

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Licensing Agency / Sex Offender Treatment Board

OAR 331, divisions 800 - 850

Agency and Division**Administrative Rules Chapter Number**

Initial administrative rules setting requirements and standards for certified sex offender therapists

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

In the Matter of adoption of the following rules:

331-800-0010, 331-800-0020, 331-810-0020, 331-810-0030, 331-010-0035, 331-810-0040, 331-810-0050, 331-820-0010, 331-820-0020, 331,830-0005, 331-830-0010, 331-830-0020, 331-840-0010, 331-840-0020, 331-840-0030, 331-840-0040, 331-840-0050, 331-840-0060, 331-850-0010

Statutory Authority: ORS 675.360 to 675.410

Other Authority: ORS 676.607, 676.612, and 676.615

Stats. Implemented: ORS 675.360 to 675.410

Need for the Rule(s): Adopt initial program rules for the Sex Offender Treatment Board necessary to implement regulatory and administrative objectives and fund the program within the Oregon Health Licensing Agency.

331-800-0010	Defines terms used throughout the rule text for clarification
331-800-0020	Sets schedule of fees for application, certification, replacement certificate and late renewal
331-810-0020	Establish education, experience and training qualification criteria for certified clinical sex offender therapist. Rule provisions clarify statutory requirements and identify documentation an applicant must submit to verify qualifications based on ORS 675.375 requirements; delineate specific hours of professional clinical experience, direct treatment services, evaluation and treatment experience, professional activities and formal training content/hours.
331-810-0030	Establish qualification criteria and documentation required for certified associate sex offender therapist, based on ORS 675.375 requirements; clarify statutory requirement for 1000 hours of professional clinical experience related to direct treatment services, formal training content and hours, and stipulate verification and compliance with requirements of direct supervision by a certified clinical sex offender therapist.
331-810-0035	Establish education, experience, training and documentation requirements for certification as a clinical sex offender therapist under a " grandfather provision ", i.e. a time limitation of one year from effective date of rules (March 15, 2009) to meet qualifications specified in rule. Establish certification criteria and requirements for individuals who are currently treating sex offenders/sexual abusers. The rule provisions address individuals who possess the requisite education, experience and training but do not hold a valid current license as a mental health professional.
331-810-0040	Establish reciprocity and equivalencies for certification in Oregon, based on provisions of ORS 675.380.
331-810-0050	Adopt philosophy statement regarding the purpose and importance of ongoing supervisions in the development of an associate sex offender therapist; define minimum number of hours of direct supervision and provide for variances from supervision requirements in specific instances when in the best interest of the associate and client; require documenting variances.
331-810-0055	Adopt a comprehensive set of requirements for supervision of associate sex offender therapists: identify hours of direct supervision and direct contact hours, documentation requirements, and define supervision; place requirements on the supervising certified clinical sex offender therapist; stipulate provisions of the formal written contract that defines the parameters of the professional relationship.
331-820-0010	Establish application criteria and required documentation (linkage to requirements under division 010), and identify four possible pathways to qualify for Oregon certification as a sex offender therapist: clinical, associate, grandfathering (time limited), and reciprocity/equivalency.
331-820-0020	Establish license issuance and renewal cycle; specify requirements for renewal and continuing education.

331-830-0005 331-830-0010 331-830-0020	Establish requirements for continuing education – 15 hours for each year; specify continuing education content and credit given for particular activities; establish audit and protocols for compliance.
331-840-0010 331-840-0020 331-840-0030 331-840-0040 331-840-0050 331-840-0060	Adopt a Code of Professional Conduct. Adopt by reference the 1993 published, 1997 revised and 2001 copyrighted Association for the Treatment of Sexual Abusers - <i>Professional Code of Ethics / Ethical Principles</i> as the primary source for practice standards related to “certification” to the extent this code is not in conflict with the statutes and rules adopted by the agency for regulation and administration of the Board. Rule provisions address standards of practice, professional conduct and client relationships, communications with other professionals, mandatory reporting, client confidentiality / disclosure and informed consent, and client records.
331-850-0010	Adopt the investigative authority linked to the central agency for discipline and enforcement action under ORS 676.612.

Documents Relied Upon, and where they are available:

Enrolled HB 3233 (Oregon Laws 2007, chapter 841), ORS 675.360 through 675.410; Oregon Attorney General's Sexual Abusers Task Force legislative testimony and other legislative background information; board meeting minutes from November 30, 2007 and March 7, 2008; Rule Committee reports from January 4, January 25, February 29, 2008; state agencies laws/rules and website information regarding application and qualification criteria from programs in Washington state, Colorado, Tennessee, and other states with certification of treatment providers; Association for the Treatment of Sexual Abusers, 2001 copyrighted Professional Code of Ethics, and public comment provided during committee meetings.

Documents are located at the Oregon Health Licensing Agency, 700 Summer Street NE, Suite 302, Salem, OR 97301-1287. To obtain information or copies of information please contact Dixie Bryant, OHLA Policy Analyst, at 503-373-1911 during normal business hours Monday through Friday between 8:30 am to 4:30 pm. Email: Dixie.L.Bryant@state.or.us.

