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**PERMANENT ADMINISTRATIVE RULES**

**FILED**  
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I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the  
Oregon Medical Board 847

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Agency and Division Administrative Rules Chapter Number  
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Address

To become effective Upon filing. Rulemaking Notice was published in the November 2015 Oregon Bulletin.

**RULE CAPTION**

Issuance of Final Orders

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

**RULEMAKING ACTION**

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

**ADOPT:**

**AMEND:**

847-001-0015

**REPEAL:**

**RENUMBER:**

**AMEND AND RENUMBER:**

**Statutory Authority:**

ORS 677.265

**Other Authority:**

**Statutes Implemented:**

ORS 183.335, 183.341, 183.630, 677.205, 677.275

**RULE SUMMARY**

The rule amendment provides an exemption to the Attorney General's Model Rule 137-003-0655(7) because the Board has determined that, due to the nature of the cases, 90 days is an insufficient time in which to issue an amended proposed or final order.

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**OREGON ADMINISTRATIVE RULES**

**CHAPTER 847, DIVISION 001 – OREGON MEDICAL BOARD**

**FINAL REVIEW – JANUARY 2016**

**The rule amendment provides an exemption to the Attorney General’s Model Rule 137-003-0655(7), which is excerpted below, because the Board has determined that, due to the nature of the cases, 90 days is an insufficient time in which to issue an amended proposed or final order.**

OAR 137-003-0655(7) An agency should issue an amended proposed order or a final order within 90 days of the date of the proposed order. When an agency will not issue an amended proposed order or final order within 90 days of the proposed order, the agency shall give written notice to the administrative law judge and all parties of the date by which the agency expects to issue the amended proposed order or the final order. This rule does not apply to proceedings under ORS chapters 539 and 537.670 through 537.700. **An agency may adopt a rule exempting classes of cases from the requirements of this subsection upon the agency’s determination that, due to the nature of the cases, 90 days normally is an insufficient time in which to issue an amended proposed or final order.** The requirements of this subsection apply to all orders for which the proposed order is issued after January 31, 2012.

**847-001-0015**

**Delegation of Authority and Issuance of Final Order**

(1) The Oregon Medical Board (Board) has delegated to the Executive Director the authority to make certain procedural determinations on its behalf on matters arising under the Attorney General's Model Rules for Contested Cases in OAR 137-003-0001 to OAR 137-003-0700. The procedural functions include, but are not limited to:

(a) For discovery requests before the Board, to authorize or deny requested discovery in a contested case, to include specifying the methods, timing and extent of discovery;

(b) To review all requests to take a deposition of a witness and to authorize or deny any request for deposition. If a request to take a deposition is authorized, the Executive Director may specify the terms on which the deposition is taken, to include, but not limited to the location, the manner of recording, the time of day, the persons permitted to be present, and the duration of the deposition;

(c) Whether a request for hearing filed after the prescribed time will be accepted, based upon a finding of good cause. In making this determination, the Executive Director may require the request to be supported by an affidavit or other writing to explain why the request is late and may conduct such further inquiry as deemed appropriate. The Executive Director may authorize a

hearing on whether the late filing should be accepted. If any party disputes the facts contained in the explanation as to why the request was late or the accuracy of the reason that the request was late, the requestor has a right to a hearing before an Administrative Law Judge (ALJ) on the reasons for that factual dispute;

(d) Whether the late filing of a document may be accepted based upon a finding of good cause;

(e) Whether to issue a subpoena for the attendance of witnesses or to produce documents at the hearing;

(f) Prior to the issuance of a proposed order issued by an ALJ, whether the Board will consider taking notice of judicially cognizable facts or of general, technical or scientific facts in writing which are within the specialized knowledge of the Board;

(g) Whether to submit to the Board prior to an ALJ's proposed final order the following issues:

(A) The Board's interpretation of its rules and applicable statutes;

(B) Which rules or statutes are applicable to a proceeding;

(C) Whether the Board will answer a question transmitted to it by the ALJ;

(h) In regard to a proposed order issued by an ALJ, whether the Board's legal representative will file exceptions and present argument to the Board; and

(i) Whether a request for delay of hearing on emergency suspension will be accepted.

(2) All actions taken under **section (1) of** this [delegation] **rule** must be reported to the Board at the regularly scheduled meeting in which the Board deliberates on the proposed order in the case.

**(3) The Board's disciplinary and suspension cases brought under ORS 677.205 are exempt from the requirements of OAR 137-003-0655(7), which requires an agency to give written notice to the ALJ and all parties of the date by which the agency expects to issue an amended proposed order or a final order if the agency will not issue an amended proposed order or final order within 90 days of the proposed order. Due to the complexity of Board cases and the infrequency of regularly scheduled Board meetings, 90 days is an insufficient time for the Board to issue an amended proposed order or a final order.**

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 183.630, 677.205, 677.275