

**Oregon Rules of Civil Procedure
Legislative Amendments 1979-2023**

ORCP 44

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Lewis & Clark Law School | Oregon Council on Court Procedures

Rule 44 – Physical and Mental Examination of Persons; Reports of Examination

§	Latest Amendment
A	Or. Laws 1989 c.1084 § 2
B	Or. Laws 1989 c.1084 § 2
C	Unamended
D	Or. Laws 1989 c.1084 § 2
E	Or. Laws 1979 c.284 § 28

Or. Laws 1979 c.284 § 27–28

§27 Amends Rule 44(A);

§28 Amends Rule 44(E)

- A. **Order for examination.** When the mental or physical condition ~~(including the blood group)~~ or the blood relationship of a party ~~or of a, or of an agent, employee, or~~ person in the custody or under the legal control of a party ~~(including the spouse of a party in an action to recover for injury to the spouse)~~, is in controversy, the court may order the party to submit to a physical or mental examination by a physician or to produce for examination the person in such party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. **Access to hospital records.** Any party legally liable or against whom a claim is asserted for compensation or damages for injuries may examine and make copies of all records of any hospital in reference to and connected with ~~the hospitalization of the injured person~~ any hospitalization or provision of medical treatment by the hospital of the injured person within the scope of discovery under Rule 36 B. Any party seeking access to hospital records under this section shall give written notice of any proposed action to seek access to hospital records, at a reasonable time prior to such action, to the injured person's attorney or, if the injured person does not have an attorney, to the injured person.

H.B. 3131

Or. Laws 1979 c.284 § 27–28

House Introduction

5/11/79

A-Engrossed Bill

5/25/79 – Passed unamended in House

6/6/79 – Passed with amendments in Senate (per Justice Committee recommendation)

6/8/79 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

6/26/79

Or. Laws 1989 c.1084 § 2
Amends Rule 44(A), (B) & (D)

- A. Order for examination.** When the mental or physical condition or the blood relationship of a party, or of an agent, employee, or person in the custody or under the legal control of a party (including the spouse of a party in an action to recover for injury to the spouse), is in controversy, the court may order the party to submit to a physical or mental examination by a physician **or a mental examination by a psychologist** or to produce for examination the person in such party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.
- B. Report of examining physician or psychologist.** If requested by the party against whom an order is made under section A. of this rule or the person examined, the party causing the examination to be made shall deliver to the requesting person or party a copy of a detailed report of the examining physician **or psychologist** setting out such physician's **or psychologist's** findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier examinations of the same condition. After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows inability to obtain it. This section applies to examinations made by agreement of the parties, unless the agreement expressly provides otherwise.
- C.** [Unamended]
- D. Report; effect of failure to comply.**
- 1. Preparation of written report.** If an obligation to furnish a report arises under sections B. or C. of this rule and the examining physician **or psychologist** has not made a written report, the party who is obliged to furnish the report shall request that the examining physician **or psychologist** prepare a written report of the examination, and the party requesting such report shall pay the reasonable costs and expenses, including the **examining physician's examiner's** fee, necessary to prepare such a report.
 - 2. Failure to comply or make report or request report.** If a party fails to comply with sections B. and C. of this rule, or if a physician **or psychologist** fails or refuses to make a detailed report within a reasonable time, or if a party fails to request that the examining physician **or psychologist** prepare a written report within a reasonable time, the court may require the physician **or psychologist** to appear for a deposition or may exclude the physician's **or psychologist's** testimony if offered at the trial.
- E.** [Unamended]

S.B. 389

Or. Laws 1989 c.1084 § 2

Senate Introduction

1/23/89

A-Engrossed Bill

5/1/89 – Passed with amendments in Senate (per Judiciary Committee recommendation)

6/2/89 – Passed with amendments in House (per Judiciary Committee recommendation)

B-Engrossed Bill

6/14/89 – Senate concurred with House amendments and repassed bill.

Governor signed Enrolled Bill

8/7/89