Fiscal and Economic Impact:

Certification of sex offender therapists is a statutorily created specialty within the mental health professions. The legislature created a Title Act which does not **mandate** certification to treat sex offenders, but restricts the use of title *Certified Clinical Sex Offender Therapist –and- Certified Associate Sex Offender Therapist*. Under the current statutory model, predicting exact number of applicants and entities affected is indeterminate – as it is voluntary. Based on information provided by sponsors of HB 3233 during the 2007 Legislative Session, it was estimated that 275 individuals may become certified sex offender therapists. The agency’s history with new program development has been that approximately 50% of the initial estimate becomes certified in the first biennium following implementation of a newly regulated field of practice. However, the time limited grandfather provision may motivate a specific number of applicants as the grandfathering provision ends March 2009. It is estimated that approximately 5 to 10 individuals may apply under the grandfathering provision.

Fiscal impact on individuals seeking certification will vary depending upon the applicant requirements for obtaining education, experience and formal training records, providing required documentation and submitting initial application and certification fees. The rules set a higher fee for initial application based on use of agency resources to review qualification data in determining eligibility for certification; requirements for determining eligibility under the grandfathering provision are more extensive and complex.

An estimated fiscal impact associated with obtaining certification is as follows:

Item	Requirement	Cost
Transcript	Associate therapist Grandfather provision	Between \$5 to \$50 depending upon education institution and state
Affidavit of licensure	Clinical therapist	Between \$15 and \$45 depending upon the certifying entity and state
Application data	Documenting education, experience and formal training – hours vary for each of the pathways – clinical , associate and grandfather and reciprocity	Circumstances vary from applicant to applicant, costs for records estimated to ranged between \$50 to \$200
Fingerprint / Background check	OSP application cost for documentation	\$15
One time initial application	Clinical and associate therapist Grandfathering provision	\$350 \$650

Initial certification (one year)	Clinical, associate and grandfathering	\$50
Renewal application	Clinical and associate therapist	\$250
Certification renewal (two year)	Clinical and associate therapist	\$50
Continuing education (renewal)	15 hours annually – specific training content requirements	Specialized training will vary based on course provider, travel arrangements and other factors. Estimated costs range between \$100 to \$1800 based on selected credits, training, and providers. ATSA conferences require association membership. Regional training also available.
Clinical Experience (renewal)	100 hours clinical experience; with 50 of the hours direct client contact	Indeterminate employee requirements and/or professional practice impacts; estimated to require recordkeeping and work caseload and supervisory oversight
Additional cost breakdowns for formal training and continuing education is available upon request.		

Statement of Cost of Compliance:

1. *Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):*

It is assumed that state and local government entities will utilize the services of certified sex offender therapists; however, it is discretionary at this time. It is also indeterminate whether state agencies or local governments will pay the costs for employees (mental health professionals) to obtain certification as sex offender therapists, or require contracting for sex offender treatment with certified sex offender therapists. Some treatment programs are state subsidized and the number of therapists is directly related to state budget priorities. Sex offender treatment has not been a large priority in the past ten years; there are several underserved areas -- MRDD specialization / dual diagnosis or severe mental disorder plus sex offending behavior areas and the predatory, high risk offenders who need an adult secured residential facility. These are factors that have an indeterminate fiscal or economic impact.

Supervision between a clinical and associate sex offender therapist requires a written contract and required oversight. Regional areas of the state may not have sufficient number of mental health professionals who meet qualifications for certification and/or supervision.

Requiring applicants to provide fingerprint and criminal background checks through the Oregon State Police (OSP) system is estimated to increase OSP's workload by an additional 150 to 225 transactions during the 2009-11 biennium.

It is indeterminate whether the public will pay a higher professional fee for treatment by a *certified sex offender therapist* than the fees charged for treatment by other licensed mental health professionals, such as psychologists, licensed clinical social workers, and family and marriage counselors.

2. *Cost of compliance effect on small business (ORS 183.336):*

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Approximately 150 to 275 individual professionals. The work environment is individual employees of state agencies or local governments, and mental health professionals in private practice. The ratio of professionals working in each of these work environments is unknown at this time.

b. *Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:*

Proposed rules conform with licensed mental health professional's requirements for client records, informed consent, professional disclosure statements, progress reports and other assessment, evaluations, treatment plans and responding to court orders and other documents.

Applicants will incur expense in getting records to document qualifications – official transcripts, affidavit of licensure from state agencies, records of professional experience and formal training.

c. *Equipment, supplies, labor and increased administration required for compliance*

None anticipated beyond current professional practice requirements of mental health professionals.

How were small businesses involved in the development of this rule?

Board members represent a broad base constituency within the mental health profession, including victim's advocacy representation. Members represented their diverse constituencies perspectives.

Administrative Rule Advisory Committee consulted?: Yes. The agency sent notification to individuals on the official mailing list, comprised of state agencies, organizations, associations and interested parties, providing opportunity to attend the fact finding and board meetings and comment on rule development. Meetings were held on January 4, January 25, and February 29, 2008. All meetings were open to the public.

If not, why?: Not applicable.

[Signature on File]

Signature	Patricia C. Allbritton, Rules Manager	03-14-08
	Printed name	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007