

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

ORCP 55

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Lewis & Clark Law School | Oregon Council on Court Procedures

Rule 55 – Subpoena

§	Latest Amendment
A	Or. Laws 1979 c.284 § 33
B	Unamended
C	Or. Laws 1999 c.59 § 1
D	Or. Laws 1997 c.249 § 10
E	Or. Laws 1989 c.980 § 3
F	Unamended
G	Unamended
H	Or. Laws 2003 c.194 § 11
I	Or. Laws 1995 c. 694 § 1

Or. Laws 1979 c.284 § 33–35

§33 Amends Rule 55(A);

§34 Amends Rule 55(C);

§35 Amends Rule 55(H)

- A. **Defined; form.** A subpoena is a writ or order directed to a person and requires the attendance of such person at a particular time and place to testify as a witness on behalf of a particular party therein mentioned. **It also requires that the witness remain till the testimony is closed unless sooner discharged, but at the end of each day's attendance a witness may demand of the party, or the party's attorney, the payment of legal witness fees for the next following day and if not then paid, the witness is not obliged to remain longer in attendance.** Every subpoena shall state the name of the court and the title of the action.
- B. [Unamended]
- C. **Issuance.**
1. **By whom issued.** A subpoena is issued as follows: (a) to require attendance before a court, or at the trial of an issue therein, or upon the taking of a deposition in an action pending therein: (i) it may be issued **in blank** by the clerk of the court in which the action is pending, or if there is no clerk, then by a judge or justice of such court; or (ii) it may be issued by an attorney of record of the party to the action on whose behalf the witness is required to appear, subscribed by the signature of such attorney; (b) to require attendance before any person authorized to take the testimony of a witness in this state under Rule 38 C., or before any officer empowered by the laws of the United States to take testimony, it may be issued by the clerk of a circuit or district court in the county in which the witness is to be examined; (c) to require attendance out of court in cases not provided for in paragraph (a) of this subsection, before a judge, justice, or other officer authorized to administer oaths or take testimony in any matter under the laws of this state, it may be issued by the judge, justice, or other officer before whom the attendance is required.
 2. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]
- H. **Hospital records.**
1. [Unamended]
 2. [Unamended]
 3. [Unamended]
 4. [Unamended]
 5. **Tender and payment of fees.** Nothing in this **rule section** requires the tender or payment of more than one witness and mileage fee or other charge unless there has been agreement to the contrary.

H.B. 3131

Or. Laws 1979 c.284 § 33–35

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 1983 c.751 § 5
Amends Rule 55(D)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. **Service; service on law enforcement agency; service by mail; proof of service.**
 - 1. [Unamended]
 - 2. [Unamended]
 - 3. **Service by mail. [Full section text unamended]**
 - a. The attorney certifies in connection with or upon the return of service that the attorney, or ~~his/her~~ **the attorney's** agent, has had personal or telephone contact with the witness, and the witness indicated a willingness to appear at trial if subpoenaed;
 - b. The attorney, or ~~his/her~~ **the attorney's** agent, made arrangements for payment to the witness of fees and mileage satisfactory to the witness ~~and the attorney has satisfied the agreement with respect thereto;~~ and
 - c. The subpoena was mailed to the witness more than ~~ten~~ **10** days before trial by certified mail or some other designation of mail that provides a receipt for the mail signed by the recipient, and the attorney received a return receipt signed by the witness more than three days prior to trial.
 - 4. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]
- H. [Unamended]

H.B. 2891

Or. Laws 1983 c.751 § 5

House Introduction

2/24/83

A-Engrossed Bill

4/28/83 – Passed with amendments in the House (per Judiciary Committee recommendation)

7/14/83 – Passed with amendments in the Senate (per Judiciary Committee recommendation)

B-Engrossed Bill

7/15/83 – House concurred with Senate amendments and repassed bill.

Governor signed Enrolled Bill

8/4/83

Or. Laws 1989 c.980 § 3
Amends Rule 55(E)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. **Subpoena for hearing or trial; obligation of witness to attend; prisoners.**
 - 1. ~~**Obligation to attend; fees. A witness is not obliged to attend for trial or hearing at a place outside the county in which the witness resides or is served with subpoena unless the residence of the witness is within 100 miles of such place, or, if the residence of the witness is not within 100 miles of such place, unless there is paid or tendered to the witness upon service of the subpoena: (a) double attendance fee, if the residence of the witness is not more than 200 miles from the place of examination; or (b) triple attendance fee, if the residence of the witness is more than 200 miles and not more than 300 miles from such place; or (c) quadruple attendance fee, if the residence of the witness is more than 300 miles from such place; and (d) single mileage to and from such place.**~~
 - 2. ~~**Witness confined to prison or jail.**~~ If the witness is confined in a prison or jail in this state, a subpoena may be served on such person only upon leave of court, and attendance of the witness may be compelled only upon such terms as the court prescribes. The court may order temporary removal and production of the prisoner for the purpose of giving testimony or may order that testimony only be taken upon deposition at the place of confinement. The subpoena and court order shall be served upon the custodian of the prisoner.
- F. [Unamended]
- G. [Unamended]
- H. [Unamended]

