturopathic physician holding an initial license:
 - (a) Must complete the renewal form furnished by the Board; and
 - (b) Pay the biennial renewal fee according to OAR 850-030-0090 and 850-030-0035; and
 - (c) Is exempt from completing CE in the initial year of licensure.
- (2) A licensee doing an accredited residency for at least six months in the calendar year must:
 - (a) Complete the annual renewal form furnished by the Board; and
 - (b) Pay the biennial renewal fee according to OAR 850-030-0090 and 850-030-0035; and
 - (c) Provide proof of an accredited residency to meet the CE requirement for an active license.
- (3) A Naturopathic physician holding a certificate to practice natural childbirth must complete at least 15 hours of CE each year in obstetrics and sign an affidavit furnished by the Board confirming these hours. Seven of the 15 hours in obstetrics may be used to satisfy the requirement of an active license in 850-030-0195(4). The licensee must provide proof of current certification in neonatal resuscitation annually with the renewal.
- (4) To maintain an active license, a licensee must:
 - (a) Complete the annual renewal form furnished by the Board; and
 - (b) Pay the biennial renewal fee according to OAR 850-030-0090 and 850-030-0035; and
 - (c) Complete at least 25 hours of Board approved CE per OAR 850-040-0210 each year and submit a signed affidavit furnished by the Board confirming this. At least five of the required 25 CE hours must be in the pharmacology of legend drugs.
- (5) A Naturopathic physician holding an inactive license must:
 - (a) Complete the renewal form furnished by the Board; and
 - (b) Pay the annual renewal fee per OAR 850-030-0035; and
 - (c) Complete at least 10 hours of Board approved CE each year and submit a signed affidavit furnished by the Board confirming these hours.
- (6) A retired status Naturopathic license, upon completing the renewal form furnished by the Board and paying the annual renewal fee for a retired license is not required to complete CE for renewal.

(7) By November 1, the Board will send to all licensees an annual renewal form to the last mailing address on record. For a renewal to be timely, a licensee must submit to the Board a completed renewal application postmarked no later than December 15 each year. A completed renewal application consists of the completed renewal form, the biennial license fee if due, and the late fee, if appropriate, and the completed affidavit confirming completion of continuing education as required under sections (1) through (6) of this rule. Failure to meet the December 15 deadline shall result in a late fee of \$75, which must be submitted with the renewal application form. Any licensee who does not receive the renewal form by November 15 should notify the Board. It is the licensee's duty to obtain and submit the renewal form in a timely manner.

(8) The license of any licensee who fails to submit a completed renewal application by December 31 shall lapse, effective at midnight, December 31.

(9) Licensees must maintain for a period of at least five years, full and accurate records including verification of attendance to support hours reported on the signed affidavit.

(10) Each year the Board will audit a number of license renewals. These licensees will be asked to provide their CE documents to verify the signed affidavit. Licensee must provide CE records and verifications that will document compliance with the renewal requirements.

(11) To apply for reinstatement of a license from inactive to active status a licensee must:

(a) Complete the reinstatement form furnished by the Board; and

(b) Pay the appropriate fees per ORS 685.100 and OAR 850-030-0035, and

(c) Submit an affidavit confirming completion of continuing education as follows:

(A) If the license is inactive for 12 months or less, the licensee must demonstrate completion of 25 hours of approved continuing education during the past 12 months, with five of these hours in pharmacology; and

(B) If the license is inactive for more than one year, licensee must provide an additional five hours of approved continuing education for each subsequent year or partial year that the license was inactive, in addition to the 10 hours of CE required by OAR 850-030-0195(5).

(d) If license is inactive for more than five years, licensee must take and pass the state jurisprudence and formulary examinations furnished by the Board.

(12) After January 1, the Board may reinstate a license that has been lapsed for one year or less, upon submission of the affidavit of continuing education as required for an active license, completion of the renewal form furnished by the Board and paying the appropriate fees per ORS 685.100 and OAR 850-030-0035.

(13) Any licensee who has allowed a license to lapse for more than 12 months must apply and meet the qualifications under ORS 685.060 through 685.085 for licensure.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.100

Hist.: BNE 1-2003, f. & cert. ef. 2-14-03; Renumbered from 850-010-0195, BNE 8-2005, f. & cert. ef. 10-27-05