

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

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

PERMANENT ADMINISTRATIVE ORDER

OMB 10-2024

CHAPTER 847
OREGON MEDICAL BOARD

FILED

04/09/2024 4:16 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Timeframe to file a written answer for a hearing request.

EFFECTIVE DATE: 04/09/2024

AGENCY APPROVED DATE: 04/04/2024

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

AMEND: 847-001-0005

RULE TITLE: Rules for Contested Cases

NOTICE FILED DATE: 01/08/2024

RULE SUMMARY: The rule amendment updates the timeframe by which a party who requests a hearing must file a written answer. The amended timeframe would allow filing within 30 days of a timely hearing request, or 30 days after production, whichever is later.

RULE TEXT:

- (1) The Oregon Medical Board adopts the Attorney General's Uniform and Model Rules for Contested Cases of the Attorney General in effect on January 1, (2008), and all amendments thereto are hereby adopted by reference as rules of the Oregon Medical Board.
- (2) The Board must accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing unless the Board receives the request after the entry of the final order by default.
- (3) The Board may accept a late hearing request other than one described in section (2) above only if:
 - (a) The failure to timely request a hearing was due to the serious illness of a party lasting 30 days or more, the terminal illness of a member of the party's immediate family, destruction of the party's home or practice site, reasonable reliance on a statement of the agency relating to procedural requirements, or from fraud, misrepresentation, or other misconduct of the agency; and
 - (b) The Board receives the request before the entry of a final order by default.
- (4) Due to the complexity of the Board's cases, a party who requests a hearing must file a written answer within 30 days of a timely hearing request or, if the party requests discovery, 30 days after production is provided, whichever is later. However, in no case shall a party's initial written answer be accepted less than 10 days prior to the first day of any hearing scheduled on the matter.
 - (a) The written answer must include a statement of each defense, including any affirmative defenses, the party is raising. Failure to raise a particular defense in the answer will be considered a waiver of such defense.
 - (b) New matters alleged in the answer are presumed to be denied by the Board.
 - (c) The answer may be amended, but no later than 30 days after the answer response was due.
 - (d)(A) If the Board amends its notice without basing its amendment on one or more additional alleged violations, then a

party that requested a hearing may amend its answer up to 30 days after the agency issues the amended notice or 10 days prior to hearing, whichever is earlier.

(B) If the Board amends its notice based on one or more additional alleged violations, then a party that requested a hearing may amend its answer up to 30 days after the Board issues the amended notice, 30 days after any additional production is provided, or 10 days prior to hearing, whichever is earliest.

(5) Section (4) of this rule does not apply to requests for hearing on orders of emergency license suspension.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Medical Board.]

STATUTORY/OTHER AUTHORITY: ORS 677.265

STATUTES/OTHER IMPLEMENTED: ORS 183.335, 183.341, 677.275