S.B. 273

Or. Laws 1989 c.980 § 3

Senate Introduction

1/17/89

A-Engrossed Bill

5/22/89 – Passed with amendments in Senate (per Judiciary Committee recommendation)

6/22/89 – Passed unamended in House

Governor signed Enrolled Bill

8/3/89

Or. Laws 1993 c.18 § 3
Amends Rule 55(H)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]

H. Hospital records.

1. **Hospitals.** As used in this section, unless the context requires otherwise, "hospital" means a health care facility defined in ORS 442.015 ~~(13)~~ (14)(a) through (d) and licensed under ORS 441.015 through 441.097 and community health programs established under ORS 430.610 through 430.700.
2. [Unamended]
3. [Unamended]
4. [Unamended]
5. [Unamended]

H.B. 2476

Or. Laws 1993 c.18 § 3

House Introduction

1/26/93

A-Engrossed Bill

3/3/93 – Passed with amendments in House (per Judiciary committee Recommendation)

3/23/93 – Passed unamended in Senate

Governor signed Enrolled Bill

4/7/93

Or. Laws 1995 c.79 §404
Amends Rule 55(D)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. **Service; service on law enforcement agency; service by mail; proof of service.**
 - 1. [Unamended]
 - 2. [Unamended]
 - 3. [Unamended]
 - 4. **[(D)(3)(d)] Service by mail; exception.** [Full section text redesignated]
 - 5. **[(D)(4)] Proof of service.** [Full section text redesignated]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]
- H. [Unamended]

S.B. 851 [Passed Unamended]
Or. Laws 1995 c.79 § 404

Or. Laws 1995 c.694 §1
Amends Rule 55(I)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]
- H. [Unamended]

I. **Medical Records.**

1. **Service on patient or health care recipient required.** Except as provided in subsection (3) of this section, a subpoena duces tecum for medical records served on a custodian or other keeper of medical records is not valid unless proof of service of a copy of the subpoena on the patient or health care recipient, or upon the attorney for the patient or health care recipient, made in the same manner as proof of service of a summons, is attached to the subpoena served on the custodian or other keeper of medical records.
2. **Manner of service.** If a patient or health care recipient is represented by an attorney, a true copy of a subpoena duces tecum for medical records of a patient or health care recipient must be served on the attorney for the patient or health care recipient at least 24 hours before the subpoena is served on a custodian or other keeper of medical records. Service on the attorney for a patient or health care recipient under this section may be made in the manner provided by ORCP 9 B. If the patient or health care recipient is not represented by an attorney, service of a true copy of the subpoena must be made on the patient or health care recipient at least 24 hours before the subpoena is served on the custodian or other keeper of medical records. Service on a patient or health care recipient under this section must be made in the manner specified by ORCP 7 D(3)(a) for service on individuals.
3. **Affidavit of attorney.** If a true copy of a subpoena duces tecum for medical records of a patient or health care recipient cannot be served on the patient or health care recipient in the manner required by subsection (2) of this section, and the patient or health care recipient is not represented by counsel, a subpoena duces tecum for medical records served on a custodian or other keeper of medical records is valid if the attorney for the person serving the subpoena attaches to the subpoena the affidavit of the attorney attesting to the following: (a) That reasonable efforts were made to serve the copy of the subpoena on the patient or health care recipient, but that the patient or health care recipient could not be served; (b) That the party subpoenaing the records is unaware of any attorney who is representing the patient or health care recipient; and (c) That to the best knowledge of the party subpoenaing the records, the patient or health care recipient does not know that the records are being subpoenaed.
4. **Application.** The requirements of this section apply only to subpoenas duces tecum for patient care and health care records kept by a licensed, registered or certified health practitioner as described in ORS 18.550, a health care service contractor as defined in ORS 750.005, a home health agency licensed under ORS chapter 443 or a hospice program licensed, certified or accredited under OHS chapter 443.

