

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

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 839
BUREAU OF LABOR AND INDUSTRIES

FILED

12/29/2023 8:24 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Adopt rule establishing process for hospitals to file required workforce demographic reports.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/01/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

CONTACT: Josh Nasbe
971-269-4431
josh.d.nasbe@boli.oregon.gov

1800 SW 1st Ave, Suite 500
Portland, OR 97232

Filed By:
Josh Nasbe
Rules Coordinator

NEED FOR THE RULE(S)

Section 1, chapter 421, Oregon Laws 2023, requires hospitals to annually file copies of specified workforce demographic reports with the Bureau of Labor and Industries. The legislation specifically requires the Bureau to adopt rules prescribing the form and manner of these filings, and a procedure for extending the otherwise applicable filing deadline. These rules implement those statutory directives.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Section 1, chapter 421, Oregon Laws 2023 (Enrolled House Bill 2921 (2023)) is available here:
<https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB2921>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The underlying legislation implemented by these rules requires hospitals to file reports with the Bureau that describe the demographic composition of their workforce. The Bureau is required to post these reports online and may impose civil penalties for the failure to timely file the reports. The creation of these reports, coupled with the transparency resulting from their public availability, is likely to encourage thoughtful reflection on hiring practices, while providing annual benchmarks that will allow hospitals and the general public to assess any progress made in diversifying this workforce. This reflection and public accountability is likely to result in more opportunities for people of color which, in turn, may increase the likelihood that medical professionals look like the patients they serve. For these reasons, these rules and the underlying legislation they implement are likely to have a positive impact on racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

The filing of these reports is required by statute. These rules are intended to make filing the reports, and any requests for an extension, as easy and cost-effective as possible. The statute requires hospitals to file a copy of a federally-

required report with the Bureau, after the date on which the report is due to the federal government. These rules require hospitals to email this existing report to the Bureau at a specified email address. Similarly, those hospitals that seek an extension of the filing date may email the request to the Bureau, while keeping the Bureau apprised of any filing extensions granted by the federal government. The Bureau does not anticipate that these rule provisions will impose any additional costs on hospitals seeking to comply with Section 1, chapter 421, Oregon Laws 2023.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Because these rules provide an address to which hospitals may email pre-existing reports that statutorily must be filed with the Bureau, subject hospitals are unlikely to be economically affected by these rules. To the extent there is an effect that is not contemplated by the legislation, whether associated with sending an email, drafting an extension request or otherwise, that effect would apply to all hospitals as defined in ORS 442.015 that are required to file the specified reports with the federal government. The Bureau estimates that fewer than five, if any, hospitals required to file reports with the Bureau meet the applicable statutory definition of a small business. These rules do not impose any reporting, recordkeeping or administrative activities, beyond those requirements contemplated in the legislation. Similarly, the Bureau does not anticipate any additional costs associated with professional services, equipment supplies, labor or increased administration required to comply with these rules, beyond those requirements contemplated in the legislation.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses, as well as all members of the public, are invited to comment on these rules. In addition, the Bureau will post notice of this rulemaking on its webpage and in the Oregon bulletin, while also disseminating this notice to the Bureau's mailing list.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Given the date on which the underlying legislation becomes effective, and the Bureau's interest in receiving comments from the affected hospitals throughout this comment period, the Bureau believes that any issues related to these rule amendments are likely to be most efficiently surfaced via this public rulemaking notice and request for public comment.

ADOPT: 839-002-0405

RULE SUMMARY: Adopt rule establishing process for hospitals to file required workforce demographic reports.

CHANGES TO RULE:

839-002-0405

Hospital Workforce Demographic Reports

(1) Every hospital required to submit a report to the United States Equal Employment Opportunity Commission in accordance with 42 USC 2000e-8(c) must file a copy of the report with the Bureau of Labor and Industries no later than 90 days after the date on which the hospital is required to submit the report to the Commission. ¶

(2) Every hospital required to submit a report to the United States Department of Education in accordance with 20 USC 1094 must file a copy of the report with the Bureau no later than 90 days after the date on which the hospital is required to submit the report to the Department.¶

(3) Hospitals must file the required reports via email to CRD.Reporting@boli.oregon.gov. ¶

(4)(a) A hospital may file a request for an extension of the deadline described in section (1) or (2) of this rule by submitting a request via email to CRD.Reporting@boli.oregon.gov. The request must be submitted more than 10 business days before the deadline. The request must clearly identify the name of the hospital, provide contact

information for the individual submitting the request, specify whether the request applies to section (1) or (2) of this rule and identify the basis for the request.¶

(b) For good cause shown, the Bureau will grant a request for an extension and identify a new deadline by which the hospital must file the report.¶

(c) As used in this section, "good cause" includes the submission of an undue hardship application to the Commission, provided that the extension request complies with this rule and:¶

(A) The extension request filed with the Bureau includes a copy of the undue hardship application submitted to the Commission; and¶

(B) The hospital files a copy of any substantive response from the Commission granting or denying the request within 10 business days of receipt.¶

(5) As used in this rule, "report" has the meaning given that term in Section 1, chapter 421, Oregon Laws 2023, and includes Equal Employment Opportunity Data Collection Forms and survey data submitted to the National Center for Education Statistics.

Statutory/Other Authority: Section 1, chapter 421, Oregon Laws 2023

Statutes/Other Implemented: Section 1, chapter 421, Oregon Laws 2023