S.B. 597

Or. Laws 1995 c.694 § 1

Senate Introduction

2/28/95

A-Engrossed Bill

5/11/95 – Passed with amendments in Senate (per Judiciary Committee recommendation)

5/30/95 – Passed unamended in House

Governor signed Enrolled Bill

7/19/95

Or. Laws 1997 c.249 § 10

Amends Rule 55(D)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. **Service; service on law enforcement agency; service by mail; proof of service.**
 - 1. [Unamended]
 - 2. [Unamended]
 - 3. [Unamended]
 - 4. [Unamended]
 - 5. **Proof of service.** Proof of service of subpoena is made in the same manner as proof of service of a summons **except that the server need not certify that the server is not a party in the action, an attorney for a party in the action or an officer, director or employee of a party in the action.**
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]
- H. [Unamended]
- I. [Unamended]

H.B. 2509

Or. Laws 1997 c.249 § 10

House Introduction

2/4/97

A-Engrossed Bill

3/18/97 – Passed with amendments in House (per Judiciary Committee and Civil Law Subcommittee recommendation)

5/7/97 – Passed with amendments in Senate (per Judiciary Committee and Business, Law, and Government Subcommittee recommendation)

B-Engrossed Bill

5/9/97 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

6/9/97

Or. Laws 1999 c.59 § 1
Amends Rule 55(C)

A. [Unamended]

B. [Unamended]

C. **Issuance.**

1. **By whom issued.** A subpoena is issued as follows: (a) to require attendance before a court, or at the trial of an issue therein, or upon the taking of a deposition in an action pending therein or, if separate from a subpoena commanding the attendance of a person, to produce books, papers, documents or tangible things and to permit inspection thereof: (i) it may be issued in blank by the clerk of the court in which the action is pending, or if there is no clerk, then by a judge or justice of such court; or (ii) it may be issued by an attorney of record of the party to the action in whose behalf the witness is required to appear, subscribed by the signature of such attorney; (b) to require attendance before any person authorized to take the testimony of a witness in this state under Rule 38 C, or before any officer empowered by the laws of the United States to take testimony, it may be issued by the clerk of a circuit ~~or district~~ court in the county in which the witness is to be examined; (c) to require attendance out of court in cases not provided for in paragraph (a) of this subsection, before a judge, justice, or other officer authorized to administer oaths or take testimony in any matter under the laws of this state, it may be issued by the judge, justice, or other officer before whom the attendance is required.

2. [Unamended]

D. [Unamended]

E. [Unamended]

F. [Unamended]

G. [Unamended]

H. [Unamended]

I. [Unamended]

S.B. 564

Or. Laws 1999 c.59 § 1

Senate Introduction

2/4/99

A-Engrossed Bill

3/9/99 – Passed unamended in Senate

3/31/99 – Passed with amendments in House (per General Government Committee recommendation)

4/2/99 – Senate concurred with House amendments and repassed bill

Governor signed Enrolled Bill

4/20/99

Or. Laws 2001 c.104 § 3
Amends Rule 55(H)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]

H. Hospital records.

1. **Hospital.** As used in this rule, unless the context requires otherwise, “hospital” means a ~~health care facility~~ **hospital, as defined in ORS 442.015 (14)(a) through (d) and (19), or a long term care facility or an ambulatory surgical center, as those terms are defined in ORS 442.015, that is** licensed under ORS 441.015 through 441.097 and community health programs established under ORS 430.610 through 430.695.

- 2. [Unamended]
- 3. [Unamended]
- 4. [Unamended]
- I. [Unamended]

H.B. 2609

Or. Laws 2001 c.104 § 3

House Introduction

1/29/01

A-Engrossed Bill

3/20/01 – Passed with amendments in House (per Judiciary Committee and Civil Law Subcommittee recommendation)

4/4/01 – Passed with amendments in Senate (per Judiciary Committee recommendation)

B-Engrossed Bill

4/6/01 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

4/23/01

Or. Laws 2003 c.194 § 11
Amends Rule 55(H)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]
- H. **Individually identifiable health insurance.**
 - 1. [Unamended]
 - 2. **Mode of Compliance.** [Full section text unamended]
 - a. [Unamended]
 - b. Except as provided in subsection (4) of this section, when a subpoena is served upon a custodian of individually identifiable health information in an action in which the entity or person is not a party, and the subpoena requires the production of all or part of the records of the entity or person relating to the care or treatment of an individual, it is sufficient compliance therewith if a custodian delivers by mail or otherwise a true and correct copy of all the records responsive to the subpoena within five days after receipt thereof. Delivery shall be accompanied by ~~the~~ **an affidavit or a declaration as** described in subsection (3) of this section.
 - 3. [Unamended]
 - 4. [Unamended]
 - 5. [Unamended]
 - 6. [Unamended]
- I. [Unamended]

H.B. 2064 [Passed Unamended]
Or. Laws 2003 c.194 § 11